**REPORT** **ON** **HIRING TEMPORARY LABOUR** **FOR SPECIALIST PILING WORKS**

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# INTRODUCTION

Members of the FPS account for annual sales of between £600-700m per year, which we estimate represents around 80% of the total foundation market. At any one-time members may cumulatively have over YYYY specialist piling personnel working on their projects.

FPS members deliver many onerous projects, in a fluctuating market, that demands the highest production, technical skills and safety behaviours. A consistent supply of skilled and dependable labour is therefore essential, whether employed directly or engaged through labour agencies. Specialist piling labour must undergo several years of training and development to ensure they meet industry expectations. The financial burden and commitment to skills development has traditionally sat with FPS member companies.

The piling market has changed during the last decade, and for many reasons, a much larger proportion of FPS member companies employ a greater share of their site operatives through agencies. This change has brought opportunities including:

* Piling companies can manage peaks and troughs in demands of special skills/competencies by working with agencies
* Individual workers have flexibility to choose the type of piling work and location, potentially ensuring continuity of employment

However, the change has brought challenges for FPS member companies including:

* The experience and training records of agency hires are often inaccurate, meaning competence is difficult to assess before day 1 of a hire. Performance records from prior hires is patchy and routinely unreliable.
* Hiring companies investing in the training of directly employed operatives are at risk of them being lured post-qualification by higher headline pay rates available through agencies. The majority of agencies don’t fund the development of operative skills in a structured way.
* There is no guarantee an agency hire will stay for a minimum period, especially where better rates of pay become available, and almost no commercial recourse with the agency for the disruption. Equally member companies have no incentive to keep agency labour, for other than the absolute minimum hire duration necessary
* The difference in terms and conditions, including headline pay rates, between agency employees and directly employed can create disharmony at site level and an “us and them” culture
* There is limited regulation of labour suppliers to set consistent minimum standards. Despite the safety critical nature of piling works there is no obligation upon an agency to supply labour meeting:
* A valid safety critical medical
* Compliance with drug & alcohol testing
* Compliance with working time regulations
* Independent verification of skills

The FPS has commissioned this report to respond to member’s concerns about how the benefits of using agency employees has become imbalanced relative to the burden of responsibility still resting with members in terms of labour affordability, ongoing training and development, performance management and welfare commitment.

The intention of this report is therefore to understand the status quo and set a policy for FPS engagement with agencies that redresses the balance between opportunities and concerns. The FPS promotes it as a document to aid discussion amongst member companies with the goal of collaboratively and progressively raising standards, and to improve overall performance of agency supplied labour.

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# CURRENT PRACTICES

## FPS MEMBERS SURVEY

The member representatives involved in drafting this document (typically responsible for daily labour issues) carried out a qualitative survey of their experience of engaging temporary piling labour through agencies. They found members generally have a core workforce that they have invested in to ensure minimum levels of training. In addition, they have structures in place to ensure progressive development and performance feedback to employees. Direct employees often also benefit from consistent terms and conditions of employment, security of pay during quiet periods, wellbeing and behavioural safety programmes. However, the members also recognise that the ability to bring in additional specialist labour to meet demands in workload was important. Some members have intercompany labour sharing agreements in place that work well as the standard of the labour supplied is reliable in terms of competence and training.

Labour supplied by agencies however is seen to be less reliable. Concerns centre around verification of skills, unreliable performance information on individuals, inconsistent processes to provide performance feedback, uncertainty about agency labour remaining on a project, no minimum standards to ensure safety critical medicals, D&A testing, working hours and the wellbeing of individuals can be assured. Agencies were also not seen as providing ongoing training and development of those on their books or promoting a career route to bring new blood into the industry.

Of frustration is that some member companies have seen long term employees (who have been supported with development and training) lured by higher agency rates, only to have to pay significantly higher rates for the same employees, who are no longer being developed or supported in the same way by an agency.

In view of the criticality of a good supply of specialist labour to balance peaks and troughs in the industry members felt that few agencies were strategic in understanding their customers’ needs.

## AGENCY CONSULTATION WORKSHOP

A consultation workshop was conducted with representatives from several labour agencies commonly used by FPS members. Several described how they obtain references, and the type of experience records they compile on candidates. Getting consistent feedback from hiring companies on individual performance often proved difficult due to site manager commitments. All the agencies represented at the workshop had systems in place to vet candidates, and their legality to work, but it was apparent that there was no common benchmark or format to which they were working. All saw some benefit in an operative passport that could be built upon the CPCS logbook. Training and upskilling of candidates were generally not something the agencies provided other than by exception.

