

Working with Recruitment Agencies

an ACE guide





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Introduction

ACE member companies have identified the qualities that define an effective business relationship between client and recruitment agency. This guide describes these qualities and gives examples of positive business behaviours that embody them. It also includes guidance on establishing a service level agreement (SLA) with an agency, and model terms of business that could be adapted for use.

This guide had been developed by experienced human resources professionals who are members of the ACE HR Task Force. The principles set out are entirely voluntary, but represent a cross-section of recognised good practice. They are intended to be adapted as appropriate.

How can this guide help?

This document can assist ACE member companies in managing their working relationships with recruitment agencies. For example, the guidance on establishing an SLA can be adapted to help establish a working relationship. The model behaviours can be a reference point for managing any SLA put in place, whilst the model terms of business can be a starting point for a formal contractual relationship.

ACE hopes that the widespread application of this guidance by member companies will promote positive business behaviours across the recruitment industry, resulting in greater client satisfaction and more successful recruitment activity.

ACE appreciates that there is no such thing as a one-size-fits-all approach to effective recruitment. As a result, this guide should be used as a toolkit and adapted to fit the circumstances.

If there is any doubt, specialist advice should be obtained when establishing a business relationship, especially if a contract is entered into.

How can ACE member companies help?

Effective recruitment practice is in the interests of everyone connected with the industry. ACE member companies can play their part in developing and spreading good practice.

By incorporating the principles of this guide into their dealings with recruitment agencies, ACE members can help to encourage continuous improvement and the raising of standards in the field of recruitment. This is important to ensure that the industry can continue to recruit the skilled people it needs.

Where to go for further information

ACE member companies and recruitment agencies who have further questions can contact ACE on 020 7222 6557.

Effective Business Behaviours by Agencies

The purpose of this guide is to promote effective business behaviours by recruitment agencies. ACE members have identified a number of qualities that characterise good business practice:

- Quality
- Integrity
- Privacy
- Cooperation
- Understanding
- Respect
- Value

Quality

During an assignment, an effective agency ensures that it supplies the most accurate information possible to the client company. This allows the company to make informed decisions that are more likely to result in a successful working relationship.

For example, curriculum vitae supplied should provide information essential to the client's decision-making process, such as:

- The candidate's name or agency reference code;
- Relevant qualifications;
- Full career history, including explanations of periods of non-employment;
- Verification of the candidate's right to work in the country where the vacancy is located.

Ensuring that sufficient, accurate information is supplied ensures best use of the time of clients, agencies and prospective candidates.

Integrity

An effective agency will behave with transparency and integrity before, during and after the assignment. It works with the best interests of the client company at heart, as well as any obligations to prospective candidates.

During the recruitment process, for example, an agency will provide a candidate's current salary information based on genuine, verifiable data – e.g. a payslip. An effective agency does not knowingly misrepresent the status or value of other offers in order to secure a higher offer.

When a candidate has been placed with an ACE member company, an effective agency does not seek to head-hunt, or make unsolicited approaches to, that candidate while they are working for the ACE member company.

Behaving with integrity ensures that trust is maintained between agency and client. It also helps to build the agency's reputation as a reliable and effective business partner, resulting in more repeat business.

Privacy

An effective agency respects the privacy of information it receives.

For example, the effective agency seeks the permission of the client company before using contact details, company information, branding materials etc. for any purposes other than the successful filling of a vacancy.

This helps to ensure that the reputation of the client company is not put at risk through association with other organisations, products or services without its knowledge or approval.

Cooperation

An effective agency works in a spirit of partnership with the client company. It maintains as its main focus the successful filling of the vacancy, to the satisfaction of the client company.

The effective agency does not play clients off against each other in order to place candidates. Rather, it works to ensure the best possible outcome for the client company, by ensuring that candidates are put forward who are the best possible fit for the client.

Working in cooperation helps to enhance the reputation of the agency as a sound business partner, which helps to attract more and better candidates.

Understanding

An effective agency will learn as much as it can about its client company, the nature of its business, and the requirements of the vacancy in question.

