

Consultation on agency workers recommendation from the Taylor Review Unite the Union response to the Department for Business, Energy & Industrial Strategy

To: awconsultation@beis.gov.uk due by 9 May 2018

Introduction

1. This submission is made by Unite, the UK's largest trade union with over 1.4 million members across all sectors of the economy including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.
2. Unite is keen to take this further opportunity to provide input in relation to agency workers and in the broader context of the alarming increase in atypical work¹, with corresponding decreases in stability, protection and pay for many working people. Unite made submissions to the Taylor Review² and the BEIS Select Committee inquiry into the future world of work and rights of workers inquiry³, as well as campaigning on the issues⁴. Matters continue to move on, as the scale of the problem is reaching critical levels.
3. Unite believes that it is important to consider all forms of "atypical work" together, because ruthless employers will continue to exploit the various options. There is already evidence that as

¹ Or non-standard forms of employment, described by the ILO as including "temporary employment; part-time and on-call work; temporary agency work and other multiparty employment relationships; as well as disguised employment and dependent self-employment".

² Unite submission to Taylor Review of Employment Practices in the Modern Economy (May, 2017) - [URL](#)

³ Unite submission to House of Commons BEIS Committee Inquiry on the Future World of Work and Rights of Workers (December, 2016) - [URL](#)

⁴ Including evidence given in relation to Sports Direct:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-innovation-and-skills-committee/working-practices-at-sports-direct/oral/34338.html>

employers are less secure in their ability to exploit agency workers they will push workers into bogus self-employment and personal service companies, for example.

4. Even when the scale of the problems were substantially less, the existence of the problems of agency work has been known about for decades. For example, in December 2006, the President of the UK Employment Appeal Tribunal said: "We should not leave this case without repeating the observations made by many courts in the past that many agency workers are highly vulnerable and need to be protected from the abuse of economic power by the end users. A careful analysis of both the problems and the solutions, with legislative protection where necessary, is urgently required."⁵

5. We give examples and evidence below, some of which has not been published before.

6. Available rights must be delivered and enforceable. The role of trade unions and collective bargaining should be encouraged.

Section 1. Improving the transparency of information provided to work seekers

Recommendation: Government should amend the legislation to improve the transparency of information, which must be provided to work seekers both in terms of rates of pay and those responsible for paying them.

The government accepts this recommendation. The purpose of the consultation is to understand how we implement greater transparency of information.

Consultation questions

1) To what extent would you agree that a 'key facts' page would support work seekers in making decisions about work?

"Slightly agree" is the one of four options for response that the consultation offers that Unite would take.

However, the question belies the reality that the vast majority of work seekers only have Hobson's choice in relation to decisions about work. The inequality in the bargaining relationship between

⁵ James v Greenwich Council EAT 18 Dec 2006 UKEAT/0006/06 paragraph 61

most workers and those that employ them (particularly in the absence of effective collective bargaining) is obvious and indeed the contract law of “master and servant” still prevails.

Nevertheless, the requirement for a “key facts” page would be useful and not onerous to well run businesses.

Question 1 (a):

If slightly or strongly agree, what key facts do you think should be made prominent?

Key facts made prominent should be:

1. Who the worker is employed by, including in the context of employment involving an umbrella company, intermediary or other third party⁶:
 - Whether they are employed on an employment contract having employee rights, or otherwise the nature of the employment relationship intended, including reference to the “end user” and others in the chain;
 - Details of any administrative fees of umbrella companies or intermediaries to be deducted from any uplift negotiated between the agency/ umbrella company and that the fees are not deducted from the worker’s pay;
 - That (where applicable) they will have rights under the Agency Worker Regulations and that they will be paid at least the same hourly remuneration that they would have received had they been employed directly by the agency;
2. The nature and location of the work;
3. the start date for an assignment and how long the contract is likely to last;
4. their pay and hours of work and who will be responsible for paying them;
5. their holiday entitlement and how holiday pay is calculated;
6. reference to health and safety risks;
7. what statutory or other deductions will be made and by whom;
8. their right to join a trade union.

Question 1 (c):

⁶ In the event that the “Swedish derogation” has not been repealed, as it should, the key facts sheet should set out if the agency worker is being asked to sign a pay between assignments contract and it should emphasise that by signing the contract the individual will lose the right to be paid at least the same pay as directly employed staff doing the same job.