Several agencies described practices they have in place to monitor fitness for work and fatigue as this is required in other industries in which they operate such as rail. All ensured that accommodation allowances were available at levels to ensure the welfare of operatives. Frustration was expressed with the problem of operatives failing D&A tests just moving on to other agencies and an inability to prevent this. Several of the agencies explained how they maintain contact on a routine basis with their candidates, between and when on assignments, to ensure their wider welfare is addressed, including having staff trained in mental health support or access to this support through charities.

All of the agencies recognised the problem of retaining candidates on a specific project and the large number who will change agency for relatively small changes in hourly pay.

There appeared to be strong interest from the labour agencies in having a closer relationship with FPS as members, with an openness to being audited. However, assurance was sought that if they were expected to sign up to minimum standards, they would expect FPS members to commit to only using agencies meeting the standard.

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# WORKING TOGETHER TO ACHIEVE HIGHER STANDARDS

The working group identified a number of areas, both in terms of minimum standards and aspirations, that could rebalance the challenges of an increasing supply of labour through agencies. These are not presented in terms of importance.

1. Skills & skills verification
2. Compliance & accountability
3. Performance and behaviours
4. Commitment & culture

## SKILLS & SKILLS VERIFICATION

An agency operative needs to establish themselves within the industry to a minimum standard that meets a clear quality benchmark, as stipulated and agreed with the FPS. Agencies providing labour that consistent provide labour meeting the benchmark are likely to ensure ongoing and repeat business with member companies. One key aspect of the benchmark is the verification of the operative’s competence and skills to meet a brief. FPS considers that agencies could provide a better service and manage expectations by taking the following actions:

* + 1. Skills verification – provide details of the verification process carried out to support the skills being offered. This should include how the agency has verified the skills cards[[1]](#footnote-1) and CPCS log book[[2]](#footnote-2) and not just take the operative’s word. Generally, after having hired a candidate, the agency should seek feedback in a structured and consistent format on the candidate’s performance and have systems in place. FPS members will expect such a system to be reliable and workable.
		2. Candidate CV – provide up to date CVs of candidates with details of specific projects, the hiring companies and specific type of work and training on that project e.g.
			- * Working on Rotary Piles, low headroom, under pylons (BESC), drilling fluids or Marine Piling, on “Jacked up Barges” (Water Safety- lifebelt Trained) etc
				* Types of rigs and equipment used
		3. Right & fitness to work – not only should agencies provide the necessary information in terms of Right to Work and IR35 status, but they should also confirm that medical fitness requirements are in place,
		4. Training – generally members expect operatives to be trained for the task for which they are being hired, however, it is recognised that training for site specific requirements (e.g. PTS, BESC, Water Safety, Confined Spaces, rig familiarisation etc.) would fall upon the member company.
		5. Long term training strategy – over time, as more labour is provided via agencies, then the cost and responsibility for training will need to be shared more equitably between agencies and hiring companies. One of the core values of FPS is to raise standards for its customers and a key part of this is utilising competent and properly trained individuals and a closer relationship between the FPS and agencies needs to make sure this is strategically addressed.

## COMPLIANCE & ACCOUNTABILITY

Currently there is no common standard or benchmark to determine whether labour supplied through agencies consistently meets the expectations of the hirers. Similarly, feedback on performance is gathered in different ways. Whilst it is unlikely that all agencies or member companies could agree on a single checklist, or set of rules, there needs to be at least a framework that defines how skills are specified, the minimum verification carried out and performance feedback requirements, all using a common industry vocabulary. This would allow a route to assessing compliance in the future and developing greater accountability of the parties involved.

## PERFORMANCE & BEHAVIOURS

There are several areas relating to performance managing agency labour when compared with directly employed labour. The general concern of members is that until an agency hire turns up the information provided by the agency is often unreliable and there is little incentive for an agency not to continue to hire or performance manage poor behaviours. To improve this the FPS would like to see:

* A common structured performance feedback system – confidential, easy to operate, member companies to commit, to cover attitude, aptitude, skills, training on site and assist in operatives CVs being up to date
* Consequences of an operative being removed from site for unacceptable standards/behaviours. Or chopping and changing without warning. Agencies should be open about their policies in this regard.
* Whilst good performance should be rewarded it should not be that bonuses are funded by members in addition to the agreed rates of pay with the agencies. For example, an operative who commits to a project and stays for the full duration could receive a retention bonus from the agency, but this should be funded by the agency through the efficiency they have gained.

## COMMITMENT & CULTURE

The industry expects the same site safety standards from temporary workers as directly employed staff. In kind, we should expect all workers to be provided with the same level of support for their wellbeing and development. This section identifies areas requiring attention and development.

