

Consultation on Agency Workers - London boroughs Heads of HR response

Consultation Questions

Basic Details

Your name - Steve Davies, Head of London Regional Employers Organisation, London Councils

Your E-mail address -

Respondent Type

Respondent type – Local government

Organisation type – This response is on behalf of several London borough employers in the Public Sector

Employers size – All London boroughs would be classed as large sized businesses with 250+ employees

London councils represents London's 32 boroughs and the City of London. We are a cross-party organisation that works on behalf of all of our member authorities regardless of political persuasion. This response is on behalf of several London boroughs

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

Work seekers are people or limited company contractors contracted by employment businesses, intermediaries or umbrella companies and who are placed with a third-party to carry out 'temporary agency work'.

A key facts page could include the following additional information:

- a) Who will be responsible for paying the work seeker , and how they are being engaged;
- b) What happens to any money paid to an umbrella company or intermediary before it is paid to the work seeker;
- c) How much the work seeker will be paid by the umbrella company or intermediary;
- d) What statutory deductions will be made;
- e) Any other fees, costs or charges that will be deducted;
- f) What additional benefits there are e.g. access to a benefit in kind scheme, childcare vouchers, group insurance policies.

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

London boroughs Heads of HR response – Agree strongly

1 (a): If slightly or strongly agree, what key facts do you think should be made prominent?

London boroughs Heads of HR response

The following facts will be key for work seekers to decide:

- Who will be responsible for paying the work seeker, and how they are being engaged;
- How much the work seeker will be paid by the umbrella company or intermediary;
- What deductions or charges will be made
- What additional benefits will they gain access to on the assignment.
- Detail on expenses policy

1(b): If slightly or strongly disagree, please provide reasons below

Not applicable

1 (c): Thinking about work seekers and employers in the recruitment sector, would ensuring work seekers are provided with a key facts page have an impact on their decision.

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For both individual work seekers and employers in the recruitment sector the answers are don't know, since it is difficult to determine work seekers views and resultant employers' views until a key facts page is tested in the market place.

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

London boroughs Heads of HR response

This needs to link to IR35 questions and information. The rights of agency workers in relation to IR35 tests need to be consistent across the whole of industry, not just the public sector, and greater clarity needs to be provided about whether roles fall within the scope of IR35.

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?

London boroughs Heads of HR response

Suppliers should ensure the work seeker signs a relevant understanding declaration before the engagement commences.

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

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Yes

3 (a) How should this be achieved?

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A declaration and signature by the work seeker on the relevant document

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

London boroughs Heads of HR response

It is difficult to estimate the time and any resultant burden on employers will need to be managed no matter what the circumstances.

4 (a): If too high or too low, please provide reasons for your answer below:

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This will have to be managed no matter the estimated length of time.

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?

London boroughs Heads of HR response

Don't know

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

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

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Yes

5 (a) If so, for what reason? e.g. as a work seeker or employment business for payroll purposes. What has your experience been?

London boroughs Heads of HR response

Several boroughs have used umbrella/ intermediary organisations for work seeker management and payroll handling. Experiences vary – some are very good as client managers, others not so good and some disagree with interpretation of the IR35 tax regulations.

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

London boroughs Heads of HR response

Several boroughs have used umbrella/ intermediary organisations for work seeker management and payroll handling. Experiences vary – some are very good as client managers, others not so good and some disagree with interpretation of the IR35 tax regulations.

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?**

London boroughs Heads of HR response

Yes

- ii. Be aligned to the regulation of the types of employment rights already regulated by EAS under the current legislative frameworks 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?**

London boroughs Heads of HR response

Don't know. There is a risk that over regulation could hinder the market supply and increase costs. However, it is recognised that it would be helpful to work seekers to have clarity about their rights whilst being managed under an umbrella company or intermediary arrangement.

7) (a) Thinking about work seekers and employers in the recruitment sector, what impact would ensuring that umbrella companies provide work seekers with a key facts page have on:

- i. the work seeker; and**

London boroughs Heads of HR response

A key facts page would have a small positive impact, primarily because it is considered it would help to clarify the terms and tax arrangements for the work seeker and assist in compliance with IR35 tax regulations.

ii. the recruitment sector ?

London boroughs Heads of HR response

A key facts page would have a small positive impact, primarily because it is considered it would help to clarify the terms and tax arrangements for the work seeker and assist in compliance with IR35 tax regulations.

7(b): 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:

i. the work seeker; and

London boroughs Heads of HR response

Don't know. There is a risk that over regulation could hinder the market supply and increase costs. However, it is recognised that it would be helpful to work seekers to have clarity about their rights whilst being managed under an umbrella company or intermediary arrangement

ii. the recruitment sector?

London boroughs Heads of HR response

Don't know. There is a risk that over regulation could hinder the market supply and increase costs. However, it is recognised that it would be helpful to work seekers to have clarity about their rights whilst being managed under an umbrella company or intermediary arrangement

Section 3: Ensuring the Swedish Derogation is used appropriately

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

London boroughs Heads of HR response

No

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

N/A

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?

N/A

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?

N/A

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

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?

London boroughs Heads of HR response

We agree strongly with this proposal, because it is considered it will help to provide consistency of arrangements across the sector.

Other comments

London boroughs Heads of HR response

The main issue is the creation of a level playing field across all organisations, whether in private sector, public sector or third sector. At present there is inconsistency and unfair market conditions across these sectors, which only helps to create confusion for work seekers.