

GC100 response to 'Consultation on measures to increase transparency in the UK labour market'

Consultation Questions

Personal (P) information

P1 Your name: GC100

About GC100:

GC100 is the association for the general counsel and company secretaries of companies in the UK FTSE 100. There are currently over 125 members of the group, representing some 82 companies. Please note that, as a matter of formality, the views expressed in this letter do not necessarily reflect that of each and every individual member of GC100 or their employing companies.

P2 Your E-mail address:

P3 Are you:

- Other (please specify)

Membership Association

P4 If you are responding as an individual which best describes your employment status?

N/A

P5 If you are an employer, how would you classify your organisation?

N/A

P6 If you are an employee or worker, what type of organisation do you work for?

N/A

P7 If you are an employer, how many employees work for your organisation?

N/A

P8 If you are employed, how many people work for your organisation?

P9 If you represent employers or employees/workers, which best describes you

Membership Association

P10 If you are an employer, what proportion of individuals undertaking paid work at your workplace are:

N/A

End

GC100 response to 'Consultation on measures to increase transparency in the UK labour market'

Section A: Written Statements – Questions for employers		
1.	<p>Question 1 - Have you provided a written statement of employment in the last 12 months to:</p> <p>a) Your permanent employees</p> <p>Yes/No/Don't know.</p> <p>b) Your non-permanent staff</p> <p>Yes/No/Don't know.</p> <p>If you answered yes to question 1b, approximately how many have you provided in the last 12 months?</p> <p>If you answered no to question 1b, please explain your reasons.</p>	<p>GC100 members agree that they have provided written statements in the past 12 months numbering in some cases into the many hundreds or thousands.</p>
2.	<p>In general, when do individuals starting paid work at your organisation receive:</p> <p>a) A written statement</p> <p>Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More</p>	<p>GC100 members collectively agree that written statements and employment contracts are provided before paid work starts.</p> <p>GC100 members note that a contract of employment is typically provided to employees before paid work starts, and not a written statement with a contract to follow.</p>

	<p>than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.</p> <p>b) An employment contract or other employment particulars</p> <p>Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.</p>	
3.	<p>How long, on average, would it take a member of staff to produce a written statement for a new starter?</p> <p>Under half-an-hour/Between half-an-hour and an hour/Between one hour and half a day/Between half a day and a full working day/More than one working day.</p>	<p>GC100 members understand this question to ask how long the actual production of the written statement takes (excluding time for sign off/risk review and board approval etc.).</p> <p>GC100 members consider that around 30 minutes to one hour is an appropriate time period.</p>
4.	<p>How often do you seek legal advice when producing a written statement?</p> <p>Always/Often/Sometimes/Rarely/Never.</p>	<p>GC100 members collectively agree that this is very much on a case by case basis. Some GC100 members note that legal advice is very rarely sought on a day to day basis once a</p>

		template contract has been prepared and such advice would only be sought in exceptional circumstances.
5.	<p>Are there other business costs associated with producing a written statement, in addition to personnel and legal costs that we should be aware of?</p> <p>Yes/No/Don't know. If yes, please provide details.</p>	GC100 members assume this question is not asking about time spent negotiating the contractual terms of a written statement with a candidate.
Section A: Written Statements – Questions for individuals		
6.	<p>If you are employed, have you received any of the following from your employer:</p> <p>a) A written statement?</p> <p>(A written statement is a legally binding agreement between employer and employee, which is formed when an employee agrees to work for an employer in return for pay. Employers are legally required to put some of the main particulars of employment in writing. It is not itself a contract of employment but is evidence of the contract of employment. Currently employers are required to give the written statement to employees within two months of starting work, ideally on their first day. Employers can issue the written statement in instalments; however key information must be included in a</p>	Not applicable.

	<p>single document which is known as the 'principal statement').</p> <p>Yes/No/Don't know.</p> <p>b) An employment contract or other employment particulars?</p> <p>Yes/No/Don't know.</p>	
7.	<p>If yes, when did you receive the following in relation to starting paid work with your employer:</p> <p>a) A written statement</p> <p>Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.</p> <p>b) An employment contract or other employment particulars</p> <p>Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but</p>	Not applicable.

