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From: Enforcement of employment rights consultation
Sent: 15 May 2018 15:16
To:
Subject: FW: Consultation on Enforcement of Employment Rights Recommendations

This one responds only to your section...

From:
Sent: 15 May 2018 14:57
To: Enforcement of employment rights consultation <Enforcement.emp.rights.consultation@beis.gov.uk>
Subject: Consultation on Enforcement of Employment Rights Recommendations

Dear BEIS consultation team,

I am responding to the Consultation on Enforcement of Employment Rights Recommendations on behalf of B&CE. I was unable to edit consultation form itself, so please find our responses below. Please contact me on the details at the end of this email if you need any additional information.

Basic details

Your name:

Your email address:

Stakeholder category

An employer

If you are an employer, how would you classify your organisation:

B&CE, provider of The People's Pension, is a not-for-profit organisation, dedicated to making a difference to the lives of working people. Founded over 75 years ago, we began providing simple financial employee benefits to the construction industry. Our award-winning auto-enrolment, workplace pension scheme, The People's Pension, launched in 2012 and now has almost 4 million members across all sectors including retail, hospitality, and construction. We are now working to develop an occupational health management scheme for the construction industry. More information can be found at www.bandce.co.uk

State-led enforcement

1. Do you think workers typically receive pay during periods of annual leave or when they are off sick?

Yes.

Please give reasons:

Yes, we believe workers typically receive pay during periods of annual leave, however when they are off sick, there is not a level playing field across all sectors. In the construction industry, for example, we don't believe all workers get paid when they're off sick.

If workers are self-employed (or a sole trader), they generally do not get pay for either annual or sick leave.

There is disparity between levels of sick pay between the private and public sectors, with provision in the public sector being much more generous.

Whilst the Review qualifies that a loss of earnings for low paid workers is significant, it can also be substantial for those at higher pay levels as the loss of income can be greater.

2. Do you think problems are concentrated in any sector of the economy, or are suffered by any particular groups of workers? Please give reasons.

Yes, we believe that problems may be concentrated in the private sector and we would like to highlight the construction industry as a specific group of workers that may be affected. The construction industry has a highly transient workforce and subcontractor employment model, which means they are more likely to be affected. In addition, a substantial proportion of the sector is made up of small and micro-businesses, whose owners may feel that they are unable to take either unpaid sick or annual leave.

3. What barriers do you think are faced by individuals seeking to ensure they receive these payments?

We believe there are several barriers faced by self-employed workers, including those in construction, who are seeking to ensure they receive these payments.

Those workers on short-term contracts (in any industry) often do not receive annual leave or sick pay. A key barrier is that they are not in employment long enough to have the time to take such leave or for sick pay to come into effect. For employed workers in the private sector, company sick pay is often not paid during probationary periods (which can be up to six months or more).

Self-employed workers do not get paid if they are not working, whether on holiday or off sick, unless they have prepaid into specific policies or have other arrangements in place.

Other barriers, particularly in construction and its related trades, include:

- A fear of going off sick and being 'blacklisted'
- A fear of being replaced if on a short-term contract
- A fear of a short-term contract not being extended.

In the construction industry, taking the time off when it is needed is a real issue. Self-employed workers and owners of small and micro-businesses in the sector may be reluctant to take time off when they're ill, potentially causing greater risk to their health. While this can be a barrier in itself, the situation can be compounded by a 'macho' culture whereby taking time off for illness may be seen as a sign of weakness.

4. What would be the advantages and disadvantages for businesses of state enforcement in these areas?

There are both advantages and disadvantages for business of state enforcement of annual leave and sick pay. These are set out below.

Advantages include:

- Improved worker loyalty
- Improved worker health which may lead to greater productivity
- Healthier employees and reduced stress levels could lead to lower absence rates
- Companies would be less inclined to compete against each other regarding employment terms and conditions, creating a more level playing field for job seekers and small employers looking to recruit
- Workers taking the time off to fully recover means they're not in danger of spreading illness to colleagues
- Reducing the potential for repeated absence or delayed treatment leading to longer absence.

Disadvantages include:

- Increased cost to business in the short term (although possibly offset by the advantages listed above)
- Absences could increase in the short term
- Employees could exploit or abuse sick pay provision
- Requiring a mechanism to 'police' the enforcement.

5. What other measures, if any, could government take to encourage workers to raise concerns over these rights with their employer or the state?

Government could implement several other measures to encourage workers to raise concerns over these rights with their employer or the state. These include:

- Producing tailored guidance for both employers and employees (full and self-employed)
- Improving the available information about workers' rights so that it is simpler, clearer and jargon-free
- Making the information easier to access
- Running targeted public information campaigns on these issues
- Making mediation mandatory for all parties involved in employment disputes so employees aren't disadvantaged by legal fees
- Publicising the mediation process and make it simpler, as the cost of bringing a case to tribunal is prohibitive.

Communications & Public Affairs Manager – Health
B&CE

W www.bandce.co.uk

W <https://bandce.co.uk/improving-occupational-health-construction/>

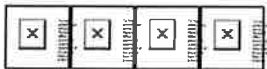
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