

Geographies of Temporary Staffing Unit

Working Brief 28

The Swedish Temporary Staffing Market: Regulatory Change

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Introduction

In 2006, Europe represented the largest temporary staffing region globally, accounting for 42.5% of revenues (Ciett, 2007). The markets of the UK and France contribute the largest proportion of this revenue, thereby gaining greatest attention by the staffing industry and academics alike. However, the temporary staffing 'landscape' is far from homogenous across the geography of Europe, with a range of different legislative and regulatory environments creating a patchwork of different types of staffing markets. The temporary staffing market in Sweden represents one variation of such national differences. This Working Brief builds on Working Brief 14 (the Swedish staffing market) and Working Brief 25 (on temporary staffing regulation) by taking a closer look at the nature of regulatory change in the Swedish staffing market. It provides an outline of the broader regulatory environment in which temporary staffing activities in Sweden are embedded. Due to the distinctive nature of the 'Swedish Model' of labour market regulation and practices, this context is highly relevant to discussions of 'atypical' work, of which temporary staffing is just one form. The temporary staffing industry *per se* has not been regulated since 1993, but a number of employment regulations directly impact upon the nature of such staffing activities in the Swedish market.

Swedish Staffing Market

The Swedish labour market is relatively small in size, with under 5 million individuals in the labour force (Labour Force Survey, Statistics Sweden at www.scb.se). High unemployment in the mid and late 1990s has been reduced, and the performance of the Swedish economy is slowly improving. The unemployment rate of 5.5% early in 2004 dropped to 4.2% in September 2007 (Statistics Sweden, 2007). See Working Brief 14 for further details on the Swedish staffing market.

Regulatory Change

Table 1 provides a chronology of the significant changes to the Employment Protection Law, collective bargaining and, more specifically, regulatory changes surrounding temporary staffing. A series of points related to this table can be summarised thus:

- While economic and political pressures during the 1980s and 1990s have forced some changes, the Swedish labour market can still be characterised by collective bargaining, high union membership and the basic principle of a universal system of social welfare. The central tenets of this system still remain today, although some revision and institutional changes have occurred over the last two decades.
- The framework for the regulation of the employment contract and industrial relations based on the laws of the 1970's remains intact.
 - In 1974 the Employment Protection Act was introduced and remains central to employment and industrial relations. The basic premise is that all employment contracts are assumed to be open-ended and are therefore the employee is afforded certain rights and guarantees. However, a few exceptions to this were allowed in the legislation, albeit with tight criteria. A series of revisions of this law have widened the number of circumstances in which contracts of a limited duration can be used, and significantly, have removed the need for employer justification.
 - The 1976 Co-Determination Act formalised the relationship between employers and unions and instigated ongoing communication between managers and unions. The tradition of collective bargaining in Sweden is integral to industrial relations, and significantly, collective bargains can overrule parts of the Employment Protection Act.
- The 1990s saw the abolition of very strict regulation of temporary agency work, which until this time had been strictly illegal (with the exception of a very small number of state-owned enterprises). There was a gradual increase in the range of occupations in which exemptions were made, most notably in Sweden in construction, agriculture and healthcare. The current legislation implemented in 1993 is amongst the most liberal globally (see Working Brief 25 for a comparison of regulatory systems). The temporary staffing industry is not regulated, firms are not licensed, nor monitored. There are also national collective

Table 1: Charting significant changes in employment laws

Employment Protection	Collective Agreements	Temporary Staffing
<p>Pre-1974 almost all of the regulation of employment contracts was made in collective agreements</p> <p>1974 Employment Protection Act</p> <ol style="list-style-type: none"> 1. It is presumed that the employment contract is 'until further notice'. 2. Terminations of such contracts by the employer are to have a just cause. 3. Collective redundancies are, in principle, to follow the simple seniority rule of 'last-in, first-out'. <ul style="list-style-type: none"> – The <i>employer</i> decides if there is a shortage of work – Open-ended contracts can be terminated only after relatively lengthy periods of advanced notice (between 1 and 6 months) – The Co-Determination Act of 1976 requires management to negotiate with union representatives when making decisions that will affect the workforce. <p>Open-ended contracts could be specified as being of a limited duration, and was common in the construction industry, for example. Also allowed was seasonal work and leave replacements. No maximum duration specified.</p> <p>1982: Two other forms of limited duration contract were permitted:</p>	<p>Pre-1974 almost all of the regulation of employment contracts was made in collective agreements</p> <p>Major legislative initiatives of the 1970's broke the tradition of non-government interference in collective bargaining. However, collective agreements could either complement statutory law or replace it in its entirety.</p> <p>1974 Employment Protection Act. Collective agreements which permitted a different regulation than the statutory regulation of contracts of a limited duration could be struck only by a central trade union. This is generally conducted at the national union level.</p>	<p>Pre-1992: the 1935 law prohibited illegal employment exchanges entailing, in principle, a prohibition of employment exchanges for profit. Some private exchange companies were permitted by the Labour Market Board (AMS), but were strictly non-profit making and fees charged to employers were regulated.</p> <ul style="list-style-type: none"> - Between 1935 and 1968 exemptions were made for music and stage artists, domestic employees, and employees in hotels, restaurants, health care and agriculture. - No original definition of employment exchange activity. No distinction between exchange activity and temporary work agencies. <p>1942 revision stated that if the purpose of the activity was to hire out labour to other companies, they should be viewed as private employment exchanges and were, as such, illegal. A number of companies did operate on the fuzzy borderline with sub-contracting. Some cases reached court. Mainly office temps and shipyard workers.</p>

