



Department
for Business
Innovation & Skills

Recruitment sector legislation:

**Consultation on reforming the
regulatory framework for
employment agencies and
employment businesses**

JANUARY 2013

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Reforming the regulatory framework for employment agencies and employment businesses

In May 2010 the Government committed to a review of employment and workplace laws to ensure they maximise flexibility for employers and employees, while protecting fairness and providing the competitive environment required for enterprise to thrive. The Employment Law Review aims to improve growth through labour market flexibility, reduce burdens on business and give employers the confidence to take more people on.

The recruitment sector plays an important role in the UK's labour market by improving the efficiency of matching demand for jobs to demand for workers. The sector is regulated by the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the Conduct Regulations) which were identified by the Red Tape Challenge as needing reform. These laws are enforced by the Employment Agencies Standards Inspectorate (EAS).

We want to reform how the sector is regulated, removing costly and complex regulations where possible, so that the sector continues to contribute to a flexible and effective labour market. We also note that the Regulations could be simplified in some places where they are too complicated and difficult to understand. Further, the current criminal regime is unlike the majority of UK employment law which is enforced through civil employment tribunals and this may present a barrier to individuals seeking redress.

This consultation seeks views on when it is appropriate for the Government to impose rules on the recruitment sector and when it is more appropriate for the sector and marketplace to decide the rules for themselves. The consultation will also seek views on enforcement and whether individual enforcement would be more effective than the current Government enforcement regime.

Issued: 17 January 2013
Respond by: 11 April 2013

Enquiries to:

Caroline Daly
Labour Market Directorate
Department for Business, Innovation and Skills
1Victoria Street
London SW1H 0ET

Tel: 0207 215 8184

Email: recruitment.sector@bis.gsi.gov.uk

1. Foreword from Jo Swinson



This Government is committed to encouraging growth, to create wealth and jobs. The flexibility of the UK's labour market allows people to move between jobs and allows businesses to quickly respond to changing demands. The Government is committed to ensuring that employment law supports and maintains the UK's flexible labour market.

The recruitment sector plays an important role in ensuring that the UK's labour market works effectively, enabling people to find permanent and temporary work. However, the legislation that currently governs the sector is outdated and complicated, placing a burden on business and potentially acting as a barrier to growth. The Employment Law Review and the Red Tape Challenge identified that the legislation needs reforming to ensure it is fit for purpose in today's labour market.

The Government is proposing that new legislation should continue to protect people who are looking for work but some of the additional regulation would be removed, allowing the sector greater freedom to fulfil its role in providing labour market flexibility and adaptability. This consultation seeks views on the proposed changes to the recruitment sector legislation and how it is enforced

We look forward to hearing your views on the proposals and I would like to thank you for taking the time to respond.

A handwritten signature in blue ink that reads "Jo Swinson". The signature is fluid and cursive.

Jo Swinson MP, Minister for Employment Relations and Consumer Affairs

2. Executive Summary

2.1 The UK has a labour market that is flexible, efficient and fair but some of our laws are still outdated. Last year's employment law Red Tape Challenge identified the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003 as candidates for reform.

2.2 This legislation, which regulates the recruitment sector, is complicated and difficult for businesses and individuals to understand. This consultation is seeking views on our proposal to establish a new, fit for purpose regulatory framework with minimum regulation. We want the sector to take a more active role in developing its own methods of maintaining standards so that it has the confidence of hiring companies and people seeking work.

2.3 Although the current set of regulations are too complicated, some of the outcomes they seek to achieve are important for maintaining flexibility and fairness in our labour market and are relevant today. We believe that the future system should achieve four outcomes for people and businesses that use recruitment firms:

- Employment businesses and employment agencies are restricted from charging fees to work-seekers
- There is clarity on who is responsible for paying temporary workers for the work they have done
- The contracts people have with recruitment firms should not hinder their movement between jobs, and temp-to-perm transfer fees are reasonable
- Work-seekers have the confidence to use the sector and are able to assert their rights

2.4 We are also seeking views on the current enforcement regime and whether individuals should be able to enforce their own rights at Employment Tribunals, bringing the recruitment sector in line with other areas of employment law.