	less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.	
8.	<p>If yes, was the information presented in a way that was easy to understand?</p> <p>Yes, very easy to understand/ Yes, fairly easy to understand/ No, quite difficult to understand/ No, very difficult to understand/Don't know.</p>	Not applicable.
Section A: Written Statements – Questions for all		
9.	<p>To what extent do you agree that the right to a written statement should be extended to cover permanent employees with less than one month's service and non-permanent staff?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>Please provide reasons for your answer.</p>	<p>GC100 members typically have contractual documentation for all employees at their organisations. This even extends to those on internships and those on placement for one week.</p> <p>GC100 members do not disagree with the written statement scope being extended in this way.</p>
10.	The following items are currently prescribed contents of a principal written statement. Do you	GC100 members have no comments on this question.

think they are helpful in setting out employment particulars?

a) The business's name

Yes/No/Don't know. If no, please explain why.

b) The employee's name, job title or a description of work and start date

Yes/No/Don't know. If no, please explain why.

c) If a previous job counts towards a period of continuous employment, the date that period started

Yes/No/Don't know. If no, please explain why.

d) How much, and how often, an employee will get paid

Yes/No/Don't know. If no, please explain why.

e) Hours of work (and whether employees will have to work Sundays, nights or overtime)

Yes/No/Don't know. If no, please explain why.

	<p>f) Holiday entitlement (and if that includes public holidays)</p> <p>Yes/No/Don't know. If no, please explain why.</p> <p>g) Where an employee will be working and whether they might have to relocate</p> <p>Yes/No/Don't know. If no, please explain why.</p> <p>h) If an employee works in different places, where these will be and what the employer's address is</p> <p>Yes/No/Don't know. If no, please explain why.</p>	
11.	<p>Do you agree that the following additional items should be included on a principal written statement:</p> <p>a) How long a temporary job is expected to last, or the end date of a fixed- term contract?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p>	<p>GC100 members agree overall that a greater level of detail in the written statement would lead to a greater level of clarity for both the individual and the work provider, therefore lowering the amount of confusion. However, a number of GC100 members note that items listed at E, F and G are normally details that are contained in other documents (or perhaps on an intranet) at their organisations. It would be onerous for employers to be required to provide possibly lengthy information in a single statement on matters such as benefit rules when these are already easily accessible to candidates or employees.</p> <p>Some GC100 members note that contractual provisions relating to passing examinations as a condition of employment need to be contained in an employment contract (not written statement) issued as part of the employment offer.</p>

	<p>b) How much notice the employer and the worker are required to give to terminate the agreement?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>c) Sick leave and pay entitlement?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>d) The duration and conditions of any probationary period?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>e) Training requirements and entitlement?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>f) Remuneration beyond pay e.g. vouchers, lunch, uniform allowance?</p>	<p>GC100 members consider that there are questions from candidates about policies or more details concerning benefits they wish to have answered before accepting an offer of employment, but such requests are made only occasionally. It is unusual for full employment manuals or handbooks to be provided prior to commencement of employment.</p>
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	<p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>g) Other types of paid leave e.g. maternity, paternity and bereavement leave?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p> <p>If you disagree that any of the above additional items should be included on a principal written statement, please provide reasons.</p>	
12.	<p>To what extent do you agree that the principal written statement should be provided on (or before) the individual's start date?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p>	<p>It is the practice of most GC100 members to provide a contract of employment (rather than a written statement) prior to an individual's start date.</p>
13.	<p>To what extent do you agree that other parts of the written statement should be provided within two months of their start date?</p> <p>Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.</p>	<p>See question 12 above.</p>

Section A: Written Statements – Questions for individuals

14.	<p>Have you ever worked for an organisation that has not provided you with a written statement of employment particulars within 2 months of starting your job?</p> <p>Yes/No.</p>	Not applicable
15.	<p>If you answered yes to question 14, did you:</p> <p>a) Consider lodging a complaint with an employment tribunal (even if you did not end up doing it)?</p> <p>Yes/No/Don't know.</p> <p>If no, please explain your reasons for this.</p> <p>b) Pursue compensation?</p> <p>Yes/No/Don't know/Not applicable.</p> <p>If no, please provide your reasons for this.</p>	Not applicable
16.	<p>If you answered yes to question 15b, were you successful in securing compensation for failing to receive a written statement within 2 months of starting your job?</p> <p>Yes/No/Don't know/Not applicable.</p> <p>If no, please provide a reason for your answer.</p>	Not applicable