<ol style="list-style-type: none"> 1. Probationary employment, for a maximum of 6 months. 2. Work arising from a temporary increase in labour demand for an accumulated maximum of six months over three years. <p>The contract of employment for a fixed term may be concluded in the following circumstances:</p> <ol style="list-style-type: none"> 1. A contract for a fixed term, a specified season or specified task, if necessitated by the special nature of the work. 2. A contract for a fixed term, as regards temporary substitute employment, traineeships, or vacation employment. 3. A contract for a fixed term, not exceeding a total of six months in any two-year-period, where occasioned by a temporary peak workload. 4. A contract for the period pending commencement of compulsory military service continuing for more than three months by the employee. 5. A contract for a fixed term in respect of employment after pensioning, where the employee has attained the age for compulsory retirement with old-age pension or, in the absence of such a retirement obligation, when the employee has reached the age of 67. (This has risen from 65) <p>1997: Liberalisation of limited duration</p>		<p>1991: Social Democratic government. Law made minor adjustments to the prohibition of private employment exchanges but clearly differentiated between private exchanges and temporary work agencies. Temporary work agencies were legalised but subject to the following regulations:</p> <ol style="list-style-type: none"> 1. the employee could only be hired out to the client firm for work that arose from a temporary need and for a period of, at the most, four months. 2. Only certain contracts of limited duration could be use (for a specific task; for leave replacement, probation). 3. AMS was to monitor the activities of temporary work agencies and was given considerable powers of inspection and sanction. <p>A collective bargain made by the central organisations could complement or replace the law as regards the first two points listed above. Became law in 1992 but was repealed by new government in 1993.</p> <p>1st July 1993: The Private Job Placement and Hiring-Out of Labour Act made private employment exchanges legal. Almost totally removed the regulation of temporary work</p>
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<p>contracts and some increased worker protection.</p> <ul style="list-style-type: none"> - Employers no longer have to justify using limited duration contracts. - Firms may only have five people employed on such contracts. - Individuals cannot be employed for more than 12 months during a three year period. - New contracts terms 'agreed contracts of limited duration' and must last a minimum of one month. <p>January 2000: If an employee has been employed by an employer as a substitute for in aggregate more than three years during the last five years, the employment is transferred into indefinite-term employment.</p> <p>April 2005: new legislation proposed to ensure stronger rights for fixed-term employees.</p>	<p>1997: It became possible to make collective bargains at the local level (often at the workplace), provided that both parties had made a central agreement in other matters. This has been fiercely criticised by unions.</p> <p>1998: White collar collective agreement between HTF, Swedish Assoc. of Graduate Engineers, and predecessor to Bemanningsföretagen. Renewed a couple of times.</p> <p>2002: Blue collar collective agreement between Bemanningsföretagen and all the 16 trade unions in the Swedish Confederation of Trade Unions (Landsorganisationen, LO). Covered 15,000 workers.</p> <p>2004: The latest blue collar agreement was concluded and lasted less than a year. Expired on 31 December 2004.</p> <p>April 2004: Renewed white collar collective agreement for temporary staffing agencies encompassed about 20,000 salaried employees. Runs out April 2007.</p> <p>2007: New collective agreements under negotiation.</p>	<p>agencies. Previous three requirements above were removed.</p> <p>Only restrictions</p> <ul style="list-style-type: none"> - It is forbidden to charge the job seeker a fee. - The employee of the temporary work agency shall not be prevented from obtaining a job at the client company - Someone who leaves a job to work in a temporary work agency may not be placed to work at his/her ex-employer until a period of six months has lapsed. <p>No form of registration, licence, monitoring, or inspection by the state. Only body that has any form of monitoring role is the sector's own organisation – Bemanningsföretagen - which sets down ethical rules.</p> <p>Applies to all categories of worker, with the exception of seamen.</p> <p>There are no limitations on temporary work agencies employing labour on limited duration contracts.</p>
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Source: adapted from Storrie (2002) and Swedish Ministry of Industry, Employment and Communication (2000). A condensed version appears in Coe, Johns & Ward (2008: Table 1).

agreements for temporary work agencies, national sector-specific collective agreements, and local collective agreements in certain companies – for both white and blue collar workers. The only market regulation was instigated in 2004 as a voluntary authorization through the employer association Bemmaningsföretagen (Swedish Association of Staff Agencies), an affiliate of the Almega Group within the Confederation of Swedish Enterprise. The collective agreements negotiated between the relevant social partners in relation to temporary agency work are shown in Table 1. These collective agreements expired in April 2007 so are currently under re-negotiation.

- While temporary staffing is not directly unregulated in Sweden, the labour market itself is highly regulated with a number of laws, and formalised negotiation processes, that aim to protect the interests of the individual. Employment protection is a prime concern of the current, and previous, governments, as is dialogue and agreement between social partners.

Conclusions

The example of Sweden is one that underscores the need to pay attention to the national variations in temporary employment regimes, which are themselves embedded in national varieties of capitalisms and welfare state regimes. The temporary staffing industry has managed to get a foothold in Sweden but not under conditions of its own making. The presence of transnational agencies and their transnational clients continues to shape and reshape the market for temporary staffing (see Working Brief 14). Despite this, however, many of the factors that are behind the production of the current Swedish temporary staffing market are the result of deeper institutional structures in the welfare state, the labour market and so on. As Storrie (2003: 104) put it, temporary staffing 'is now firmly embedded in the institutions and culture of Swedish industrial relations'. Therefore, to truly understand the future development of the temporary staffing industry in Sweden, it is crucial to connect with both past and current developments in the regulation of staffing activities *per se*, and that of employment generally.

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