2.5 The closing date for responses to this consultation is 11 April 2013. Within 12 weeks of this date the Government will publish a summary of the responses to the consultation and the next steps to be taken.

3. How to respond

3.1 When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

Date consultation opened: 17 January 2013

Last date for responses: 11 April 2013

3.2 A copy of the Consultation Response form is enclosed. If you decide to respond this way, the form can be submitted by letter, fax or email to:

Caroline Daly
Labour Market Directorate
Department of Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET

Email: recruitment.sector@bis.gsi.gov.uk

3.3 You can reply to this Consultation online at :
www.surveymonkey.com/s/9B5BTB2

3.4 You may make copies of this document without seeking permission. BIS consultations are digital by default but if required, printed copies of the consultation document can be obtained from:

BIS Publications Orderline
ADMAIL 528
London SW1W 8YT
Tel: 0845-015 0010
Fax: 0845-015 0020
Minicom: 0845-015 0030
www.bis.gov.uk/publications

3.5 Other versions of the document in Braille, other languages or audio cassette are available on request.

4. Confidentiality & Data Protection

- 4.1 Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 4.2 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

5. Help with queries

5.1 Questions about the policy issues raised in the document can be addressed to:

Caroline Daly
Labour Market Directorate
Department of Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 0207 215 8184
Email: recruitment.sector@bis.gsi.gov.uk

5.2 The consultation principles are in Annex A.

6. The proposal

Background

- 6.1 The recruitment sector provides a service to people seeking jobs, and businesses seeking workers. The sector has two main types of legally defined types of service; *employment agencies* which introduce people to hirers to be employed by the hirer directly; and *employment businesses* (also known as temping agencies) which employ or engage people to work under the supervision of another person. It places over 1.6 million people into work each year and contributed £22 billion to the economy in 2011¹. Any reforms that are made need to ensure that the sector continues to operate efficiently and provide a reliable and trustworthy service to businesses and people seeking work.
- 6.2 The sector is regulated by the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003. These regulate both the business-to-business and business-to-individual relationships in the recruitment sector. The Act, Conduct Regulations and subsequent amendments can be found at:
- www.legislation.gov.uk/ukpga/1973/35/contents
www.legislation.gov.uk/uksi/2003/3319/contents/made
www.legislation.gov.uk/uksi/2007/3575/contents/made
www.legislation.gov.uk/uksi/2010/1782/contents/made
- 6.3 The legislation covers principles such as restrictions on fees, ensuring that temporary workers are paid for the work they have done, record-keeping, advertising and ensuring that identity/suitability checks are carried out on work-seekers. The Regulations also provide a framework for contracts between businesses and the contracts between work-seekers and businesses.
- 6.4 The Regulations' complexity comes from many successive amendments and complicated exceptions for specific groups such as the entertainment and modelling sector. The Government believes that the current recruitment sector legislation should be replaced with new, streamlined legislation which is easier for businesses and individuals to understand.
- 6.5 Complete deregulation of the recruitment sector is not considered to be viable or desirable. The Employment Agencies Act 1973 and the Conduct Regulations have been used to implement some parts of the Agency Workers Directive around reducing barriers to permanent employment and restricting the charging of fees to temporary work-seekers for work-

¹ ONS Annual Business Survey 2011

finding services.

- 6.6 There are other broad principles in the current legislation which we think should be included in any new rules. For instance the Act prohibits employment agencies, as well as employment businesses, from charging up-front fees for work-finding services. This means that individuals seeking temporary work and individuals seeking permanent work have free access to jobs.
- 6.7 We believe that most employment agencies should be prohibited from charging fees for work-finding. However, there are currently certain circumstances in the entertainment and modelling sector where fees can be charged and we would like views on whether there are other circumstances where agencies could be allowed to charge fees.
- 6.8 Another important provision in the current legislation ensures that temporary workers are paid for the work they have done, even if the employment business has not received payment from the hirer. We believe that temporary workers have the right to know who is responsible for paying them and when they will be paid.
- 6.9 Finally, the provision which prevents the supply of agency workers to replace striking employees (Regulation 7) does not form part of this consultation.

