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#### THE VIEW AND THE INTELLIGENCE

Seize opportunities from change p2



#### BIG TALKING POINT

Why recruitment needs technology p4



#### LEGAL UPDATE

Rules on recruiting strike cover restored p6



#### Q&A

Voices from the REC Council p7

## Modernising regulations

# REC urges rethink on holiday pay

The REC is urging the UK government to rethink rules on holiday pay for workers who don't have fixed hours or salaries.

As part of its post-Brexit review of retained EU law, the government recently opened a consultation on reforms to the Working Time Regulations, Holiday Pay, and Transfer of Undertakings (Protection of Employment) Regulations.



Before Brexit, rulings by the European Court of Justice informed UK government guidance that holiday pay should be paid at the time when annual leave is taken. Employers were told not to include an amount for holiday pay in the hourly rate.

However, the REC is urging the government to rethink this rule and to allow rolled-up, but separately itemised, holiday pay, as long as this is a genuine supplement to normal pay. Allowing rolled-up holiday pay for people who work irregular hours would make it simpler to provide holiday pay for workers on short-term assignments and ensure they recover this money.

The REC accepts this should happen only if there are safeguards to ensure that individuals take adequate breaks so that their wellbeing is not affected. However, it argues that rolled-up holiday pay is better than taking paid holiday leave for those who do not have a regular pattern of working and for their employers.



'We need modernised and effective employment regulation that works for all workers, including those with irregular working patterns,' said Lorraine Laryea, the REC's Chief Standards Officer (pictured left).

'Legislating for rolled-up holiday pay will address the practical difficulties connected with workers taking annual leave when on short-term assignments. It will help to create the level playing field that is required by employers of agency workers to ensure they can comply with employment provisions.'

## the view...



The opportunities presented by change offer many reasons to be cheerful, says **Neil Carberry**, REC Chief Executive

I hope you all had a chance to take a well-earned break over the summer. 2023 has been another eventful year, so a pause for reflection (and ice cream) is welcome.

So far, this year has been defined by a more challenging market, but not in the way we would expect from past slowdowns. Clients are under pressure, but hiring overall is at a good level, while candidate shortages have abated, but not by much. Certainly, the perm market has slowed, but there are still more vacancies than before the pandemic and demand for temps has remained strong.

However, with clients facing challenging markets – plus public-sector spending constraints – reshaping how employers work is top of the agenda. UK boards are looking to new technology, new businesses and new skills.

One of the themes of our #RECLive conference in July was the opportunity this offers our industry. Contributing to this debate as employment specialists puts us in a powerful position. At the conference, BBC Economics Correspondent Andy Verity set out the scale of what is happening and our client panel was clear that firms need a new approach. They asked for our help.

Our guest keynote speaker, restaurateur Nisha Katona, together with our dream team of recruitment leaders set this in context. At a moment like this, offering the right services could make a big difference to your business's success. Focus on easing clients' new pain points, establishing the professional skills your people need and investing wisely in technology. These are at the heart of the challenge for recruiters.

Our work this summer provided two sources of inspiration – our digital guide, which encapsulates all that was best about #RECLive, and our new report 'Tech-enabled humanity', which explores the tech transformation we face. I hope these help your business to navigate a successful autumn. I'm always optimistic – but I believe we will all benefit when inflation starts to fall. So get out there and make a difference! I hope to see you soon at one of our sector and regional meetings, the fantastic Savage masterclasses, or the REC Awards night in November!

If you want to keep up to speed with all things recruitment then follow me on Twitter @RECNeil



CAMPAIGNS

## Politicians affirm recruiters' role in promoting growth

Shazia Ejaz, Director of Campaigns at the REC

Ok, so we didn't get a whopper of a policy announcement from the Enterprise, Markets & Social Business Minister at our #RECLive23 conference, but at least we learnt that our campaign work on overcoming labour shortages is getting through to those in government.

