

ID	30
What is your name?	
Which best describes you? - Response Category	Employer
Which best describes you? - If other please specify	
If you are responding as an individual, what best describes your employment status? - Employment status	Employed
How would you classify your organisation/the organisation you work for? - Organisation type	Private sector organisation
How would you classify your organisation/the organisation you work for? - other	
If you are an employee/worker or an employer, how many people work for your organisation? - Size of employer	Large-sized business (250+ employees)
If you represent employers or employees/workers, who do you represent? - Representatives	
If you represent employers or employees/workers, who do you represent? - If other please specify	
Are you happy for your response to be published?	Yes, but without identifying information
How did you hear about this consultation?	
How did you hear about this consultation? - Other	REC website
<b>Section 1: Improving the transparency of information provided to work seekers</b>	
To what extent would you agree that a 'key facts' page would support work seekers in making decisions about work? - Opinion on key facts	Agree strongly
To what extent would you agree that a 'key facts' page would support work seekers in making decisions about work? - What key facts should be made prominent	All of them - the only one that won't always need to be prominent is f) and only because it won't always be present
To what extent would you agree that a 'key facts' page would support work seekers in making decisions about work? - Reasons for disagreement	N/A
Thinking about work seekers and employers in the recruitment sector, would ensuring work seekers are provided with a key facts page have a: - Please select an option - Individual work seekers	Small positive impact
Thinking about work seekers and employers in the recruitment sector, would ensuring work seekers are provided with a key facts	Some negative and some positive impact

page have a: - Please select an option - Employers in the recruitment sector	
What information would be important to include in a "key facts" page? - Please type your response in the box below.	<p>From my experience (15 years as director and shareholder of a medium-sized public sector recruitment agency), I would support the items listed as a) to f) and would suggest for these others to be included as well:-</p> <p>Statement of the legal and beneficial ownership of the umbrella company (i.e. in case it is related by ownership or control to the other intermediaries. The 2003 conduct regulations aimed to prevent agencies using "associated companies" to payroll their temps but this is easily sidestepped because the definition of an "associated company" is too limited)</p> <p>An sequential list of the intermediaries from worker to hirer.</p> <p>An AWR comparison with a statement of any uplift after 12 weeks (in case the agency agrees an uplift with the client but doesn't pass it on to the worker)</p> <p>What rates the employment business and hirer have agreed the worker should be paid. (Typically in public sector recruitment the agency-hirer contract sets out the worker's pay and statutory deductions, but the workers don't have "third party rights" to receive that amount.)</p> <p>Copy of the job advert for the position (in case this is the only job description the worker gets)</p> <p>Whether a determination of IR35 status has been made (which is often a legal duty for public sector hirers)</p> <p>Details of the auto-enrolment pension and contributions</p> <p>Statement of any guarantees or assets protecting the worker's pay in the event of the agency or other intermediaries going into liquidation/breaching contract etc</p>
What conditions should be in place to ensure the 'key facts' page is provided and understood by the work seeker before any contractual engagement?	The hirer (or "end-user") and employment business should be required to complete their contract first. This was removed from the regulations by The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2016, but this has had the
Should an employment business be required to ensure that the work seeker understands fully the information being given to them?	No
Should an employment business be required to ensure that the work seeker understands fully the information being given to them? -	N/A