Proposal

- 6.10 We believe that legislation should be minimised and, for the most part, focussed where work-seekers are most at risk of exploitation. Our vision for the recruitment sector is that it will be regulated by the simplest regulatory framework possible, reducing the regulatory burden and allowing businesses to play an active role in developing their own methods of maintaining standards so they can compete for work-seekers and hiring companies.
- 6.11 The Government believes that the following four outcomes are important to ensure that the recruitment sector operates fairly and flexibly:
- **Employment businesses and employment agencies are restricted from charging fees to work-seekers:** In order to maximise participation in the UK's labour market, individuals should be able to access jobs without having to pay upfront fees to the recruitment sector. The current legislation does, however, allow employment agencies in the entertainment and modelling sector to charge fees in certain circumstances. The consultation will test whether there are any other circumstances in which employment agencies could be allowed to charge fees.
 - **There is clarity on who is responsible for paying temporary workers for the work they have done:** Due to the tripartite

arrangement between a temporary worker, an employment business and a hirer, it can be unclear who is responsible for paying the temporary worker. The new regime will continue to ensure that there is clarity on who is responsible for paying temporary workers so that individuals have confidence in taking on temporary work.

- **The contracts people have with recruitment firms should not hinder their movement between jobs and temp-to-perm transfer fees are reasonable:** Temporary work is an important route into permanent work but this could be hindered by unreasonable temp-to-perm transfer fees. The new regime will only allow reasonable temp-to-perm fees to be charged by the recruitment sector. It will also ensure that an employment business cannot penalise a work-seeker for terminating a contract with an employment business.
- **Work-seekers have the confidence to use the recruitment sector and are able to assert their rights:** The Government wants to ensure that work-seekers, and hiring businesses, are able to use the recruitment sector with confidence. We believe that increased transparency in the recruitment sector would lead to greater confidence and rising standards across the sector. Further, the majority of employment law is enforced by individuals – work-seekers should be able to access justice when things go wrong with an employment business or agency, even if there is no employment contract for them to fall back on. The consultation will seek views on whether individuals should be able to enforce their own rights at an Employment Tribunal.

6.11 To achieve our vision we would replace the existing provisions in the Employment Agencies Act 1973 and the Conduct Regulations with new legislation which would focus on or otherwise support the four outcomes above. The Government proposes to free employment agencies and businesses from unnecessary regulation and allow them more scope to operate in the way that is best for them.

6.12 We are seeking views on the four outcomes above and would also welcome views on whether there are any other outcomes which should be achieved by regulatory, rather than non-regulatory, means.

Question 1: Do you agree with the four outcomes that the Government believe should be achieved by new recruitment sector legislation?

Question 2: Are there any other outcomes that you think should be achieved by the new legislation?

7. Outcomes

OUTCOME 1: Employment businesses and employment agencies are restricted from charging fees to work-seekers