This was evident when Conservative MP Kevin Hollinrake spoke about the need to maintain the UK's flexible labour market, people being the biggest asset to business, the need to make the workplace more attractive and the need to reform the flawed apprenticeship levy and go for economic growth – all things we've called for. He praised the National Minimum Wage and stated, reassuringly, that employers are best placed to inform the government's skills agenda. We were also pleased that after so much (friendly and frank) dialogue with the government in the past 12 months, the minister talked candidly about how he values the views and work of the recruitment sector.

But the wider message from the government is clear: it has spent so much supporting jobs during the pandemic there is not much money left. That is why we desperately need economic growth. As we move towards an election amid economic challenges, the government is looking for inexpensive, as well as quick, wins to overcome labour shortages and get the economy growing.

Shadow Financial Secretary James Murray used his time at #RECLive23 to re-emphasise Labour's support for the industrial strategy and giving businesses autonomy to drive the economy. This is promising, because we have long advocated a joined-up governmental workforce strategy (with industry input). Murray was keen to talk about childcare alongside infrastructure such as rail and road. It is great that political parties are listening to those of us who have campaigned for childcare reform to ease labour shortages. Moving forward, Labour is keen on business-policy collaboration moving into 2024. We will be at the forefront of this – with input from our members.

## the intelligence...



### Recent data on active job vacancies suggests that businesses anticipated bumper business this summer, but struggled to find staff to maximise revenues

Hamant Verma, Communications Manager at the REC

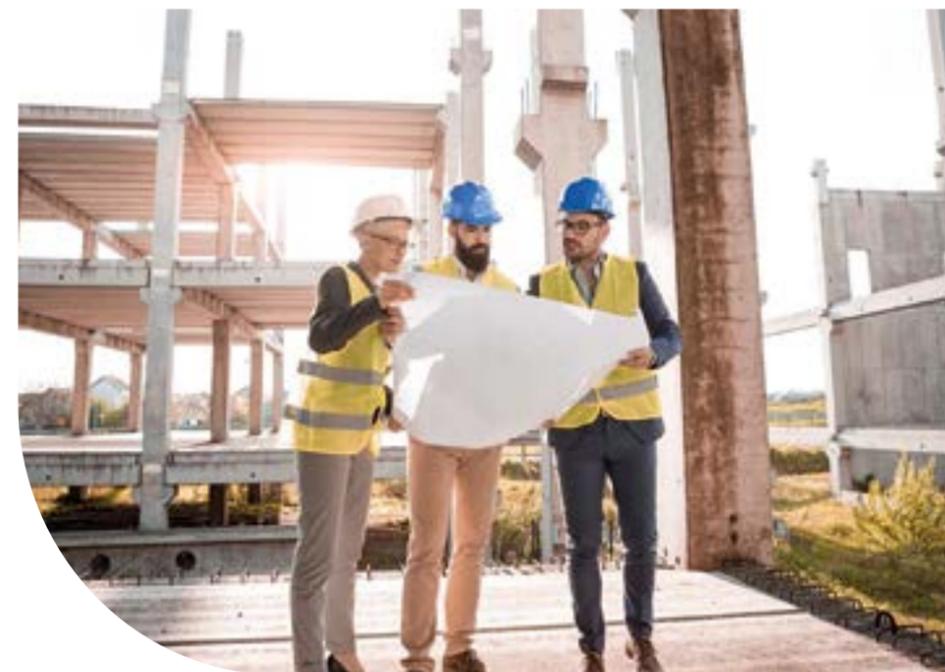
Our recent data dig into active job vacancies suggests that businesses' inability to fill roles prevented them from taking up opportunities this summer. Vacancies at these levels cannot be filled quickly.

Our research compared vacancies in occupations that see high demand in the summer months in April-June 2022 with roles available in April-June 2023. In construction, all 27 occupations we analysed had more vacancies this year. Vacancies for steel erectors, floorers and wall tilers and painters and decorators grew by more than 100%. Adverts in that sector grew in every part of the UK, with 83% more in the South East, 81% more in Yorkshire and Humber and 70% more in the North West.

We were therefore pleased to see that the government has added five new roles to its official Shortage Occupation List (SOL), after committing to doing so in its Spring Budget.