17.	<p>If we introduced a standalone right for individuals to bring a claim for compensation where an employer has failed to provide a written statement, what impact do you think this would have? Please consider the impact on:</p> <p>a) Individuals</p> <p>b) Employers</p> <p>c) The Tribunal Service</p>	Not applicable
Section A: Written Statements – Questions for all		
18.	<p>Which of the following best describes your awareness of the Acas guidance on Written Statements?</p> <p>I have not heard of the Acas guidance/I am aware of the Acas guidance but do not know much about it/I am aware of the Acas guidance and have some knowledge of what it says/I have a good knowledge of the Acas guidance/Don't know.</p>	GC100 members have no comments on this question.
19.	<p>If you have some knowledge of the Acas guidance on written statements, how helpful did you find it?</p> <p>Have not used/Very helpful/Quite helpful/Not very helpful/Not helpful at all. Please provide reasons for your answer.</p>	GC100 members have no comments on this question.

Section B: Continuous Service

20.	What do you think are the implications for business of the current rules on continuous service?	GC100 members have no comments on this question.
21.	If you are employed, or represent employees what are the implications for you or those your represent of the current rules on continuous service?	GC100 members have no comments on this question.
22.	<p>Do you have examples of instances where breaks in service have prevented employees from obtaining their rights that require a qualifying period?</p> <p>Yes/No/Don't know.</p> <p>If yes, please provide examples.</p>	GC100 members have no comments on this question.
23.	<p>Do the current rules on continuous service cause any issues in your sector?</p> <p>Yes/No. Please specify your sector and explain your answer.</p>	GC100 members have no comments on this question.
24.	<p>We have committed to extending the period counted as a break in continuous service beyond one week. What length do you think the break in continuous service should be?</p> <p>2 weeks/3 weeks/One month/6 weeks/Other - please specify. Please provide your reasoning.</p>	Some GC100 members believe that the longer the period which is counted as a break, the greater the administrative burden is likely to be in terms of maintaining records of periods of work and non-work so that an accurate assessment of service can be made.

25.	<p>Do you believe the existing exemptions to the break in continuous service rules are sufficient?</p> <p>Yes/No/Don't know.</p> <p>If no, do you have views on additional circumstances that should be added?</p>	GC100 members have no comments on this question.
26.	<p>We intend to update the guidance on continuous service, and would like to know what types of information you would find helpful in that guidance? (Select all that apply)</p> <p>Real examples from case law/Signposts to further information/Information on what to do if you feel your employer has not complied with the legislation/Other - please specify.</p>	GC100 members have no comments on this question.
Section C: Holiday Pay		
27.	<p>Do you think that the government should take action to change the length of the holiday pay reference period?</p> <p>Yes/No/Don't know.</p> <p>If no, explain your answer.</p>	<p>GC100 members note that they have not yet had the opportunity to consider or review the implications.</p> <p>GC100 members believe that this is far more of a 'systems piece' and how the implementation will be followed through practically.</p> <p>GC100 members believe that there will be a bigger concern around zero hours contracts, and the calculations surrounding these.</p> <p>GC100 members can see the merits in taking action with regard to the length of the holiday pay reference period for both employees and employers.</p>

28.	<p>If you answered yes to Q27, should the government:</p> <p>a) increase the reference period from the current 12 weeks to the 52 weeks recommended in the review?</p> <p>Yes/No/Don't know.</p> <p>b) Set a 52 week default position but allow employees and workers to agree a shorter reference period?</p> <p>Yes/No/Don't know.</p> <p>c) Set a different reference period</p> <p>Yes/No/Don't know.</p> <p>If yes, please specify.</p>	(b)
29.	<p>What is your understanding of atypical workers' arrangements in relation to annual leave and holiday pay?</p> <p>For example:</p> <p>a) Are they receiving and taking annual leave?</p> <p>Yes/No/Don't know.</p> <p>b) Are they receiving holiday pay but not taking annual leave?</p>	These workers are taking and receiving leave.

	<p>Yes/No/Don't know.</p> <p>c) Do you know of any other arrangements that are used?</p> <p>Please explain your answer.</p>	
30.	<p>How might atypical workers be offered more choice in how they receive their holiday pay?</p> <p>Please provide examples including how worker's entitlement to annual leave could be safeguarded so they are not deterred from taking leave.</p>	No comments
Section D: Right to Request		
31.	<p>Do you agree that we should introduce a Right to Request a more stable contract?</p> <p>Yes/No/Please explain your reasons.</p>	Some GC100 members noted that a 'Right to Request' a more stable contract requires further clarity. GC100 members question whether this would be similar to the right to request flexible working. Would there be the same right for an employer to refuse a right to request a more stable contract for a good business reason? What would the recourse be for those who have their requests refused? GC100 members note that this proposal is likely to lead to increased management time and subsequent costs.
32.	<p>Should any group of workers be excluded from this right?</p> <p>Yes/No/Please explain your reasons.</p>	No comments
33.	<p>Do you think this will help resolve the issues the review recommendations sought to address?</p> <p>Yes/No/Please explain your reasons.</p>	Some GC100 members believe that this could just create additional burden for employers and if it is a right to request only, it may not change much in practice.