Fees

- 7.1 The current recruitment sector legislation implements part of the Agency Workers Directive which prevents employment businesses from charging fees to temporary work-seekers. The new legislation will continue to prevent employment businesses from charging fees and will also ensure that employment businesses cannot force work-seekers to pay for additional services, such as accommodation, training or CV writing.
- 7.2 The existing legislation also prevents employment agencies from charging fees to permanent work-seekers. We are proposing that the new legislation will continue to restrict most employment agencies from charging fees to work-seekers.
- 7.3 The existing legislation does allow upfront fees to be charged in certain circumstances in the entertainment and modelling sector. Agencies that find work for actors and entertainers are allowed to charge a work-seeker an upfront fee for including information about the work-seeker in a publication (including a website) produced by the agency for the purpose of finding that work-seeker work. Agencies that seek to find work for photographic and fashion models cannot charge any upfront fee to such workers for entry into a publication or website.
- 7.4 Agencies in the entertainment and modelling sector are also permitted to charge fees out of earnings from work which the agency has found for the work-seeker, provided that the work-seeker has agreed to these deductions with agencies.
- 7.5 We are seeking views on whether the new legislation should allow employment agencies outside of the entertainment and modelling sector to charge fees in certain circumstances and, if so, what those circumstances might be.
- 7.6 We are also seeking views on whether changes should be made to the current broad definition of 'employment agency'. The Employment Agencies Act 1973 defines an 'employment agency' as:

'.....the business (whether or not carried on with a view to profit and whether or not carried on in conjunction with any other business) of providing services (whether by the provision of information or otherwise) for the purpose of finding workers employment with

employers or of supplying employers with workers for employment by them'

Question 3: Do you think there are circumstances, outside of the entertainment and modelling sector, where agencies should be allowed to charge fees? If yes, in what circumstances do you think agencies should be able to charge fees?

Question 4: Do you think that the current definition of 'employment agency' as set out in section 13 of the Employment Agencies Act 1973 could be improved?

Cooling-off-periods

7.7 The current legislation allows work-seekers, when legitimate charges have been levied, a 30 day cooling-off period in which they can cancel or withdraw from a contract without suffering any detriment or penalty and before any fee is payable to the agency. There is a 7 day cooling off period for certain entertainment workers carrying out technical or behind the scenes work.

7.8 In addition, where agencies in the entertainment and modelling sectors arrange additional services (such as photographic or showreels etc) they can charge fees to work-seekers but only after providing a 30 day cooling off period.

Question 5: Do you think legislation should require employment agencies to give work-seekers a cooling off period in situations where fees can be charged?

Question 6: Do you think there should be one standard cooling off period? What do you think the cooling off period should be?

OUTCOME 2: There is clarity on who is responsible for paying temporary workers for the work they have done.

7.9 Temporary workers are reliant on the employment business for their pay rather than the hiring business they work for. However, because of the tripartite arrangement between themselves, an employment business and a hirer, it could be unclear who is responsible for paying their wage. The situation could be even more unclear in situations where one employment business sub-contracts work to another employment business. Without legislation, temporary workers could be exploited by unscrupulous employment businesses and hirers.

7.10 Under our proposal, we will continue to regulate to ensure that temporary workers get paid for the work they have done, even if the employment business has not received payment from the hirer. Employment businesses would be required to agree terms relating to pay with work-seekers, including rate of pay and clarification on how and when the work-seeker will be paid and who is responsible for paying them.

Question 7: Do you think that it is necessary to legislate to ensure that there is clarity on who is responsible for paying a temporary worker for the work they have done?

OUTCOME 3: Contracts people have with recruitment firms should not hinder their movement between jobs and temp-to-perm transfer fees are reasonable

7.11 The Government believes that temporary workers should be able to move within the labour market without detrimental action being taken against them. We will continue to ensure that employment businesses are restricted from penalising a work-seeker for terminating or giving notice to terminate a contract with the employment business.

Question 8: Regulation 6 restricts employment agencies and businesses from penalising a work-seeker for terminating or giving notice to terminate a contract. Do you think that the text of regulation 6 could be improved?

7.12 We will also ensure that temporary workers are not prevented from taking up permanent employment. Temporary work is often a good route into permanent work where hiring companies will test the suitability of people before offering them permanent roles. We believe it is right that employment businesses should be able to charge a transfer fee when a temporary worker gets taken on as a permanent employee by the hiring company they currently work for.

7.13 However, unreasonable transfer fees can hinder the route into permanent work. We will allow employment businesses to charge a transfer fee to a hirer when a work-seeker takes up permanent employment with that hirer, but we will ensure that these transfer fees are reasonable and do not restrict people getting permanent work.