Thinking about work seekers and employers in the recruitment sector, what would be the impact of ensuring work seekers are provided with a key facts page for:

(i) Work-seekers

Creating a new statutory right to a 'key facts' sheet may have a small positive impact for individual work seekers, particularly if the key facts are clear and comprehensive as those set out above.

This may help people assess whether they are receiving their statutory and contractual rights and to take any enforcement action where this is not the case. Enforcement agencies and unions would also be able to use the 'key facts' sheet to assist workers.

ii) Employers in the recruitment sector

Creating a new statutory right to a key facts sheet will also have a small positive impact for employers in the recruitment sector by:

- improving compliance levels in the recruitment sector;
- reducing unfair competition from those who do not comply;
- improving businesses awareness of their responsibilities to people at work.

2) What information would be important to include in a 'key facts' page?

Currently the Conduct Regulations require the provision of information to workers on:

- whether they are to be employed under a contract for services or a contract of employment;
- the relevant notice period;
- their pay and hours of work;
- their holiday entitlement and how their holiday pay will be calculated;
- the start date for an assignment;
- how long the contract is likely to last;
- any health and safety risks;
- the type of work the work seeker will be expected to undertake and the location of the work;
- any experience, training or qualifications needed for the role;
- any expenses they may have to pay.

The key facts page should also include information about the matters referred to above in response to the items that should be prominent (Question 1 a)) and:

- any other fees, costs or charges that will be deducted, to include reference to their right to refuse any services provided by the agency and to do so without suffering any detriment and that it is unlawful for employers to charge fees for work searches;
- any additional benefits that will be provided or offered, for example, access to a benefit in kind scheme or childcare vouchers;
- any tax relief they will receive on any travel expenses incurred during the course of their work.

2) (a) What conditions should be in place to ensure the 'key facts' page is provided and understood by the work seeker before any contractual engagement?

Work seekers should have a right to a 'key facts' sheet when they first register or start an engagement with an employment business and when they are offered a new assignment with an end user. A further 'key facts' page should also be provided whenever the individual starts a new assignment with an end user and if any of the relevant information changes.

There should be substantial penalties whenever the 'key facts' sheet is not provided. The work seeker should also be properly compensated automatically, when a penalty is imposed and otherwise have the option of pursuing an individual or collective claim.

The provision of accurate 'key facts' sheets should also be a condition of receiving and retaining a GLAA licence.

3) Should an employment business be required to ensure that the work seeker understands fully the information being given to them?

Yes, of course.

Question 3(a):

If yes, how do you think this should be achieved?

Wherever possible, employment businesses, umbrella companies and intermediaries should arrange to meet face-to-face with work seekers when they first register with the firm. Such

meetings will provide a good opportunity for the companies to explain the 'key facts' sheet (taking reasonable account of potential types of assignment) and to inform the work seeker of the terms under which they will be offered work. Such meetings will also assist the company to get to know and build a good working relationship with the individual.

Arguably (see answer to question 4 below) the potential cost of such a meeting has already been anticipated. Meetings may already take place for similar and other purposes and the question of the 'key facts' document would add structure to the meetings. In appropriate cases, the meetings may include more than one work seeker.

4) Do you feel an hour is an accurate estimate of the time it would take to produce information document for a work seeker?

No. It is too high.

Question 4 (a):

If too high or too low, please provide reasons for your answer below:

Particularly if BEIS provides a template, the initial 'key facts' sheet should not take long, but probably more than an hour. Adapting the first 'key facts' sheet for subsequent work seekers will take minutes, in the context of the current need to carry out administrative work.

Question 4 (b):

Other than the time taken by personnel to produce a "key facts" document, are there other business costs we should be aware of?

No.

Section 2. Extending the remit of the Employment Agency Standards inspectorate to cover umbrella companies and intermediaries in the supply chain

Recommendation: The new Director of Labour Market Enforcement should consider whether the remit of the Employment Agencies Standards (EAS) Inspectorate ought to be extended to cover

policing umbrella companies and other intermediaries in the supply chain.

This consultation seeks views on how the regulation of umbrella companies and other intermediaries by EAS would improve working conditions for work seekers.

Consultation questions

5) Have you used or are you currently using an umbrella / intermediary?

No.

