22 May 2018

OIL&GASUK

BEIS Consultation on Measures to Increase Transparency in the UK Labour Market

Oil & Gas UK Response

Submitted on: 22 May 2018

Introduction

Oil & Gas UK is the leading representative body for the UK offshore oil and gas industry. It is a not-for-profit organisation, established in April 2007 on the foundations of the UK Offshore Operators' Association (UKOOA).

We currently represent around 400 members from the UK's oil and gas industry, from super majors to large contractors and from independent oil companies to SMEs working in the supply chain.

The oil and gas industry is extremely important to the UK economy. In 2016, oil and gas provided approximately 76 % of the country's primary energy needs, with 60% of the net demand met by indigenous production. Despite the challenges currently facing the industry, it still supports over 300,000 jobs across the UK.

A flexible labour market is vital to the success of our industry.

Personal Information

P1	Your name	Oil & Gas UK
P2	Your email address	
P3	Are you:	Representing employers' or employees'/workers' interests
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?	N/A
P9	If you represent employers or employees/workers, which best describes you:	An industry or employer association
P10	If you are an employer, what proportion of individuals undertaking paid work at your work place are:	N/A

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Section A: Written Statements

1. **Have you provided a written statement of employment in the last 12 months to:**
   a) Your permanent employees: Our members indicate yes
   b) Your non-permanent staff: Our members indicate no

2. **In general, when do individuals starting paid work at your organisation receive:**
   a) **a written statement**
      Before paid work commences
   b) **an employment contract or other employment particulars**
      Before paid work commences

3. **How long, one average, would it take a member of staff to produce a written statement for a new starter?**
   We estimate between 30 and 60 minutes.

4. **How often do you seek legal advice when producing a written statement?**
   Rarely.

5. **Are there other business costs associated with producing a written statement, in addition to personnel and legal costs that we should be aware of?**
   There may be system-based costs but we would not expect these to be significant.

6. **If you are employed, have you received any of the following from your employer: a) a written statement, b) an employment contract or other employment particulars?**
   N/A

7. **If yes, when did you receive the following in relation to starting paid work with your employer: a) a written statement, b) an employment contract or other employment particulars?**
   N/A

8. **If yes, was the information presented in a way that was easy to understand?**
   N/A

9. **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?**
   Agree strongly, on the basis that we would expect all employees to have a contract in place before they begin work.

10. **The following items are currently prescribed contents of a principal written statement. Do you think they are helpful in setting out employment particulars?**
    a) ***the business's name:*** Yes
    b) ***the employee's name, job title or a description of work and start date:*** Yes
    c) ***if a previous job counts toward a period of continuous employment, the date that period started:*** Yes
    d) ***How much, and how often, an employee will get paid:*** Yes
    e) ***Hours of work (and whether employees will have to work Sundays, nights or overtime):*** Yes
    f) ***Holiday entitlement (and if that includes public holidays):*** Yes

g) ***Where an employee will be working and whether they might have to relocate:*** Yes
h) ***if an employee works in different places, where these will be and what the employer's address is:*** Yes

11. Do you agree that the following additional items should be included on a principal written statement:

a) ***how long a temporary job is expected to last, or the end date of a fixed-term contract?*** *Agree* strongly
b) ***how much notice the employer and the worker are required to give to terminate the agreement?*** Agree strongly
c) ***sick leave and pay entitlement?*** Agree strongly
d) ***the duration and conditions of any probationary period?*** Agree strongly
e) ***training requirements and entitlement?*** Disagree
f) ***remuneration beyond pay, e.g. vouchers, lunch, uniform allowance:*** Disagree; this would be too restrictive on our industry.
g) ***other types of paid leave, e.g. maternity, paternity, and bereavement leave:*** Disagree; these are policies, and not contractual.

12. To what extent do you agree that the principal written statement should be provided on (or before) the individual's start date?

Agree strongly, where practicable. For the vast majority this works; however there are some cases where arrangements have to be made at short notice, and therefore receiving a written statement on the assigned start date is sometimes appropriate.

13. To what extent do you agree that other parts of the written statement should be provided within two months of their start date?

Agree strongly

14. 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?

N/A

15. If you answered yes to Q14, did you: a) consider lodging a complaint with an employment tribunal (even if you did not end up doing it)? B) pursue compensation?

N/A

16. If you answered yes to Q15b, were you successful in securing compensation for failing to receive a written statement within 2 months of starting your job?