Individual agents working with the client company need to understand these factors, in order both to identify appropriate candidates and to build an effective working relationship with the client company.

In particular, the effective agency ensures that this knowledge and understanding is transferred when individual agents leave and join the agency. This helps to ensure continuity of service. The client company will also be confident that the agency will be a reliable choice for their recruitment needs.

Respect

The effective agency will respect the business processes of the client company. This will optimise the experiences of all concerned, and helps to ensure that recruitment efforts are successful.

Respect stems from a sound understanding of the client company's objectives and ways of working. Where effective recruitment practice is concerned, one size does not fit all. The effective agency adjusts its approaches to suit the needs of the client.

Value

Through everything it does, the effective agency seeks to deliver maximum value to the client company. This includes ensuring that processes are efficient, that turnaround times are kept to a minimum, that issues and obstacles are raised with the client as soon as they are noticed and that feedback from candidates and clients is sought and acted upon.

This ensures that the recruitment process is completed in the most cost-effective manner for the client company, which helps to encourage repeat business.

The Client-Agency Relationship: Factors to Consider

When engaging the services of a recruitment agency, ACE member companies may wish to keep the following points in mind:

- It is often useful to establish a service level agreement (SLA) with the agency. An SLA will establish a point of reference for both parties which can guide behaviour on a day-to-day basis. See page 7 of this guide for points to consider when drawing up an SLA;
- Remember that successful recruitment is a two-way process. Communication with the agency is vital to achieving the right result;
- Define the assignment as clearly as possible. Provide the information and support the agency may need, remembering that the agent may not be from an industrial background;
- Assist the agency by supplying accurate information about the vacancy that is as clear and jargon-free as possible. As a minimum, set out the requirements of the vacancy in terms of qualifications, skills, career history and personal qualities. Providing a clear, well-written job description and/or person specification can be the difference between successful recruitment and costly delays;
- Establish the terms of business under which the assignment will take place. Model terms of business are contained on page 8 of this guide;
- Ensure that the agency clearly understands what is expected - for example timelines for recruitment – and agree what will happen if these are not met;
- Set out the terms for the agency's use of confidential information, contact details, company branding etc;
- Where there is perceived under-performance, explore this with the agency as soon as it is noticed. Strive to resolve any disputes with the agency on a win-win basis.

The following factors may help the client company to assess the agency's performance reliably and systematically:

- Numbers of non-conformances noticed;
- Responsiveness to requests, e.g. turnaround time;
- Whether agreed timelines are being achieved;
- The ratio of submitted CVs to the number of candidates interviewed;
- Feedback on candidate quality from recruiting managers;
- Feedback from agency on any agreed improvement actions;
- The cost of the recruitment process (in money and time) compared to other routes.
- Remember that the agency has certain statutory obligations to both the employer and the candidate. These are set out in the Conduct of Employment Agencies and Employment Businesses Regulations 2003.

These factors are elaborated on page 13.

Guidance for Developing a Service Level Agreement

Introduction

This section of the guide focuses on the establishment of a service level agreement (SLA). An SLA can be useful in establishing a point of reference for all parties during a recruitment exercise. It can help to define day-to-day activity, and can be a starting point for establishing more formal working procedures.

Whilst the elements of an effective SLA set out here are not necessarily exhaustive, they have been identified by HR professionals as good starting points. Therefore, this section is a toolkit of statements that can be modified to reflect the desired relationship with the agency. The exact content of an SLA should always be a matter for agreement between the client and the agency.

If there is any doubt, please ensure that qualified advice is obtained – particularly if there is a chance that a contractual relationship could be established.

Service Level Agreements: Points to Consider

Candidate Information

1. The integrity of the information provided by an agency relating to a candidate is paramount. Agencies will commit to ensuring that the candidate information provided to their clients is validated, accurate, relevant and reliable.
2. Any curriculum vitae (CV) supplied by agencies must provide the following minimum range of candidate information:
 - a. Name of candidate (or agency reference code);
 - b. Qualifications relevant to the role;
 - c. A full career history, including periods spent with each previous employer and an explanation of any employment interruptions;
 - d. Verifiable status of the candidate's right to work in the country where the vacancy is located.