6) Do you know of any examples of the benefits and/or problems for agency workers of using an umbrella company or intermediary?

Unite has many members who are obliged to work through an umbrella company or intermediary (see below). Such arrangements are for the benefit of the employers, not working people. We are not aware of any significant benefits for agency workers using an umbrella company or intermediary.

Our officers and members report that employment through umbrella companies creates many problems. A report by UCATT⁷ (now joined with the construction section of Unite) confirms the problems faced by workers employed by umbrella companies:

"By using these middle men to pay workers, employment agencies have engineered a situation where the amount a construction worker receives in their pay packet is often a lot less than the rate agreed when he or she took on the job."

A Unite member working in construction on a public contract summed up the experience of working through an umbrella company:

"On top of all of this, when I do work, I am having money taken off my wages due to an umbrella company's greed. I think it is ridiculous that I have to pay someone to receive my own wages I've worked hard for. This is public money for a public service, why are umbrella companies who add

⁷ Umbrella Company Con-Trick (UCATT, 2014) - [URL](#)

nothing of any value to the project I am employed on profiting from the taxpayers money? Something needs to change and change very soon."

Not included in any previous report or evidence follows. This from one of the Unite officers referring to problems in the construction sector and:

"a similar problem re a Social Worker who thought she was employed by the agency who sent her to work for a local authority. She was told by the agency to contact a payroll company to process her pay. The member was shocked when she received her payslip with an admin fee deducted and the employers' costs taken off. She was not made aware her status was self-employed. We have taken it up with the Council, who were not aware this type of contract was being used to supply labour."

Another officer in relation to the IT sector reports:

"In the case of umbrella companies undertaking the payroll for IT contractors, this has created difficulties when bringing ET claims (identification of the correct respondent). Agency workers in the sector have faced issues with dismissal from the agency via text message or removal from a hirers site for no specific reason."

Yet another officer, when asked about umbrella companies and agency workers says:

"The prevailing insecurity of employment means that workers are afraid to raise issues, to rock the boat etc; however the same can be said for employees with less than two years service as we see increasingly members being dismissed for no reason, but have an insecure contract or less than two years service, so limited or no industrial or legal recourse/challenge. There does appear to be a demonstrable increase in employers withholding wages when a worker or employee is dismissed or resigns, plus holiday pay and notice pay as they believe that they will receive no challenge back and the individual will not be able to afford to pursue a relatively modest non-payment. The championing of the flexibility and choice that these insecure contracts supposedly provide our members are just myth, workers and employees want security of employment, certainty of hours, wages and T&Cs."

Another reports of his experience:

"In construction, workers tend to be aligned partially with the National Agreements however, those working under umbrella agreements have historically seen inventive calculations used to align them. For example, a worker I dealt with a few years ago was employed under an umbrella agreement on the NMW and paid a range of expenses which low and behold - took his net earnings up to exactly the CIJC rate for a Scaffolder⁸.

Other construction workers have had difficulty in obtaining holiday time off as they are required in their contract to fully fulfil the terms re attendance and the global some they are paid for carrying out the work, includes a some for holiday arrangements.

There is also the uncertainty created by these contracts whereby no one dares raise a complaint as they are invariably told that they are no longer required."

In relation to members at [REDACTED], now working under an umbrella company called [REDACTED] another officer says:

"The [REDACTED] contract was introduced 8 years ago. It was designed for peaks in the production year around holidays and never intended to be an open agreement. The nature of the business means that we have long serving members that receive the same pay but no sick pay, poor pension and no access to performance bonus."

We could go on. The fact of the matter is that the quotes above come from a recent survey of Unite officers and all 33 who replied had similar experience in relation of atypical work.

Thus, the involvement of umbrella companies drives down pay for agency workers. Employers who use agencies to supply workers will inevitably incur agency fees, which, according to the report on Recruitment Industry Trends 2015/16 by the Recruitment & Employment Confederation (page 18), amount to 16.5 per cent of the costs of any assignment on average⁹. Clearly there is less money available to pay the worker. The costs of agency fees are often transferred to the worker. With umbrella companies involved the amount of money to the worker is even less.

⁸ Perhaps no explanation is required, but this means the end user was paying the sector rate of pay for a scaffolder, but the worker was receiving the substantially lower national minimum wage rate, with the umbrella company pocketing the rest amounting to the most they could take.