## Mental Health Support

Construction workers are amongst those most at risk of suicide. Factors such as long hours, time pressure, job security, and isolation all contribute to stresses that can at times be overwhelming. Despite growing awareness of these issues greater dialogue and continued support is required. Labour agencies should ensure that their retained employees have received training on their job placements or independently.

### Counselling services

All individuals should be provided with access details to mental health services including treatment for addiction and support for abuse victims. Details of charities offering financial support for treatment should also be given.

### Checking in

Retained operatives may go for periods of several weeks without undertaking any work. During this period, they may be particularly vulnerable. Companies should continue to communicate with them, at least monthly, bringing them up to date with current activity, workload, training requirements and offering support.

### Awareness training

It would be desirable for all employees to receive annual mental health awareness training. The “Start the Conversation” workshop from Mates In Mind being a good example. This helps with self-diagnosis and treatment of some symptoms. It would also enable workers to assist others.

## Physical Health Surveillance

Site based roles predominantly remain a physically demanding occupation. It is therefore imperative that individuals are assessed as being fit for work and that the impact of their job on their health is properly assessed.

### Medical examinations

Employers including labour agencies should commit to ensuring that health surveillance in line with Network Rail requirements is carried out at least once every three years. Anything that may affect how the individual can perform their intended role should be identified to relevant parties only and the privacy of the worker respected.

### Drugs and alcohol testing

There are understandably concerns around the frequency of testing for drugs and alcohol of staff. Ensuring testing on random dates but at least annually for all individuals should be ensured. In addition to this ‘for-cause’ testing should be employed more regularly. Support and rehabilitation should be offered for individuals failing these tests.

### Diet and exercise workshops

* t is recognised that individuals working away from home and not having their usual cooking facilities may be forced to make compromised choices when it comes to their meals due to convenience. However, education should be provided to enable people to make more informed decisions about their lifestyle. This could take the form of regular workshops, toolbox talks or videos.

### Contractual Provisions

It is recognised that the transient nature of work for agency staff can put a tremendous strain on the mental wellbeing of personnel. Consideration should be given to the use of fixed term contracts and retainer payments by agencies to its workers. The earliest possible dialogue should be provided regarding the continuity of work between contractors, agencies, and workers.

In addition to this, workers that find themselves sick or injured may be left without a means of income. The FPS will seek to raise awareness of the potential use of permanent health insurance (PHI) or accident, sickness and unemployment cover (ASU). PHI can provide cover until retirement age, it starts when employee sick pay stops, however, it only covers accident or illness events. ASU is more comprehensive in that it may also provide cover in the event of redundancy, but cover would be limited to 1-2 years.

### Fatigue Management

All organisations managing labour should have risk assessment procedures in place that enable them to monitor the fatigue of their employees. This includes evaluation of driving and working hours, knowledge of accommodation provision, visibility regarding work for other companies, and where possible the use of technology such as Fatigue Science’s Readiband technology.

### Accommodation

All organisations should ensure that the following is provided for workers at sites: Welfare facilities including heated changing rooms and lockers, rest facilities, drinking water and the equipment to heat water and food. Where this is not practicable the use of mobile accommodation may be considered on short duration contracts.

Companies should also understand the quality and safety of overnight accommodation including cooking facilities. Where individuals are staying in mobile accommodation units or vehicles they must be specifically designed for this purpose and have access available to washing, toilet and cooking facilities.

### Continuous Improvement

In order to develop individuals and improve quality of service. Labour agencies are expected to rigorously seek feedback from clients regarding a worker’s performance. This may necessitate additional training or direct feedback to the individuals. Informal discussions should be provided weekly and as required with a more detailed and recorded performance appraisal given on a bi-annual basis.

Records should be kept of techniques undertaken, machinery used, and competencies acquired. This information, inclusive of working hours, should be stored and shared with other agencies and employers with the permission of the worker in line with data protection regulations.

# CONCLUSIONS & ACTION PLAN

The increasing use of agency labour by FPS members has seen several benefits during the last decade or so. However, the current direction of travel is bringing an increasing number of challenges that must be addressed if the piling industry is to continue performing at the highest level. As a representative body the FPS therefore needs to respond to the long-term challenges of maintaining a sustainable workforce (economically viable, proper career paths, security of employment, skills and training, health & wellbeing, legally compliant).

Whilst many good examples exist of specialist piling labour supplied to FPS members it cannot be said that minimum standards and behaviours are consistently available. The agencies supplying labour to FPS members do not collectively bear sufficient responsibility for the long-term sustainability of labour in the piling industry.

Some labour agencies have expressed an interest in a closer relationship with the FPS. However, until there is a clear benchmark as to how agencies can actively commit to and raise standards then closer ties FPS will be unstructured and unlikely to bring mutual benefits and trust.