3. The provision of a candidate's current salary information, including expectations, will be based upon genuine verifiable data (such as a payslip). Agencies will not knowingly misrepresent that status or the value of other offers being made to the candidate. In particular they will not pit one client against another in a bid to achieve a higher offer.

Undertakings by Agencies

4. Agencies will not use client business facilities (such as phone, e-mail) to approach the client's employees with job opportunities.
 5. Once a candidate has been placed by an agency with the client, a further approach to that candidate by the placing agency – other than for agreed customer care purposes - will not occur whilst they remain in the employment of that client.
 6. Information provided by an ACE member company to enable an agency to complete a recruitment assignment will not be used for other purposes.
 7. An agency will not use company information or branding material (such as a logo) of the client without the express approval in writing of that member.
 8. An agency will demonstrate a commitment to learn about the business of the client they are recruiting for and shall endeavour to ensure the effective knowledge transfer of that understanding in the event that individual recruitment consultants leave their employment.
 9. An agency will respect the internal processes of the client, as made known to them by that client, in order to optimise the recruitment experiences for both parties. Offers made outside of any specified processes will be at the risk of the agency and may not be honoured by the client.
- ### *Complaints Procedure*
10. An agency will seek to resolve any perceived breaches of an agreed service level agreement or contract with the client in a thorough and professional manner.

Model Terms of Business

The following is an example of terms of business that could be used to define the relationship between client and agency. Please ensure that appropriate legal advice is obtained before use, particularly if elements of these terms are to be modified.

[INSERT COMPANY NAME] TERMS OF BUSINESS FOR THE INTRODUCTION OF PERMANENT AND FIXED-TERM TECHNICAL STAFF SUPPLIED BY EMPLOYMENT AGENCIES

1. DEFINITIONS

1.1. In these Terms of Business the following definitions apply:

“Applicant” means a person introduced by the Agency to the Company for consideration for Employment;

“Fixed Term” means for a period of Employment of less than 12 months;

“Company” means [Insert Company Name] Limited Registered in England No. [Insert Registration No] of [Insert Address], together with any subsidiary or associated Company as defined by the Companies Act 1985 to which the Applicant is introduced;

“Agency” means [Insert Agent Name] Limited Registered in England No. [Insert Registration No] of [Insert Location] is an employment agency as defined in the Employment Agencies Act 1973;

“Employment” means the engagement of the Applicant by the Company under a contract of service;

“Introduction” means: (i) the Company's interview of an Applicant in person or by telephone, following the Company's instruction to the Agency to search for an Applicant; or (ii) the passing by the Agency to the Company of a curriculum vitae or information regarding the Applicant; and which in either case leads to the Employment following an interview by the Company of that Applicant;

“Remuneration” means the basic gross annual salary payable to the Applicant and does not include any other emoluments such as bonuses (including guaranteed bonuses), commissions, company car benefit, allowances, inducements or any other payments or benefits;

“Retained Search” means a separate agreement in writing between the Company and the Agency whereby the Agency is retained to conduct specific search activities to identify key individuals for the Company.

1.2. Unless the context requires otherwise, references to the singular include the plural.

1.3. The headings contained in these Terms of Business are for convenience only and do not affect their interpretation.

2. THE CONTRACT

2.1. This contract shall commence on [Insert Date] and continue until terminated in accordance with the terms of this contract.

2.2. These terms constitute the agreement between the Company and the Agency and are deemed to be accepted by both parties by virtue of the Company interviewing an Applicant or the Employment of an Applicant.

2.3. These terms constitute the agreement between the parties and unless otherwise agreed in writing by a director of the Company, these Terms of Business prevail over any other terms of business or purchase conditions put forward by the Agency.

2.4. No variation or alteration to these terms shall be valid unless the details of such variation are agreed between a director of the Company and the Agency and are set out in writing.

3. NOTIFICATION AND FEES

3.1. The Company agrees:

a) To notify the Agency immediately of any offer made to employ an Applicant, whether by the Client or any third party, and to provide details of the Remuneration to the Agency;

b) To pay the Agency's fee within [Insert Number of Days] calendar days following receipt of a correctly submitted and agreed invoice.