⁹ [Recruitment-Industry-Trends-2015-2016-ID-1cb824a2-b37c-4ead-a78c-b9f74f792d99.pdf](#)

The use of umbrella companies is often used to deny working people employment or even worker status and therefore rights and security.

See also the excellent and well-researched April 2018 TUC report on use of labour market intermediaries, outsourcing and the need for improved enforcement.¹⁰

7) 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:

i. 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?

No.

ii. 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 to, and failure to provide written terms and conditions before the assignment starts?

Yes.

Please provide reasons for your response.

Put simply, umbrella companies involved with the supply of workers should be regulated the same as employment businesses and employment agencies. Thus, those who work via an umbrella company would have the same rights as others. There would also be a level playing field for businesses.

Whenever the remit of the Employment Agency Standards Inspectorate (EAS) is extended, there must be an increase in its resources.

¹⁰ <https://www.tuc.org.uk/sites/default/files/Shifting%20the%20risk.pdf>

EAS lacks resources for its current tasks. From 2010/11 and EAS had its budget cut by nearly half to £500,000 with the number of inspectors falling to just 2 at one point.¹¹ In the current year (2017/18) the EAS only has a budget of £725,000¹² to protect approximately 1.2 million workers¹³ and to ensure that 23,980¹⁴ recruitment agencies comply with the Conduct Regulations. They have a total of 12 full time equivalent staff, including administrative staff. The first reason given for the increase in the budget by £250,000 was said to be to purchase a new IT system.

7) (a) What do you think the impact of ensuring that umbrella companies provide work seekers with a key facts page would be on:

- i. the work seeker; and**
- ii. the recruitment sector ?**

Requiring umbrella companies to provide work seekers with a 'key facts' sheet may also have a small positive impact for individual work seekers. There would be no negative impact, assuming the fact sheet is accurate.

The reality is that people are often unsure who their employer is and there is evidence of obfuscation. This makes it more difficult to enforce rights.

However, a fact sheet will not prevent the wider abuses experienced by work seekers employed via umbrella companies.

Many individuals have no real choice or are otherwise encouraged into contracting for work through an umbrella company with the promise of being able to take home more pay when umbrella companies say they can offset their travel and work-related expenses against national insurance contributions (NICs). Individuals might not realise the extent to which they lose out on future contributory-based benefits, such as statutory maternity pay, statutory sick pay and their state pension. The Treasury also loses out.

¹¹ <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-01-23/61285/>

¹² <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-02-02/126332>

¹³ BEIS (2018) Good work: the Taylor review of modern working practices; consultation on agency workers recommendations

¹⁴ <https://siteassets.pagecloud.com/adelectus/downloads/Recruitment-Industry-Trends-2015-2016-ID-1cb824a2-b37c-4ead-a78c-b9f74f792d99.pdf>

Work seekers, employed via umbrella companies, are often misinformed about the extent to which deductions are made that pay for the costs of the company, including its profits. These deductions result in lower rates of pay for workers. In some cases they lead to non-payment of the national minimum wage.

ii. the recruitment sector?

Requiring umbrella companies to provide work seekers with a 'key facts' sheet should have a positive impact for the recruitment sector by increasing compliance with regulation and good practice resulting in a better level playing field for businesses.

Question 7) (b):

What impact would extending the regulations of the Employment Standards Inspectorate to umbrella companies have on individual work seekers and employers in the recruitment sector.

i. The work seeker

Extending the Conduct Regulations, enforced by the Employment Agencies Standards Inspectorate to umbrella companies should have a positive impact for individual work seekers.

It would mean that work seekers employed through umbrella companies have the same rights as other agency workers, including rights to:

- be paid on time and in full;
- be informed about their pay and other working conditions in advance of any placement with an end user;
- not be charged for any work seeking fees;
- refuse wider services and charges levied by agencies, without suffering a detriment.

However, EAS must be properly resourced and, in addition, enforcement strategy should be substantially strengthened. EAS regularly fail to take effective enforcement action in response to complaints, including where unions report that agencies have supplied agency workers to replace striking workers in breach of regulation 7 of the Conduct Regulations 2003.

The existing enforcement strategy resulted in one successful prosecution and one application for a prohibition during 2016/17. Correspondence with agencies should not be the primary method of enforcement.