If yes, how do you think this should be achieved?	
Do you feel an hour is an accurate estimate of the time it would take to produce information document for a work seeker? - Time taken to produce an information document	Too low
Do you feel an hour is an accurate estimate of the time it would take to produce information document for a work seeker? - If too high or too low, please provide reasons for your answer:	Work-seekers often choose which umbrella company they will work through after they have a job offer, and in most cases there is some "chopping and changing". This means the exercise could need to be done several times for each temporary work assignment.
Other than the time taken by personnel to produce a "key facts" document, are there other business costs we should be aware of? - Other business costs	Yes
Other than the time taken by personnel to produce a "key facts" document, are there other business costs we should be aware of? - If you answered yes please provide details	Temporary workers would start to cost more if their entitlements were accurately calculated (rather than estimated). Not all employment businesses would be able to pass additional costs on to the client: the amounts involved could be large relative to the
<b>Section 2: Extending the Remit of the Employment Agency Standards inspectorate to cover umbrella companies and intermediaries in the supply chain</b>	
Have you or are you currently using an umbrella/intermediary?	Yes
Have you or are you currently using an umbrella/intermediary? - If so, for what reason?	<p>As an employment business we use 30-40 different umbrella companies. Due to the lack of regulation we have needed to do our own financial due diligence on all of them and we have lost hundreds of workers because they insisted on using blatantly-illegal "loan schemes" that offer people impossibly-high rates of takehome pay. It doesn't benefit our business to use umbrella companies, but all of the temporary workers in our industry have been accustomed for many years to paying substantially less tax than they would in a permanent role, so we have to actively manage the risk.</p> <p>In the public sector, prices are very immobile because of framework agreements and tenders, so when workers' real/enforced tax burden increases, we can't pass on higher salary expectations to hirers - the workers tend to vote with their feet and go to a combination of apparently-illegal Umbrellas and obscure, non-framework agencies that are willing to work with them.</p>

<p>Do you know of any examples of the benefits and/or problems for agency workers of using an umbrella company or intermediary?</p>	<p>Workers choosing to only work through apparently-illegal Umbrellas has happened en masse since 2017 when the public sector off-payroll duties came into effect. We have about 10% market share in our sector and have seen hundreds of examples - so I expect there are thousands of people affected. HMRC's inspection and investigation regime unfortunately hasn't been an effective deterrent.</p> <p>This is often said to be because they lack resources to chase individuals, or because they are reluctant to punish public sector workers who are doing difficult, publicly-appreciated, and often underpaid jobs. But I would suggest a more important factor is that many workers have taken out mortgages and other financial commitments in previous years, on the assumption they would always be able to pay minimal income tax. Many professional public sector workers have taken on a large student loan for a specific degree qualification that is not considered transferable or valuable by the private sector. This has the result that once they come to settle down and buy a house they become like a captive market with often only one or two employers close enough to commute to. So when the tax regulations came to be applied, this left them with a choice between an immediate reduction in takehome pay (e.g. 10-20%) or the illusion offered by illegal Umbrella Companies that they could continue as before. These workers are at ever-growing risk. Law-abiding agencies like mine can't take the risk of employing them, and in place of a salary they often have minimum wage and a much larger loan. If an Umbrella Company someday sold the loans as a real debt, and the new owners start recovering them, they could lose everything. And that's if they don't lose everything as a result of an HMRC investigation.</p> <p>In cases I have defended at Employment Tribunal, agency workers using Umbrella Companies have been almost totally ignorant of which organisation(s) employed them and owed them the duties of an employer. They sign up to these schemes on very short timescales (e.g. Friday ready to start on Monday) and there is an overwhelming amount of information to take in. The tax arrangements are difficult for accountants to understand - but workers enter them without necessarily even having good numeracy or knowing the difference between Net and Gross.</p>
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	<p>The ethical majority of Umbrella Companies take their responsibilities as financial advisers seriously, only a small percentage of temporary workers come to dispute their terms due to poor advice, and we commend the efforts of the FSCA to self-regulate the industry - but only a state regulator will ever be able to shut down the rogue operators.</p>
<p>Should the extension of the remit of the Employment Agency Standards inspectorate to cover the regulation of certain activities of umbrella companies and intermediaries in the supply of work seekers to a hirer - Be limited to the regulation of the key facts page and provision of information relevant to those facts as part of a work offer by the hirer or employer?</p>	No
<p>Should the extension of the remit of the Employment Agency Standards inspectorate to cover the regulation of certain activities of umbrella companies and intermediaries in the supply of work seekers to a hirer - Be aligned to the regulation of the types of employment rights already regulated by EAS under the current legislative framework such as non-payment of wages, deductions from wages which the work seeker has not agreed too, and failure to provide written terms and conditions before the assignment starts?</p>	Yes
<p>Should the extension of the remit of the Employment Agency Standards inspectorate to cover the regulation of certain activities of umbrella companies and intermediaries in the supply of work seekers to a hirer - Please provide reasons for your answer below</p>	<p>Nobody is better placed than the EAS to take a holistic view of work-seekers' terms and conditions and to understand how the intermediaries work together as a chain. Most chains of intermediaries operate legitimately and simply divide up all the responsibilities of an employer between them - so the work-seeker is no worse off, but in a minority of cases there can be sophisticated connivance between the intermediaries so that some of their rights disappear through the gaps.</p> <p>An example of the latter is the restriction preventing employment businesses from including restrictive covenants in their contracts with work-seekers. We see numerous examples of Umbrella Companies (as "intermediary one") including restrictive covenants - even though they probably would fit the legal definition of an employment business if anyone looked at them closely enough.</p>