Question 9: Regulation 10 has the effect of restricting employment businesses from charging unreasonable transfer fees to hirers. Do you think that regulation 10 could be improved?

OUTCOME 4: Work-seekers have the confidence to use the recruitment sector and are able to assert their rights

7.14 The Government wants to ensure that the recruitment sector works as efficiently as possible and that both hiring companies and people seeking work are able to choose an agency with confidence. We consider that industry-wide disclosure of market information would lead to greater confidence and rising standards as recruitment businesses compete for clients (both work-seekers and hirers).

7.15 The Government also believes that work-seekers should be able to access justice when things go wrong with an employment business or agency, even if there is no employment contract for them to fall back on. Enabling individuals to enforce their rights would bring the recruitment sector in line with the majority of employment law.

Information sharing

7.16 We consider that there is an opportunity for employment businesses and agencies to provide more information about how they operate. This would help to develop greater transparency about business practices across the sector and would allow hirers and work-seekers to make informed choices about the agency that best suits their needs.

7.17 Employment agencies/employment businesses could publish information about their business on their website or jointly with a trade association/s. Information could include the following:

- Feedback/reviews from work-seekers and hirers
- The type of occupational sector that the agency/business operates in
- Size of the business; staff numbers and locations
- Number of jobs/temporary placements available
- Number of work-seekers available
- Average length of time it takes to fill a vacant post
- Average length of placements (employment businesses only)
- Number of payroll errors (employment businesses only)
- Operation of client account (for entertainment and modelling)
- Equalities policies

7.18 The Government is seeking views on whether access to information such as that listed above would be helpful to work-seekers and/or hirers and, if so, whether it should be compulsory for employment agencies to publish such information. We are also seeking views on what information

would be helpful to hirers and people looking for work when deciding which employment agency or employment business to use.

Question 10: Do you think employment agencies and businesses should publish information about their business?

Question 11: What information do you think would be of most interest to: a) hirers and b) work-seekers?

Question 12: Do you think it should be compulsory for employment agencies and businesses to publish information about their business? If you answered yes, what information do you think it should be compulsory to publish?

Question 13: Do you think trade association codes of practice help to maintain standards in the sector?

Question 14: What other non-regulatory tools could be used to maintain standards in the recruitment sector? Please be as specific as you can in your response.

Compliance

7.19 The Act and the Conduct Regulations are currently enforced by the Employment Agency Standards Inspectorate (EAS). Although it is primarily a criminal regime, prosecutions are only appropriate for the most serious cases and the aim of a prosecution is to deal with non-compliance rather than seeking redress for an individual.

7.20 The EAS are also able to achieve compliance by issuing warning letters and seeking Prohibition Orders in the Employment Tribunal. A Prohibition Order can prohibit individuals from running or being involved in the running of an employment agency or business for a maximum of 10 years where the tribunal decides they are unfit to do so.

7.21 We are seeking views on whether it is necessary for the Government to enforce the recruitment sector legislation and whether Prohibition Orders should be retained in the new legislation.

Question 15: Do you think it is necessary for the Government to enforce the recruitment sector legislation?

Question 16: Do you think that Prohibition Orders should be included in the new enforcement regime?

7.22 The recruitment sector currently operates under two enforcement regimes: a criminal, Government enforcement regime under the Employment Agencies Act 1973 and the Conduct Regulations and an individual, civil regime under the Agency Workers Regulations 2010. The

two regimes mean that temporary workers can only personally seek redress in Employment Tribunals for those rights that are part of the Agency Workers Regulations and not those in the Conduct Regulations.

7.23 We are seeking views on whether individuals should be able to enforce their own rights at Employment Tribunals, bringing the new recruitment sector legislation in line with the Agency Workers Regulations.

Question 17: Do you think individuals should be able to enforce their rights at an Employment Tribunal?