Penalties for non-compliance with agency workers' rights should also be increased, with increased fines and full compensation for work seekers.

Public procurement rules should be adjusted to ensure that agencies and umbrella companies that breach agency workers' are excluded from being awarded public contracts.

ii. The recruitment sector

Extending the Conduct Regulations, to include regulation and enforcement by EAS of umbrella companies should have a positive impact for the recruitment sector by increasing compliance with regulation and good practice resulting in a better level playing field for businesses.

Section 3. Pay Between Assignments

Recommendation: The government should repeal the legislation that allows agency workers to opt out of equal pay entitlements (the 'Swedish Derogation').

In addition the government should consider extending the remit of the EAS Inspectorate to include compliance with the Agency Worker Regulations (which would include enforcement of the Swedish Derogation, if not repealed).

This consultation seeks evidence and views on these issues.

Consultation questions

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

No. However, Unite has experience of their use involving members of the union.

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

In reality there are no benefits, because of the fact that in the UK they are used by businesses to avoid workers acquiring rights under the Agency Worker Regulations. PBAs are otherwise referred to as the "Swedish Derogation", because they operated in Sweden before the 2008 Temporary Agency Work Directive 2008/104/EC. The TUC has formally complained to the European

Commission that the UK government had failed properly to implement its obligations under the Temporary Agency Worker Directive.

In any event, Unite calls for the derogation to be removed from the UK Regulations.

We refer to the TUC report published on 5 March: Ending the Undercutters' Charter: Why agency workers deserve better jobs¹⁵. The report confirms that agency workers are experiencing widespread abuse because of the derogation.

Unite has members at [redacted], mainly among the permanent staff. A significant proportion of the workforce who pick and pack the goods that [redacted] sell, are agency workers. Agency workers looking for work [redacted] have little choice but to accept PBA contracts. If they refuse to work under a PBA contract they will not be offered work by the agency. Agency workers who were already working at [redacted] and working on standard agency contracts (where after 12 weeks they would qualify for the same pay rates as core staff) were forced to accept new pay between assignment contracts. These agency workers were threatened with the sack if they opted not to sign a PBA contract.

The agency workers are being exploited by being paid less than other workers who are doing the same jobs. In this [redacted] there are around 550 workers: 350 workers are "core staff warehouse operatives" and 200 workers are supplied by an agency. The agency workers and "core staff warehouse operatives" do the same jobs. At the [redacted], agency staff earn £7.50 an hour, which is the current National Minimum Wage rate for people over aged 25 and over. Core staff operatives can earn up to £11.86 per hour. This is a pay differential of £4.36 per hour. Core staff operatives are earning 63% more than their agency counterparts.

At the [redacted], agency workers miss out on other key workplace rights, such as equal treatment on holiday entitlement. Core staff operatives receive 32 days including bank holiday and then a further 5 days for long service spread out over a 10 year period, whereas agency staff receive 28 days.

¹⁵ TUC (2018) Ending the Undercutters' Charter available at:
<https://www.tuc.org.uk/sites/default/files/EndingtheUndercuttersCharter.pdf>

They also often find themselves working more anti-social shifts and longer hours to make up the shortfall in their wage packets.

Further research entitled “Qualitative Analysis of the use of Pay Between Assignment contracts for Agency Workers including the role of Umbrella Organisations” and posted by the government on 7 February 2018 (but published in 2015)¹⁶ shows that hirers, agencies and umbrella companies all using the Swedish derogation to reduce costs and undercut pay and conditions. It is notable that not a single agency or umbrella company interviewed for the government's research reported that the reason for using the derogation was to improve the working conditions of agency workers.

The decision of an employment tribunal in the case of *Bray v Monarch Personnel Refuelling*¹⁷ confirmed that agency workers have very limited protection from being pressurised into signed a Swedish derogation contract, even half way through an assignment with an end user. It was reported from the employer's perspective¹⁸: “However the end user employer became concerned that if in the future the agency worker's pay was raised further and therefore matched that of its staff, it would face pressure from the unions to increase their permanent staff's pay to ensure the differential between agency and permanent staff was maintained. With this in mind, the end user employer [BP] made it known to all employment agencies that assignments on its current terms would cease on 30 November 2011 with all new assignments (from 1 December 2011 onwards) only being given to drivers who were employed under the Swedish Derogation style of contract.” The 8 workers who brought the case felt they had no choice but to sign to keep working as tanker drivers for BP. It is also clear that BP was dictating terms.