Looking at four of the occupations that were put on the SOL list in July, there was a 36% growth in vacancies for bricklayers and 107% growth in demand for masons, roofers, roof tilers and slaters. Demand for carpenters and joiners went up by 37% and demand for plasterers rose by 23%.

These shortages made it inevitable and vital that some construction roles were added to SOL. Continuing labour shortages will mean that housing projects are stalled or delayed at a time when stock is already low, particularly in cities such as London. Unfilled vacancies may also have delayed crucial work such as the refurbishment of schools during the summer holidays.



**Demand for carpenters and joiners went up by 37% and demand for plasterers rose by 23%.**

Disappointingly, no hospitality roles were added to SOL, despite shortages in that sector. This is frustrating for all the hospitality businesses that could not take full advantage of the anticipated strong demand this summer.

For example, 10 out of 13 occupations in hospitality that we analysed showed more vacancies, this year than in the same period last year. There was a 61% increase in demand for bar staff, a 37% increase in job adverts for cooks and a 47% increase in vacancies in baking, freezing and other ways to make food and drink.

The greatest demand for hospitality staff was in North East (72%) and in Yorkshire and the Humber (59%), but demand for staff was

down in London (-9.5%) and in Wales (-8.7%). It is likely that a lack of staff forced venues to reduce their opening hours, trading days or services, despite high demand. This will have reduced their chances of maximising sales and of offsetting the impacts of high inflation.

One interesting trend we identified was that the demand for agricultural and gardening work this summer was higher than in summer 2022 in every region apart from Northern Ireland. There was also far greater demand for travel agency managers, air travel assistants and leisure and theme park attendants this summer compared with the same period last year.

See our [July 2023 Labour Market Tracker](#) for the full data.

## big talking point

# Get with the programme

Tech is no longer optional in the recruitment industry, it is essential – and recruiters need to keep up to seize the opportunities it presents. The REC's new report 'Tech-enabled humanity' is a call to action

The recruitment industry has changed enormously in the past few years – prompted by rapidly evolving external circumstances (such as the pandemic and subsequent labour shortages) and powered by equally rapidly developing technology. Using technology to improve recruitment services is nothing new, but the pace of change and the capabilities of the tech now available means that recruitment without technology is becoming unthinkable. What's more the tech of tomorrow will make further change inevitable.

"We are huge optimists about the future of our industry. But we still need to adapt as firms," writes Neil Carberry, CEO of the REC, in his introduction to the REC's report 'Tech-enabled humanity', produced in partnership with consultancy MH&A. "[The report] is structured to help you think about your capacity for tech change, plan what you can do, and consider the longer term direction of travel. It's the beginning of a journey, not the destination."

The pursuit of more powerful tech is not, of course, a move away from the human skills that are fundamental to a strong recruitment business and which fuel relationships between recruiters, candidates and clients. When used well,



however, tech is an enabler that helps recruiters to use their interpersonal skills better, more efficiently and with more people.

Importantly, research by the Centre for Economic Performance (CEP) shows that good use of technology not only boosts firms' profits and efficiency, but has an even more positive effect on their resilience. And technology is no longer the preserve of firms with the largest budgets – sophisticated applicant tracking systems, social media platforms and online jobs boards, customer relationship management software and data analytics tools are widely available for modest prices. As with any tool, the key element is not what you have, but how you use it.



### Opportunities

Most importantly, the REC argues, tech can improve the candidate experience. However, many recruiters are not yet using it optimally. Too often, the report says, the candidate experience 'trails behind the client experience – after all it's the client who ultimately pays the bills'. This problem can be compounded in sectors that deal with a high volume of candidates, where firms may be tempted to focus their use of tech on improving efficiency, rather than enhancing their relationships with candidates.

This is a mistake. The REC points out that its research on skills shortages has highlighted that no amount of client demand can compensate for a lack of candidates. Recruitment firms that prioritise efficiency above candidate experiences will not only fail to build long-term relationships with candidates, but are also likely to receive negative feedback on social media platforms.