Question 18: What guidance do you think individuals would need to be fully aware of their rights and how to enforce them?

7.24 The Information Commissioner's Office recently made a decision following a complaint that the Employment Agency Standards Inspectorate (EAS) withheld information that was requested about an investigation into the conduct of an employment agency. The requested information, made under the Freedom of Information Act 2000 (FOIA), was held in the form of a report of its investigation. The Inspectorate withheld the information under the exemptions in section 44 (prohibitions on disclosure) and section 30 (investigations) of the FOIA.

7.25 Section 44 of the FOIA provides that information is exempt if its disclosure is prohibited by or under any enactment. Section 9(4) of the Employment Agencies Act 1973 provides that information obtained in the course of an inspection carried out under the Employment Agencies Act 1973 shall not be disclosed except in very limited circumstances.

7.26 The Information Commissioner found that some of the information contained in the report which reflected the views, conclusions and findings of the EAS could be disclosed without revealing the information that was obtained by the Inspectorate from the employment agency during the investigation.

7.27 We are seeking views on whether the Government should proactively (i.e. not only disclosing in response to an FOIA request) publish the findings of investigations that are carried out following reforms to the legislation.

Question 19: Do you think that the Government should proactively publish the findings of investigations that have been carried out including the trading name of each employment agency/business and listing the infringements to the legislation?

Records

7.28 Regulation will be required to ensure that employment agencies and employment businesses keep records to demonstrate that they have complied with the new regulatory requirements. The Government would like to know what records employment agencies and employment businesses should be required to keep in relation to a) work-seekers, b) hirers and c) other employment agencies/employment businesses.

Question 20: Do you think it is necessary to legislate to require employment agencies and businesses to keep records?

Question 21: What records do you think that employment agencies and employment businesses should be required to keep relating to:

- a) work-seekers?
- b) hirers?
- c) other employment agencies/employment businesses?

8. Consultation questions

A response form is provided in Annex C

Question 1

a) Do you agree with the four outcomes that the Government believe should be achieved by the recruitment sector legislation (outcomes are listed below)? Yes/No

- Employment businesses and employment agencies are restricted from charging fees to work-seekers
- There is clarity on who is responsible for paying temporary workers for the work they have done
- The contracts people have with recruitment firms should not hinder their movement between jobs and temp-to-perm transfer fees are reasonable
- Work-seekers have the confidence to use the recruitment sector and are able to assert their rights

b) Please give reasons for your answer.

Question 2

a) Are there any other outcomes that you think should be achieved by the new legislation? Yes/No

b) If yes, please give details on what these are.

Question 3

a) Do you think there are circumstances, outside of the entertainment and modelling sector, where agencies should be allowed to charge fees? Yes/No

b) Please give reasons for your answer

Question 3

c) If you answered yes, in what circumstances do you think agencies should be able to charge fees?

Question 4

a) Do you think the current definition of 'employment agency' as set out in section 13 of the Employment Agencies Act 1973 could be improved? Yes/No

b) Please give reasons for your answer.

Question 5

a) Do you think legislation should require employment agencies to allow work-seekers a cooling off period in situations where fees can be charged? Yes/No

b) Please give reasons for your answer.

Question 6

a) If you answered yes to question 5, do you think there should be one standard cooling off period? Yes/No

b) What do you think the cooling off period should be?

Question 7

a) Do you think it is necessary to legislate to ensure that there is clarity on who is responsible for paying a temporary worker for the work they have done? Yes/No

Question 7

b) Please give reasons for your answer.

Question 8

a) Regulation 6 restricts employment agencies and businesses from penalising a work-seeker for terminating or giving notice to terminate a contract. Do you think that the text of regulation 6 could be improved? Yes/No

b) Please give reasons for your answer.

Question 9

a) Regulation 10 has the effect of restricting employment businesses from charging unreasonable transfer fees to hirers. Do you think that the text of regulation 10 could be improved? Yes/No

b) Please give reasons for your answer.