It must be re-stated in light of the consultation paper's impression that agency workers can choose whether to choose a PBA contract, that in the real world there is no choice available for the vast majority of working people. They sign the PBA contract or they do not work.

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?

¹⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679564/HOST_Final_Report_final_version-pdf

¹⁷ *Bray and others v Monarch Personnel Refuelling (UK) Ltd* ET/1801581/12

¹⁸ <http://gdknowledge.co.uk/the-swedish-derogation-making-sure-you-can-rely-on-it/>

They are not at all effective. Pay between assignments is the minimum the employers can get away with, as the fundamental reason for using PBA contracts is to undercut pay and avoid the benefits of the Agency Worker Regulations. See the research and reports referred to above.

Unite has experience of agency workers employed on PBA contracts working for an end user on a long-term basis, so they do not receive any pay between assignments. Such people should be employees of the end user.

The report 'Qualitative Analysis of the use of Pay Between Assignment contracts for Agency Workers including the role of Umbrella Organisations' found evidence that monies paid to agency workers between assignments are deducted from pay they would otherwise receive for doing the job.

By way of contrast to the norm and again confirming that PBA contracts are invariably the source of abuse, the report refers to one umbrella company that *"does not offer PBA contracts because they view them as a way of avoiding the equal pay aspects of AWR which is unfair to workers as well as increasing the risk to themselves in terms of compliance and tax liability... They suggest that pay between assignments is not a benefit for workers as organisations will simply calculate a deduction from the hourly rate in the same way as holiday pay is calculated. However, in their experience any workers will never receive any pay between assignments..."* (page 12).

See also further examples in answer to question 6 above.

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?

Yes. Unite members experience exactly the sort of treatment that is revealed in the reports referred to above, including the TUC report entitled the 'Undercutters' Charter' (which Unite contributed to). See also further examples for these current consultations in answer to question 6 above.

Agency workers on PBA contracts often receive significantly fewer paid holidays than workers on a regular contract doing the same job.

However, in places where Unite organises and there is recognition of the union agency workers are usually informed about job vacancies, including those on PBA contracts.

Based on problems with agency working at , and following a campaign by Unite on 9 March 2017 the ' e resolved:

- "(i) to instruct the Head of Human Resources to continue dialogue between senior management and the Trade Unions about reducing the level of agency usage in the noting that had approved a saving of £500,000 for agency usage in the budget for 2017/2018; and*
- (ii) to agree, as part of these joint discussions, that senior management works towards the elimination of agency usage which involves umbrella companies noting..."*

By May 2017 over 50 agency workers of the Council have been taken to books and only 6 agency workers were still employed. This is a positive response to the problems facing agency workers and the role for trade unions, which government should encourage. Indeed the government has a legal obligation to promote trade unions and collective bargaining, for example, under the UN's ILO conventions 87 & 98¹⁹.

As reported in the "Undercutters' Charter" Unite has negotiated an agency agreement with Bentley. Agency workers comprise around 12 per cent of the Bentley workforce because this is how the company normally choses to recruit workers.

The agreement with Unite sets out clear principles for the employment of agency workers including equal pay, specifying appropriate on-the-job training, skills development and entitlement to both. Furthermore, the agreement stipulates that if an agency worker exceeds three contract extensions or a period of 36 months collectively, a review must take place with the aim of moving the agency worker into permanent employment. This has led to 500 agency workers being transferred onto permanent contracts, greatly improving their job security and widening their access to key employment rights. Later this year 380 more agency workers could make the transition to permanent contracts. The agreement, has led to greater retention of skilled workers

¹⁹ http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312232 & http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312243

by Bentley, with increased pay and the opportunity to move into secure employment.

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

Specifically in the context of PBA contracts, the response should be to remove Regulation 10 (the Swedish Derogation) from the Agency Worker Regulations as a matter of urgency. This can be achieved quickly by simple secondary legislation.

There is no need for state enforcement, which involves much more effort and will fail.

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?

Unite agrees that enforcement of the Regulations should come within the remit of EAS completely.

However, the issue of resources for EAS must also be addressed completely (see above).

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