CWU Capital Branch
Room 1011, Baynard House
135 Queen Victoria Street
London EC4V 4AA

Website: www.cwucapital.org

Department for Business, Energy & Industrial Strategy
Labour Markets, Spur 2,
1 Victoria Street,
London SW1H 0ET

1ST May 2018

To whom it may concern,

RE: GOVERNMENT CONSULTATION ON THE TAYLOR REVIEW

On behalf of Capital Branch of the Communication Workers Union (CWU), I would like to make our views known on the Consultation taking place in relation to the recommendations made in the Matthew Taylor "Review of modern employment practices" document relating to agency workers.

This branch have members within our represented workplaces that are using PBA contracts, so it was felt that failure to comment on document would be a failing not to comment at this juncture.

These comments relate to questions contained within page 21 of this document and are as follows:

Question 8: Have you used or are you currently using a pay between assignments (PBA) contract?

Yes, currently members of our branch and within our workplace are paid using PBA contracts

Question 9: In your experience, what are the benefits and any problems associated with working on a PBA contract basis?

As a branch, we have not found any benefits associated with working on a PBA contract basis. In our experience the primary purpose of PBA contracts is to replace and undercut t permanent employment, providing a loophole through which workers are exploited.

Although PBA contracts offer a guaranteed income for 4 weeks in between assignments, this is paid at the national minimum wage and, because workers are engaged on a long-term basis this does not happen. Indeed it is our experience that workers can be employed on a PBA contract for many years meanwhile, they are prevented from enjoying the same treatment on pay as their permanent colleagues, even after 12 weeks.

As a result. our agency members on PBA contracts who are employed by [illegible] are paid substantially less than their permanent counterparts doing the same work. This can be as much as £3.26 less per hour, which amounts to £122 a week and £529 a month.

In our experience, temporary work agencies are almost exclusively employing new recruits on PBA contracts in order to avoid equal pay regulations. Tellingly, workers are not given an opt-out choice upon recruitment.

These contracts are offered on a take-it-or-leave-it basis leaving workers with no choice but to accept them.

Question 10: In your experience, how effective do you think pay between assignments contracts are in supporting workers and work seekers when they are not working?

We have found that PBA contracts are entirely ineffective in supporting workers and work seekers when they are not working

When engaged on PBA contracts, workers have struggled due to low incomes and little reassurance that they will be expediently moved into a suitable position.

Moreover, PBA contracts have helped to tie some workers into a cycle of low-paid and insecure employment, and the long-term undercutting of pay and conditions.

Question 11: Do you have evidence that there are wider issues (beyond equal pay) with PBA contracts, for example agency workers not being able to access to facilities, rest break, annual leave or job vacancies?

Workers engaged on PBA contracts have suffered from a range of inferior terms and conditions. These include: an inability to arrange time off at their convenience; unsocial shifts and being mandated to work during bank holidays; unable to access and apply for permanent positions; poorer pension terms and conditions; and only entitled to statutory maternity/paternity and sick pay.

Question 11 (a): Do you believe that that the above issues would justify wider state enforcement?

The problems outlined above are inherent to agency work and enforcement is not the answer. Instead a regulatory overhaul is needed to ensure that day one rights exist across the workforce and to prevent the kind of exploitation that has become normalised in too many workplaces.

Question 12: To what extent do you agree that enforcement of the Agency Worker Regulations 2010 should come within the remit of the Employment Agency Standards inspectorate?

Fundamentally we do not agree with the premise of this question. The challenge is not one of enforcement, or lack thereof, but of poor regulations and loopholes that enable exploitation.

Rather than focusing on enforcement we believe that a wider review and overhaul of the Agency Worker Regulations Act 2010 is required. In particular, we believe that it is time for the Swedish Derogation to be scrapped. It creates disparity in payment received for tasks performed, denying agency workers the going rate for the job.

The views of this Branch will also be made by post to ensure that they are included in this process.

Yours Faithfully,

Tony Gilkes
Deputy Branch Secretary