Question 10

a) Do you think employment agencies and businesses should publish information about their business? Yes/No

b) Please give reasons for your answer.

Question 11

What information do you think would be of most interest to:

a) work-seekers?

Question 11

b) hirers?

Question 12

a) Do you think it should be compulsory for employment agencies and businesses to publish information about their business? Yes/No

b) Please give reasons for your answer.

c) If you answered yes, what information do you think it should be compulsory to publish?

Question 13

a) Do you think trade association codes of practice help to maintain standards in the sector? Yes/No

b) Please give reasons for your answer.

Question 14

What other non-regulatory tools could be used to maintain standards in the recruitment sector? Please be as specific as you can in your response.

Question 15

a) Do you think it is necessary for the Government to enforce the recruitment sector legislation? Yes/No

Question 15

b) Please give reasons for your answer.

Question 16

a) Do you think that Prohibition Orders should be included in the new enforcement regime? Yes/No

b) Please give reasons for your answer.

Question 17

a) Do you think individuals should be able to enforce their rights at an Employment Tribunal? Yes/No

b) Please give reasons for your answer.

Question 18

What guidance do you think individuals would need to be fully aware of their rights and how to enforce them?

Question 19

a) Do you think that the Government should proactively publish the findings of investigations that have been carried out, including the trading name of each employment agency/business, and listing the infringements to the legislation?

b) Please give reasons for your answer.

Question 20

a) Do you think it is necessary to legislate to require employment agencies and businesses to keep records to demonstrate that they have complied with the regulatory requirements? Yes/No

b) Please give reasons for your answer.

Question 21

What records do you think employment agencies and employment businesses should be required to keep relating to:

a) work-seekers?

b) hirers?

c) other employment agencies/employment businesses?

9. What happens next?

Within 12 weeks of the close of this consultation we will publish a summary of the responses to the consultation and a government response. This will set out the next steps the Government will take in light of this consultation.

Annex A: Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402
or e-mail to: john.conway@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead (see section 6).

Annex B: List of Organisations consulted

The following is a list of organisations the consultation is being sent to. We are also asking for names of other individuals/organisations who should receive the consultation.

Acas

Alba Model Information

Association of Model Agents

Association of Nanny Agencies

British Chambers of Commerce

BECTU

British Au Pair Agencies Association

British Hospitality Association

Business Disability Forum

Castweb

CBI

CIPD

Citizens Advice Bureau

Daycare Trust

EHRC

Equity

Employment Lawyers Association

Federation of Small Businesses

Food and Drink Federation

Institute of Recruiters

National Outdoor Events Association
(incorporating National Entertainment Agent
Council)

Spotlight

The Agents' Association (Great Britain)

The Association of Professional Staffing
Companies

The Association of Recruitment Consultancies

The Employment Agents Movement

The Law Society

The Recruitment and Employment
Confederation

The Recruitment Society

The Unit List

TUC

UK Home Care Association

Annex C: Recruitment Sector Legislation: Consultation on reforming the regulatory framework for employment agencies and employment businesses response form



Department for Business, Innovation & Skills

Recruitment Sector Legislation - Consultation on reforming the regulatory framework for employment agencies and employment businesses: Response form

A copy of the consultation document can be found at:

<http://www.bis.gov.uk/consultations>

You can complete your response online through Survey Monkey:

<https://www.surveymonkey.com/s/9B5BTB2>

Alternatively, you can email, post or fax this completed response form to at the Department for Business, Innovation and Skills (BIS)

Email: recruitment.sector@bis.gsi.gov.uk

Postal Address:

Caroline Daly
Labour Market Directorate
Department for Business, Innovation and Skills
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The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is: **11 April 2013**

Your details

Name:

Organisation (if applicable):

Address:

Telephone:

Fax:

Please tick the boxes below that best describe you as a respondent to this consultation.