Technology is a double-edged sword. Used well, it can assist all stages of the recruitment process to enhance the candidate experience, from how they get to know the recruiter to applications and onboarding, through to getting paid and sharing their positive experiences. One example is that of a fast-food chain that publishes short videos of

happy employees on social media. Another is of a recruitment firm using global positioning system (GPS) to track candidates' journeys to work so they can update clients and candidates if there are delays.

### Challenges

However, not all tech is suitable for all recruitment companies, and it can be hard for firms to keep up with the latest systems – and even harder to work out what would add value to their operations. Tech vendors can help, but they have an interest in making a sale. Whether you are looking to track sales leads and automate admin processes, invest in a vendor management system (VMS), use social media more effectively or improve your accounting setup, start from your business need, not from the impressive technology available.

Technology also shifts jobs markets. Every new wave of technology leaves some jobs high and dry on the shore. The original Luddites smashed knitting frames that put them out of business in the 19th century. Tech developments in the 21st century – and, in particular, artificial intelligence (AI) – will have the same effect, although it is unclear where the axe will fall hardest.

Goldman Sachs believes that AI-driven automation is already affecting two-thirds of occupations to varying degrees. It predicts that 44% of tasks in legal professions could be automated, while only 6% in construction and 4% in maintenance are likely to be affected.

This affects recruiters on multiple fronts. The REC report says that sales

and business operations will gain opportunities to boost productivity, but almost half of administration activities will be automated. Recruiters in some sectors will see rapid changes in the job profiles required by their clients, while some entire sectors could be threatened. Recruitment firms must therefore assess their own needs for AI systems and what this means for their staff and skills needs, while also keeping an eye on how such systems will affect their clients and candidates.

It seems clear that while recruitment firms can benefit from AI, the wider changes it will cause in demand for staff in many markets will require them to be resilient and adaptable. Some may need

to pivot to remain relevant and others will need to think widely about the skills their clients will need in future and where these candidates will come from.

### Next steps

The future of recruitment is enabled by technology, but human interactions will remain integral to the profession. Firms should explore the ways they could use technology better, but they must consider the options carefully. The REC report offers guidance on selecting the software that suits your needs and aligns with your strategy as well as ideas for maximising use of the technology you already have. It also highlights the issues around data protection and ethics.

If you adopt new technology, it is important also to consider whether it is scalable and to get everyone in the team onboard – and fully trained to use it. Don't ignore the significant improvements you can achieve with widely available technology. AI is likely to prove transformative in future, but using the software you already have effectively and thinking hard about the basics now will put you in the best position to move forward swiftly when the tech develops further.

In the meantime, Carberry writes: "We look forward to taking that journey by your side. As Andy Warhol said, 'They always say time changes things, but you actually have to change them yourself.'"

## Statistics

AI: Jobs with **50%** or more of their tasks automated are at risk, while those with **10-49%** automation will see AI complement human efforts.

Goldman Sachs

Over **70%** of firms say that new technology has increased their business's resilience.

**63%** of new technology adopters report that it did not affect their workforce size.

**16%** say new technology reduced their need for workers.

**13%** say new technology increased their need for workers.

**45%** report that they reorganised staff or reallocated employees to new tasks after adopting new technology.

Centre for Economic Performance report on technology adoption

## legal update

### Repeal of Regulation 7 of the Conduct Regulations

**Katharine Scott**, Legal Advisor

The government's decision not to appeal against the High Court's judgement that it must revoke its repeal of regulation 7 ends one of the most contentious legal battles in this long period of industrial action in the UK. The REC welcomes this decision

The supply of agency workers during industrial action to replace striking workers was prohibited by the Conduct of Employment Agencies and Employment Businesses Regulations 1976 under powers granted by the Employment Agencies Act 1973. But on 22 July 2022, Regulation 7 of the Conduct Regulations 2003 was repealed in England, making it lawful for agency workers to be supplied to replace striking workers.

The government's reasoning was that the repeal was necessary to tackle the 'unreasonable' and 'disproportionate' impact of the strikes on the public, as well as the 'unreasonable costs to businesses at a time when everyone is struggling with the rising cost of living and doing business'.