	And that is another reason - on the definitions in the Employment Agencies Act, the Umbrella Company often will be an Employment Business as well. The assumption should already be that any Umbrella Company is within EAS' regulatory remit - but simpler would be to widen EAS' remit to include Umbrella Companies as well.
Thinking about work seekers and employers in the recruitment sector, what impact would ensuring umbrella companies provide work seekers with a key facts page have on: Individual work seekers	Significantly positive impact
Thinking about work seekers and employers in the recruitment sector, what impact would ensuring umbrella companies provide work seekers with a key facts page have on: Employers in the recruitment sector	Some negative and some positive impact
Thinking about work seekers and employers in the recruitment sector, what impact would ensuring umbrella companies provide work seekers with a key facts page have: Please provide reasons for your answers below	As stated above, work seekers can be left in the dark about who owes them what rights and the key facts page would at least mean they are equipped with the all the relevant information. This would make it harder for illegal tax-evasion schemes to find vic
Thinking about work seekers and employers in the recruitment sector, what impact would extending the regulations of the Employment Agency Standards inspectorate to cover umbrella companies have on: Individual work seekers	Significantly positive impact
Thinking about work seekers and employers in the recruitment sector, what impact would extending the regulations of the Employment Agency Standards inspectorate to cover umbrella companies have on: Employers in the recruitment sector	Small positive impact
Thinking about work seekers and employers in the recruitment sector, what impact would extending the regulations of the Employment Agency Standards inspectorate to cover umbrella companies have on: Please provide reasons for your answer below	As stated above, the EAS would have the ability to shut down illegal tax evasion, making both work seekers and employers much safer.
<b>Section 3: Ensuring the Swedish Derogation is used appropriately</b>	
Have you used or are you currently using a pay between assignments contract (PBA)?	No
In your experience what are the benefits and any problems associated with working on a PBA contract basis?	PBA to us seems an extremely convoluted (and therefore expensive to set up and difficult to explain to customers) way of avoiding certain of work-seekers' rights that we wouldn't consider onerous anyway.

	The sectors of the recruitment industry that work by reducing employment costs are already very commoditized and hollowed-out. If we were needing to get out of pay parity after 12 weeks (because we had inadvertently started recruiting in a vertical where the temps don't earn at least 25% more than the comparator) we would have much worse problems than PBA because we would be in the wrong sectors.
In your experience, how effective do you think pay between assignments contracts are in supporting workers and work seekers when they are not working?	Don't know
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?	No
Do you believe that that the above issues would justify wider state enforcement?	Don't know
Do you believe that that the above issues would justify wider state enforcement? - reasons	
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?	Agree strongly
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? - Please provide reasons for your answer below	AWR sits very naturally with the other statutory protections of work-seekers, and in many cases overlaps with them. In our experience AWR very rarely needs to be referred to, and if this holds true across other sectors of recruitment it might not require
Any further comments? - Please provide any further comments in the box below.	