N/A

17. 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:

a) individuals – in our sector, very little impact as statements are provided in a timely fashion, usually before the person starts work.
b) employers – in our sector, very little impact as statements are provided in a timely fashion.
c) the tribunal service Don't know as not aware of how many employers do not meet the current requirement to provide a written statement.

18. Which of the following best describes your awareness of the Acas guidance on written statements?
Our members have good knowledge of the Acas guidance.

19. If you have some knowledge of the Acas guidance on written statements, how helpful did you find it?
The guidance is quite helpful, although our members have not needed to use it often as it is usual to provide statements.

Section B: Continuous Service

20. What do you think are the implications for business of the current rules on continuous service?
The oil and gas industry currently use this to aid flexibility.

21. If you are employed, or represent employees, what are the implications for you, or those you represent, of the current rules on continuous service?
N/A

22. Do you have examples of instances where breaks in service have prevented employees from obtaining their rights that require a qualifying period?
No

23. Do the current rules on continuous service cause any issues in your sector?
No

24. 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?
We think this should be extended to two weeks

25. Do you believe the exemptions to the break in continuous service rules are sufficient?
Yes

26. 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...
Signpost to further information
Information on what to do if you feel your employer has not complied with the legislation

Section C: Holiday Pay

27. Do you agree that government should take action to change the length of the holiday pay reference period?
Yes

28. If you answered yes to Q27, should government:
a) increase the reference period from the current 12 weeks to the 52 weeks recommended in the review? Yes
b) set a 52 week default position but allow employees and workers to agree a shorter reference period? Yes

c) set a different reference period? No
Note: we are responding with regard to workers without normal working hours, where things such as bonuses are not included.

29. **What is your understanding of atypical workers arrangements in relation to annual leave and holiday pay?**
    a) **are they receiving and taking annual leave?** Yes
    b) **are they receiving holiday pay but not taking annual leave?** No
    c) **do you know of any other arrangements that are used?** No

30. **How might atypical workers be offered more choice in how they receive their holiday pay?**
    The only alternative would appear to be rolled up holiday pay which the government has already said it would not implement because of legal decisions that determined this contravened the Working time Directive.

Section D: Right to Request

31. **Do you agree that we should introduce a Right to Request a more stable contract?**
    Yes

32. **Should any group of workers be excluded from this right?**
    No, although the business should be able to refuse the request if there are appropriate reasons for doing so.

33. **Do you think this will help resolve the issues the review recommendations sought to address?**
    It is unlikely to have a substantial impact on companies working in the oil and gas sector.

34. **Should employers take account of the individual's working pattern in considering a request?**
    Yes

35. **Should there be a qualifying period of continuous service before individuals are eligible for this right?**
    Yes, otherwise flexibility would be reduced.

36. **What is an appropriate length of time the employer should be given to respond to the request?**
    One month

37. **Should there be a limit on the number of requests an individual should submit to their employer in a certain period of time?**
    Yes; this should be the same as the right to request flexible working provisions.

38. **When considering requests, should SMEs be included?**
    Yes, everyone should have the right to request.

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

39. Are there formal provisions in your workplace for informing and consulting employees about changes that may affect their work? If yes, were these provisions: requested by employees, or voluntarily initiated by the employer/manager?

This varies amongst our members, a number do have formal provisions which were initiated voluntarily, as opposed to initiated under ICE Regulations.

40. (For employees only) Have you ever requested Information and Consultation of Employees provisions in your workplace?

N/A

41. How might the ICE regulations be improved?

Regulations are adequate; however, awareness of them is low and this needs to be addressed.

42. Should the ICE regulations be extended to include workers in addition to employees?

No, as this may become unmanageable. In our sector, workers are more likely to be on temporary contracts.

43. Should the threshold for successfully requesting ICE regulations be reduced from 10% of the workforce to 2%?

No, 2% is too low.

44. Is it necessary for the percentage threshold for implementing ICE to equate to a minimum of 15 employees?

No, as this minimum disadvantages employees working in smaller organisations.

45. Are there other ways that the government can support businesses on employee/worker engagement?

Yes – the government could raise awareness of best practices and share real examples of where this has contributed to business success.

46. How might 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?

The government could raise awareness of best practices and simplify the information available, taking into account making it accessible to smaller companies.

47. What steps could be taken to ensure workers' views are heard by employers and taken into account?

The current legislation is sufficient; the success of this lies in the culture of the organisation and degree of worker engagement.

48. Are there other ways that the government can support businesses on employee/worker engagement?

Yes – stimulate a corporate environment that encourages workforce voice.