34.	<p>Should employers take account of the individual's working pattern in considering a request?</p> <p>Yes/No/Please explain your reasons.</p>	No comments
35.	<p>Should there be a qualifying period of continuous service before individuals are eligible for this right?</p> <p>Yes/No/Please explain your reasons.</p>	Some GC100 members suggest that 12 months would be appropriate to obtain a balance between the objectives and the administrative burden on organisations.
36.	<p>What is an appropriate length of time the employer should be given to respond to the request?</p> <p>1 month/2 months/3 months/more than 3 months.</p>	See answer to 35.
37.	<p>Should there be a limit on the number of requests an individual can submit to their employer in a certain period of time?</p> <p>Yes/No.</p> <p>Please explain your reason for this and include a suggestion of what an appropriate limit might be and why.</p>	Yes, some GC100 members note that this limit should be one application each year to limit the administrative burden on organisations.
38.	<p>When considering requests, should Small and Medium Enterprises (SMEs) be included?</p> <p>Yes/No/Don't Know.</p> <p>If yes, do you think they should have any dispensations applied e.g. longer to respond?</p>	No comments

Section E: Information and Consultation of Employees Regulations (2004) (ICE)

<p>39. Are there formal provisions in your workplace for informing and consulting employees about changes that may affect their work?</p> <p>Yes/No/Don't know.</p> <p>If yes, were these provisions:</p> <ul style="list-style-type: none"> • requested by employees? • initiated voluntarily by the employer/ manager? 	<p>Some GC100 members state that there are formal provisions in their workplace to inform and consult employees about changes that may affect their work – these can be either initiated voluntarily from the employer, or voluntarily from Trade Union recognition.</p>
<p>40. For employees only</p> <p>Have you ever requested Information and Consultation of Employees (ICE) provisions in your workplace?</p> <p>Yes/No.</p> <p>If no, please describe why you have not made a request for ICE provisions. Please select all that apply:</p> <ul style="list-style-type: none"> • My workplace has less than 50 employees, and so does not qualify for ICE regulations • There were not enough employees wanting to make a request to meet the required 10% threshold 	

	<ul style="list-style-type: none"> • It was too complicated/ difficult to make the request • I was not aware of the ICE regulations • I don't believe that the ICE regulations would make a difference to my working conditions • Other – please explain <p>If you answered yes, did this lead to positive outcomes for you at work?</p> <p>Yes/No/Don't know.</p> <p>Please explain your answer.</p>	
41.	How might the ICE regulations be improved?	No comments
42.	<p>Should the ICE regulations be extended to include workers in addition to employees?</p> <p>Yes/No/Don't know.</p> <p>Please explain the reasons for your answer.</p>	Some GC100 members note that they are supportive of greater clarity on what the information and consultation requirements for workers are across all relevant legislation.
43.	<p>In your opinion, should the threshold for successfully requesting ICE regulations be reduced from 10% of the workforce to 2%?</p> <p>Yes/No/Don't know.</p> <p>Please explain your answer.</p>	Some GC100 members' response is no. Some GC100 members state that there are existing consultation obligations for key issues impacting employees (e.g. TUPE and collective redundancies) so others may not necessarily be particularly productive.

44.	<p>Is it necessary for the percentage threshold for implementing ICE to equate to a minimum of 15 employees?</p> <p>Yes/No/Don't know.</p> <p>Please explain your answer.</p>	No comments
45.	<p>Are there other ways that the government can support businesses on employee engagement?</p>	No comments
46.	<p>How might the government build on the expertise of stakeholders such as Investors in People, Acas and Trade Unions to ensure employees and workers engage with information about their work?</p>	No comments
47.	<p>What steps could be taken to ensure workers' views are heard by employers and taken into account?</p>	No comments
48.	<p>Are there other ways that the government can support businesses on employee/worker engagement?</p>	No comments