3.2. No fee will be incurred by the Company until the Applicant commences Employment, after which the Agency will be entitled to render an invoice to the Company for its fees.

3.3. Save as set out in clause 3.4 below the fee payable to the Agency by the Company for an Introduction resulting in Employment of an Applicant is the amount equal to [\[Insert Percentage\]](#) of the Remuneration applicable during the first 12 months of the Employment. VAT can be charged on the fee if applicable.

3.4. If Employment occurs more than 12 weeks after the Introduction of an Applicant to the Company by the Agency no fee is payable.

3.5. In the event of Fixed Term Employment, fee calculated in accordance with clause 3.3 will apply pro-rata. If the Fixed Term is extended or if the Company re-engages the Applicant through the Agency within 3 calendar months from the date of termination of the Fixed Term the Company shall be liable to pay a further fee based pro rata on the additional Remuneration applicable. If the Fixed Term is extended beyond 12 continuous months, the Company will only be liable for fees relating to the first 12 months of Employment from the commencement of the first Fixed Term.

3.6. If the Company re-engages an Applicant privately more than 3 months after the date of termination, no fee will be payable in relation to that re-engagement.

3.7. The Company does not agree to pay and is not liable for any additional fees for administration or services rendered (including advertising) unless specifically and separately agreed in writing by a director of the Company.

4. REFUNDS

4.1. In order to qualify for the following refund, the Company must pay the Agency's fee within [\[Insert Number of Days\]](#) calendar days following receipt of a correctly submitted and agreed invoice.

4.2. If the Employment terminates before the expiry of 12 weeks from the commencement of the Employment the fee will be refunded by the Agency within [\[Insert Number of Days\]](#) calendar days of receipt of written notice of termination in accordance with the accompanying Scale of Refund set out in clause 4.3.

4.3 The scale of refunds shall be as follows:

[\[Insert Scale of Refunds Here\]](#)

4.4 The scale of refunds only applies in the event that the Company complies with the provisions of clause 3.1(b) of these Terms of Business.

4.5 There will be no refund where the Applicant leaves during or after the 13th week of Employment.

5. SUITABILITY, WORK PERMITS AND REFERENCES

5.1. The Agency shall endeavour to ensure the suitability of any Applicant introduced to the Company by obtaining confirmation of the Applicant's identity; that the Applicant has the experience, training, qualifications and any authorisation which the Company considers necessary or which may be required by law or by any professional body; and that the Applicant is willing to work in the position which the Company seeks to fill.

5.2. At the same time as proposing an Applicant to the Company, the Agency shall inform the Company of such matters in clause 5.1 as they obtain confirmation of them. Where such information is not given in paper form or by electronic means it shall be confirmed by such means by the end of the third business day (excluding Saturday, Sunday and any public or Bank holiday) except where the Applicant is being proposed for a position which is the same as one in which the Applicant has worked within the previous five business days and such information has already been given to the Company.

5.3. The Agency agrees to take all such steps as are reasonably practicable to ensure that the Company and Applicant are aware of any requirements imposed by law or any professional body to enable the Applicant to work in the position which the Company seeks to fill.

5.4. The Agency agrees to take all such steps as are reasonably practicable to ensure that it would not be detrimental to the interests of either the Company or the Applicant for the Applicant to work in the position which the Company seeks to fill.

5.5. Notwithstanding clauses 5.1, 5.2, 5.3 and 5.4 above, the Company shall satisfy itself as to the suitability of the Applicant and the Company shall take up any references provided by the Applicant to it or the Agency before engaging such Applicant. The Company is responsible for obtaining work permits and/or such other permission to work as may be required, for the arrangement of medical examinations and/or investigations into the medical history of any Applicant, and satisfying any medical and other requirements, qualifications or permission required by law of the country in which the Applicant is engaged to work.