With the repeal of Regulation 7 in mind, employment businesses still had to ensure they were complying with the remainder of the Conduct Regulations 2003. For example,

Regulation 20 provides that an employment business must not supply a worker if it would be detrimental to the interests of the worker or to the hirer if the assignment proceeds. They had to consider the health and safety of workers where they are having to cross potentially volatile picket lines to get to work. It was also very important to ensure that the worker was willing to work on such an assignment. Obtaining confirmation of this is required under Regulation 19.

In September 2022, several trade unions applied for a judicial review of the decision to repeal Regulation 7. It was argued that the repeal of Regulation 7 was unlawful on several grounds. These include a failure to consult unions, as required by section 12 of the Employment Agencies Act 1973, and that the repeal violated Article 11 of the European Convention on Human Rights, which provides the freedom of assembly and association and states: 'Everyone has the right

to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.'

Unions also argued that the repeal is a violation of the EU-UK Trade and Cooperation Agreement, which commits the UK to upholding internationally recognised labour standards.

In the outcome of the recent judicial review, the High Court judge made an order confirming that the repeal of Regulation 7 was unlawful and from 10 August the prohibition contained in Regulation 7 applied. This means it is unlawful, again, for employment businesses to supply agency workers to clients to carry out the work of their own workers taking industrial action.

### Recruiters should use tech to improve compliance and upscale their business

By **Tom Cooksey**, MD of **Elements**

Recruitment is a sales-driven environment, with the front of office receiving significant attention and resources. But back-office processes are crucial as a recruitment business grows.

Today, compliance, document tracking and background checks are handled by compliance teams, often using outdated manual tools such as Excel and email. Using fit-for-purpose technology will deliver significant improvements in compliance and efficiency – and save money.

Automation (and AI) will optimise the back-office team, leaving compliance managers to focus on strategic issues. Modern recruitment software enables you to collect, analyse, transfer and onboard data, providing insights into individual performance and overall trends. By identifying weak spots and bottlenecks you create time and space to accelerate candidate placements.

Using the right technology and processes will allow staff to focus on what they are best at. This puts the business in a much stronger financial position. Modernising your back-office system will enhance your ability to maximise revenues and increase your business's appeal to potential buyers.

By investing in recruitment onboarding technology, businesses can mitigate the risk of administrative errors. Data-driven insights help drive intelligent decision-making and future strategies. Technological advancements in automation and AI can streamline operations and boost efficiency to reduce costs and allow compliance teams to concentrate on more effective work.

Ultimately, good use of technology improves employee satisfaction and delivers a competitive edge for sustained success and business growth.

## Supporting roles: giving back to the profession

### What I know



**Hannah Ahmed** is MD of HG Group and a member of the REC's Council

#### Smaller recruiters in the healthcare sector face huge challenges.

I started off in the NHS and our core market is sourcing nurses. We now also work with doctors and are looking to move into homecare. I know there are lots of entrepreneurs out there with bright ideas and they can benefit this sector, but it's hard for them to get started. I succeeded and my business is growing, but I benefited from contacts in the NHS.

#### Be resilient.

Competition is fierce so you will face rejection. To get candidates to buy into you, you must differentiate yourself with your personality. You need to have empathy to appreciate the stresses

of candidates' lives and you need to be driven because it's a relentless job. However, you also have to be kind.

#### This sector needs representation.

I wanted to join the REC Board because the healthcare recruitment sector needs a voice. I want to change things to make systems fairer for smaller recruitment firms. I am passionate about this. We pay to be part of the Framework, which enables us to supply many of the largest NHS Trusts and sets the rates we pay, however, we are not protected equally. NHS employers can poach our candidates and it's not a level playing field. If this doesn't change many firms will go out of business or leave the sector.

### Q&A



**Michelle Mellor** is Co-Founder of Cummins Mellor and incoming Chair of the REC

#### You become Chair of the REC in October. When did you first get involved?

We joined in 1990. We started as a husband-and-wife team recruiting for the hospitality sector and we wanted to do it properly. We were typical REC members – most of the 3,500 members employ fewer than 10 people. We have grown to 54 people, but the REC still represents the best of the best in recruitment. The previous CEO invited me to stand for the REC Council (later the Board) and I've been a director for six years.