- Business representative organisation/trade body
- Central government
- Charity or social enterprise
- Individual
- Large business (over 250 staff)
- Legal representative
- Local government
- Medium business (50 to 250 staff)
- Micro business (up to 9 staff)
- Small business (10 to 49 staff)
- Trade union or staff association
- Other (please describe)

Question 1: a) Do you agree with the four outcomes that the government believe should be achieved by the recruitment sector legislation (outcomes are listed below)?

- Employment businesses and employment agencies are restricted from charging fees to work-seekers
- There is clarity on who is responsible for paying temporary workers for the work they have done
- The contracts people have with recruitment firms should not hinder their movement between jobs and temp-to-perm transfer fees are reasonable
- Work-seekers have the confidence to use the recruitment sector and are able to assert their rights

Yes No

b) Please give reasons for your answer.

Question 2: a) Are there any other outcomes that you think should be achieved by the new legislation?

Yes No

b) If yes, please give details on what these are.

Question 3: a) Do you think there are circumstances, outside of the entertainment and modelling sector, where agencies should be allowed to charge fees?

Yes No

b) If you answered yes, in what circumstances do you think agencies should be able to charge fees?

Question 4: a) Do you think the current definition of “employment agency” as set out in section 13 of the Employment Agencies Act 1973 could be improved?

Yes No

b) Please give reasons for your answer.

Question 5: a) Do you think legislation should require employment agencies to allow work-seekers a cooling off period in situations where fees can be charged?

Yes No

b) Please give reasons for your answer

Question 6: a) If you answered yes to question 5, do you think there should be one standard cooling off period?

Yes No

b) What do you think the cooling off period should be?

Question 7: a) Do you think it is necessary to legislate to ensure that there is clarity on who is responsible for paying a temporary worker for the work they have done?

Yes No

b) Please give reasons for your answer.

Question 8: a) Regulation 6 restricts employment agencies and businesses from penalising a work-seeker for terminating or giving notice to terminate a contract. Do you think that the text of regulation 6 could be improved?

Yes No

b) Please give reasons for your answer.

Question 9: a) Regulation 10 has the effect of restricting employment businesses from charging unreasonable transfer fees to hirers. Do you think that the text of regulation 10 could be improved?

Yes No

b) Please give reasons for your answer.

Question 10: a) Do you think employment agencies and businesses should publish information about their business?

Yes No

b) Please give reasons for your answer

Question 11: What information do you think would be of most interest to:

a) work-seekers

b) hirers

Question 12: a) Do you think it should be compulsory for employment agencies and businesses to publish information about their business?

Yes No

b) Please give reasons for your answer.

c) If you answered yes, what information do you think it should be compulsory to publish?

Question 13: a) Do you think trade association codes of practice help to maintain standards in the sector?

Yes No

b) Please give reasons for your answer.

Question 14: What other non-regulatory tools could be used to maintain standards in the recruitment sector? Please be as specific as you can in your response.

Question 15: Do you think that it is necessary for the Government to enforce the recruitment sector legislation?

Yes No

b) Please give reasons for your answer.

Question 16: a) Do you think that prohibition orders should be included in the new enforcement regime?

Yes No

b) Please give reasons for your answer.

Question 17: a) Do you think individuals should be able to enforce their rights at an Employment Tribunal?

Yes No

b) Please give reasons for your answer.

Question 18: What guidance do you think individuals would need to be fully aware of their rights and how to enforce them?

Question 19: a) Do you think that the Government should proactively publish the findings of investigations that have been carried out, including the trading name of each employment agency/business, and listing the infringements to the legislation?

Yes No

b) Please give reasons for your answer.

Question 20: a) Do you think it is necessary to legislate to require employment agencies and businesses to keep records to demonstrate that they have complied with the regulatory requirements?

Yes No

b) Please give reasons for your answer.

Question 21: What records do you think employment agencies and employment businesses should be required to keep relating to:

a) work-seekers?

b) hirers?

c) other employment agencies/employment businesses?

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