5.6. To enable the Agency to comply with its obligations under clauses 5.1, 5.2, 5.3, 5.4 and 5.6 above the Company undertakes to provide to the Agency details of the position which the Company seeks to fill, including the type of work that the Applicant would be required to do; the location and hours of work; the experience, training, qualifications and any authorisation which the Company considers necessary or which are required by law or any professional body for the Applicant to possess in order to work in the position; and any risks to health or safety known to the Company and what steps the Company has taken to prevent or control such risks. In addition the Company shall provide details of the date the Company requires the Applicant to commence Employment and the Remuneration and any benefits the Applicant would be entitled to.

5.7. The Company holds the Agency liable for all costs and expenses incurred as a result of the Agency's failure to abide by clauses 5.1, 5.2, 5.3, 5.4 and 5.6. The Company will provide to the Agency all information specified in Regulation 18 of the Conduct of Employment Agencies and Employment Businesses Regulations 2008.

6. SPECIAL SITUATIONS

6.1. Where the Applicant is required by law, or any professional body, to have any qualifications or authorisations to work in the position which the Company seeks to fill; or the work involves caring for or attending one or more persons under the age of eighteen, or any person who by reason of age, infirmity or who is otherwise in need of care or attention, the

Agency will take all practicable steps to obtain and provide copies of the required and relevant qualifications or authorisations of the Applicant, two references from persons not related to the Applicant who have agreed that the references they provide may be disclosed to the Company and any such other information as may be required and has taken all reasonably practicable steps to confirm that the Applicant is suitable for the position. If the Agency is unable to do any of the above it shall inform the Company of the steps it has taken to obtain this information in any event.

7. LIABILITY, CONFIDENTIALITY AND CONDUCT

7.1. The Agency agrees that it will not incur any liability or make any promises, representations, warranties or give any guarantees whatsoever on behalf of the Company except as permitted by this agreement, or as expressly agreed in writing by a director of the Company.

7.2. The Company and the Agency agree that they will keep confidential any confidential information disclosed to the other which relates to the business or finances of the other or any information which could be considered confidential or is designated as confidential by either party. Both parties agree that they will not copy or disclose any such information or documentation to any third party save where the disclosure is required by law, by any regulatory authorities or is in the public domain other than through a breach of either party to the agreement.

7.3. The Company and the Agency agree that neither party shall, during the term of this Agreement, (or within three months of termination) directly or indirectly solicit, seek or enter into any conduct aimed to poach or entice away any employee of the other party from their current appointment.

7.4. The Agency is not liable for any loss, expense, damage or delay from any failure to introduce any Applicant for all or part of the assignment or from the negligence, dishonesty, misconduct or lack of skill of the Applicant. For the avoidance of doubt, the Agency does not exclude liability for death or personal injury arising from its own negligence.

8. RETAINED SEARCHES

8.1. In the event of a Retained Search instruction, the Company will make separate and individual arrangements with the Agency. These are separate arrangements which will be in writing and subject to a separate written agreement between the Company and the Agency.

9. TERMINATION

9.1. This agreement may be terminated at any time by either party giving the other 14 days notice in writing.

9.2. The Company may terminate this Agreement with immediate effect in the event:

a) Of any breach of the Agreement notified in writing to the Agency by the Company. In the case of a breach capable of remedy, the Agency will be given 14 days from receipt of written notice of the breach to remedy the breach and provide written notification of action taken;

b) The Agency is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a receiver or manager or administrator appointed or ceases to carry on business or takes or suffers any similar action which in the opinion of the Company means the Agency cannot pay its debts; or

c) The Agency does anything which does or could bring the name of the Company or any of its officers, employees or contractors into disrepute.

9.3 The Agency may terminate this Agreement with immediate effect in the event:

a) Of any breach of the Agreement notified in writing to the Company by the Agency. In the case of a breach capable of remedy, the Company will be given 14 days from receipt of written notice of the breach to remedy the breach and provide written notification of action taken;

b) The Company is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or convenes a meeting of its creditors or has a

receiver or manager or administrator appointed or ceases to carry on business or takes or suffers any similar action which in the opinion of the Agency means the Company cannot pay its debts; or

c) The Company does anything which does or could bring the name of the Agency or any of its officers, employees or contractors into disrepute.