#### What have you gained from being REC members?

It's supported us through every new challenge over the years. I'm passionate about workforce ethics

and corporate culture and these are more important than ever. REC members make a huge contribution to people's lives and careers and it's a fabulous industry.

#### Why do you want to be Chair?

I wanted to give back to the industry that has been so good to us and helped us to secure roles for so many people over 33 years – our own workforce and all the candidates we've placed in jobs and temporary work in that time.

The recruitment and employment of people has never before been so much at the front and centre of work. Having the opportunity to lead the Board, serve our members, the executive and all our REC stakeholders will be a privilege and an honour in my term as Chair.

## Report fuels calls for a UK workforce plan

Hamant Verma, Communications Manager at the REC

A key report by labour experts on employment support services, such as Jobcentres, has reinforced the REC's belief that the UK needs a workforce plan from the government. A plan based on advice from business and recruiters could lead to urgently needed reforms of employment support, skills, immigration and labour market activation.

The analysis by the Institute for Employment Studies (IES) shows that the UK job support system isn't meeting the mark, with short-term, underused and underfunded support services causing a massive loss to the economy.

Since November 2022, the IES's Commission on the Future of Employment Support has been working on proposals to reform employment support and services. In early 2024, it will present its recommendations to make employment support work better for individuals, employers and the economy. REC Chief Executive Neil Carberry is one of the 10 commissioners.

The Commission's interim report, published in July, reflects the long-held frustrations of recruiters and hirers. The REC believes that training is vital to overcome the UK's skills and labour shortages. In its 'Overcoming Shortages' report in 2022, the REC called for businesses to increase investment in staff training and development. It argued that giving employees opportunities to grow and progress in their careers would boost productivity and revenue. The REC also called on government to create a tax credit scheme for employers who invest in training and, specifically, a 'green tax credit' for businesses investing in green skills and green jobs.

The reasons for this are clear in the Commission's work. In its November 2022 report, the Commission identified a fall in work-related training in the past 15 years – only around 25% of surveyed employees and self-employed people aged 16-64 reported that they had received training in the previous three months in 2019, compared with around 30% in 2005. Training was often geared towards induction and health and safety. On average, employees in England and Wales received just 3.6 days of training in 2019.

In its July 2023 interim report, the Commission highlighted poor alignment between employment and skills support. This is disappointing given the challenges that firms are facing with skills and labour shortages. Respondents said that outcomes such as training and skills development, work experience and volunteering were disincentivised by employment support services because of their overemphasis on 'rapid job entry'.

The REC has long been concerned about a lack of joined-up thinking to overcome labour shortages. It has called for a commission based in the Cabinet Office to create a cohesive, long-term plan for how the UK will put people planning at the heart of its growth strategy. The government needs to play a unifying role to help deliver this.

The interim report voiced employers' frustration that employment support services offer little to employers beyond vacancy gathering and advertising. Some said that employment support services took a 'goods-led' approach, with a narrow focus on vacancy collection and job applications, that did not speak to employers in their own language



or understand how they worked. Employers complained of an 'any job' mindset at Jobcentre Plus, adding that this could be fuelling staff turnover, discouraging people from accessing support, disempowering jobseekers and alienating employers. The Federation of Small Businesses said it can lead to high volumes of inappropriate applications and to people being forced to take jobs that they do not want and then leave.

There were mixed views on whether new Local Skills Improvement Plans (LSIPs) would improve poor alignment between employment and skills support. The REC argues LSIPs must involve SMEs, recruiters and other labour market experts to reduce the mismatch between local jobs and the skills, education, training opportunities and infrastructure available to local people. It says that mayors, working alongside local business leaders, the public sector and labour market experts, should develop plans to meet emerging needs and get ahead of demand for future skills.

More positively, organisations that delivered the Kickstart Scheme felt that its focus on subsidising employment for disadvantaged young people had enabled them to work with employers to support inclusive recruitment practices. They believed there was a missed opportunity to build on that and engage with those employers after funding for the scheme ended.