This report has identified many areas that could be used to improve the consistency of experience of employing agency labour and redress some of the imbalances. At this point in time, it is unrealistic to tackle the more aspirational aspects, but there are a few very tangible steps that can be taken.

If the FPS membership decides a closer and structured relationship is desirable between FPS and the labour agency sector, then FPS should develop a policy in how it intends to engage formally with this sector of the industry. As a start to developing a policy the membership should be asked:

* **Should the FPS have a formal policy on engagement with the specialist piling labour hire sector?** (i.e. does it currently have capacity to prioritise this, do all members buy into it?)
* If yes, then **which areas should be prioritised to ensure minimum standards are introduced that provide a tangible benefit for FPS members**?

**Table 1** has been developed to assist in defining areas for minimum standards, how they should be prioritised, and the degree to which FPS would expect agencies to be responsible for actioning them. By FPS having a clear policy about minimum standards it is hoped that agencies will find it easier to act collectively find solutions.

In conclusion, it is recommended that if the membership decides a policy is needed on labour agency standards, then Table 1 can be used to determine the priorities for minimum standards and the way forward.

**Table 1 – FPS minimum standards for agencies providing specialist piling labour, FPS prioritisation and agency responsibility**

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| **Theme** | **Action** | **Comment** | **FPS Priority****H/M/L**  | **Degree of agency ownership** |
| **Minimum****Standards** | Verification of fitness to work / health checks | Agencies should provide assurance in advance and provide risk assessment /restrictions | H | Full responsibility |
|  | Verification of D&A fitness | Agencies to verify and test in advance of hire if no record  | H | Full responsibility |
|  | Verification / provision of safety critical medical | Agencies to verify and arrange prior to hire | H | Full responsibility |
|  | Verification of working hours | Where required by a member then agency to confirm previous working hours to comply with Working Time Regs | L | Responsible if specified |
|  | Behavioural safety training | Desirable but unlikely that agency could cover range of industry programmes. Should maintain details on training record  | L | Voluntary |
|  | Mental health support | Agency to have policy and verifiable actions to demonstrate support provided | M | Full responsibility |
|  | Verification of right to work / IR35 |  | H | Full responsibility |
|  | Training policy & commitment | Agencies to have policy on on-going development of personnel on their books | M | Full responsibility |
|  | PPE standard | Agencies to ensure appropriate PPE to agreed standard with hirer | L | Voluntary |
| **Accountability** | Common “CPA” type conditions  | FPS to recommend that interested agencies collaborate to draft common terms. FPS commercial committee could support | L | Voluntary |
|  | Accommodation  | Verify suitable allowances and accommodation being used if as part of hire agreement | L | Full responsibility |
|  | Other allowances | Verify suitable allowances being used if agreed as part of hire agreement e.g.  | L | Full responsibility |
|  | Bonus payments | Agency to declare policy – should not be FPS costs unless separate agreement  | L | Full responsibility |
|  | Competence & experience verification | Accuracy of competence & experience records – training logs, cards and CV must be accurate. Agency to be accountable for mistakes / errors if operative sent to site  | H | Full responsibility |
|  | Programme commitment | Require agency to ensure operatives are committed to specific durations. But may be commercial implications for Hirer  | M | Full responsibility |
|  | Operative attitude  | Agency & hirer will benefit if attitude and behaviours e.g. willingness for certain tasks can be captured | L | Responsible |
|  | Standards not met | Require agency to lead in performance management of hires. Need to avoid blacklist risk but must be known that performance information shared (objectively) to other members | M | Responsible |
|  | Poaching commitment | Need published code of behaviours on non-poaching. Will need to be reviewed legally to ensure not restrictive | L | Voluntary |
| **Associate Membership Category** | Assessment standard / audit | Required if associate membership category to be developed. Standard to be based on above actions being implemented | L | Responsible |
|  | Training commitment | Agencies would need to demonstrate how they actively train & develop even short-term hires  | L | Responsible |

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1. Skills on-line has the national database that can be used to verify cards & tickets. [↑](#footnote-ref-1)
2. All Operatives are required to maintain their CPCS Logbooks that are required to have the Times, dates, Sites, Equipment & Plant an Operative has used the working hours that they accrued on each piece of equipment. This is verified by the Site Supervisor/Foreman and therefore a personal reference can be sought through direct communication. All CPCS Logbooks have sections 1 & 2 for information and comments. Section gives details of the individual Site being worked on, Section two gives details of the Company they’re working for, both have contact details which would allow access to references from their previous roles [↑](#footnote-ref-2)