10. EXCLUSIVITY

10.1. Nothing in this agreement creates any obligation on the Company to solely use the Agency.

11. LAW

11.1. These Terms are governed by the law of England & Wales and are subject to the exclusive jurisdiction of the Courts of England & Wales.

Signed by or on behalf of the Company:

.....

Company name

.....

Company Representative Name (Block Capitals)

.....

Company Representative Signature

.....

Date

.....

Signed by or on behalf of the Agency:

.....

I/We agree that these terms and conditions will prevail over any other terms and conditions provided by us, the Agency or otherwise, with the exception of any preferential fees/refunds which may previously have been granted to the Company. These will be honoured.

Agency Name

.....

Agency Representative Name (Block Capitals)

.....

Agency Representative Signature

.....

Date

.....

Notes on the Model Terms of Business

The Model Terms of Business has been designed by HR professionals as a basis for establishing a formal contractual arrangement with a recruitment agency. However, it is not intended to be an one-size-fits-all solution. There are a number of elements that may require adjustment once standards of service are agreed with the agency. Some of these are summarised in the table below.

Remember also that this document is not a substitute for qualified legal advice. Please ensure that appropriate guidance is obtained before entering into a contractual agreement.

Item	
Definition of an “introduction”	Notwithstanding the definition given in the Model Terms of Business, both parties will need to be in agreement about what constitutes an introduction. This may depend on the nature of the assignment (e.g. whether the assignment is a retained search or contingency selection).
Same candidate, multiple vacancies	You may wish to consider what would happen if the same candidate is put forward for multiple specific vacancies. This will also relate to what is considered to be an “introduction”.
Same candidate, multiple agencies	If more than one agency is being instructed regarding the same vacancy or recruitment need, you may wish to consider what will happen if the same candidate is put forward by more than one agency.
Vacancies in multiple offices	If your company has similar roles operating across multiple locations, you may wish to consider whether the agreement should relate to a particular geographical location or several offices. This could be particularly pertinent if more than one recruiting manager will be involved.
Scale of refunds	This will need to be agreed with the agency. It could take the form of a sliding scale with the refund reducing by day or week – but ultimately this is a commercial consideration.
Eligibility to work in the UK	It is the responsibility of the employer to verify that a candidate is eligible to work in the UK.

Measuring Agency Performance

The following are examples of performance criteria that could be used to assess an agency's performance. They reflect indicators of good practice identified by ACE member companies.

Area of Performance	Criteria	Metrics
Compliance with the agreed process, standards, timelines, service level agreement etc	<ul style="list-style-type: none"> - Is clear about client organisation's recruitment policy, processes and methods and adapts own processes or methods accordingly - Makes doing business with them easy - Has procedures in place to deal with complaints or non-conformances 	<ul style="list-style-type: none"> - Number of notified non-conformances - Responsiveness e.g. turnaround times - Timelines achieved
Quality of candidates	<ul style="list-style-type: none"> - Understands the type of person the client organisation is looking for including traits, skills and experience required 	<ul style="list-style-type: none"> - Ratio of CVs submitted to candidates interviewed or offered - Feedback from hiring managers on quality of candidates
Quality of communication	<ul style="list-style-type: none"> - Keeps client organisation up to date 	<ul style="list-style-type: none"> - Frequency of updates
Other service standards	<ul style="list-style-type: none"> - Maintains knowledge and awareness of client organisation including position within market, goals, past successes etc - Proactively promotes client organisation to potential candidates - Ensures candidates are fully briefed about the client organisation or opportunity - Provides client organisation with accurate candidate profile information - Acts as a business partner and builds relationships based on trust - Regularly solicit feedback from both candidates and client organisations and act on comments received 	<ul style="list-style-type: none"> - Completeness and accuracy of candidate profile - Candidate feedback - Feedback from client organisations - Improvement actions arising from feedback received
Value added	<ul style="list-style-type: none"> - Delivers real savings or value to client organisation 	<ul style="list-style-type: none"> - Reduction in time to fill vacancies

Acknowledgements

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