 Regulatory Policy Committee	Opinion	
Impact Assessment (IA)	Reforming the regulatory framework for employment agencies and employment businesses: 2 nd Consultation	
Lead Department/Agency	Department for Business, Innovation and Skills	
Stage	Consultation	
IA Number	BIS LM 006	
Origin	Domestic	
Expected date of implementation		
Date submitted to RPC	08 August 2014	
RPC Opinion date and reference	20 August 2014	RPC14-BIS-2150
Overall Assessment	Amber	
RPC comments		
<p>The IA is fit for purpose, provided the Department addresses the points set out in this opinion. The Department provides a range of estimates of the benefits to employment agencies and businesses from the reduced regulatory requirements, based on a number of different scenarios. The Department should use the consultation stage to test the assumptions on the range of expected benefits and ensure that the IA clearly states this intention. The Department during the consultation stage should also seek further evidence to quantify the impact of excluding job boards from the regulations. These points should be addressed prior to consultation.</p> <p>In addition, the final stage IA should provide further justification as to why, as appears to be the case, the pass-through of benefits to hiring organisations has been considered to be a direct, rather than indirect, benefit to them. This appears to be counter to the guidance, as described in the Better Regulation Framework Manual (paragraph 1.9.44).</p>		
Background		
What is the problem under consideration? Why is government intervention necessary?		
<p><i>“The recruitment sector is regulated by the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003. The regulations are complicated and difficult to understand, placing a burden on business and potentially acting as a barrier to growth. Government intervention is necessary to streamline the regulations and to ensure that the recruitment sector continues to contribute to a flexible and effective labour market.”</i></p>		
What are the policy objectives and the intended effects?		
<p><i>“The Government believes that legislation should be minimised and used only where</i></p>		

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, allowing recruitment firms to play an active role in developing their own methods of maintaining standards so they can compete for work seekers and hiring companies. The current regulations impose a costly burden on employment agencies and businesses, in places being complicated and difficult to understand, partly due to a number of revisions since 2003. By removing costly and complex regulations where possible, the Government will help the recruitment sector to continue to contribute to a flexible and effective labour market.”

“The Conduct Regulations will be amended to remove those regulations that primarily cover business-to-business transactions, or duplicate requirements contained in other UK legislation”

The regulatory framework that would remain under the proposals are focussed on ensuring four key outcomes:

- *“Employment agencies and employment businesses 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”*

In addition, the Department states that *“to further encourage flexibility, we will exclude from the regulations those businesses whose sole purpose is to provide a platform for hirers to advertise vacancies or individuals to advertise themselves as available for work.”*

Identification of costs and benefits, and the impacts on business, civil society organisations, the public sector and individuals, and reflection of these in the choice of options

The proposal consists of two elements: to remove some elements of the Conduct Regulations, and to redefine ‘employment agency’ to exclude explicitly job boards from the scope of regulation.

Removing some elements of the Conduct Regulations: The removed regulations are mostly related to business-to-business activities or are covered by other pieces of legislation. The Department estimates that the direct benefits to employment agencies and businesses are due to reduced regulatory requirements. The IA presents a range of estimates of the size of these benefits, based on assumptions about how much activity would cease following the removal of the regulations. The Department should use the consultation to test these assumptions.

The Department estimates that 50% of this benefit is passed-through from employment agencies and employment businesses to hiring organisations

(paragraph 57). However, as this is passed-through to hiring organisations, the analysis should count this as an indirect benefit to them (as described in the Better Regulation Framework Manual, paragraph 1.9.44). The Department mentions in paragraph 38, the existence of a close relationship between recruitment firms and hiring organisations but, in the view of the Committee, this explanation is not sufficient to justify deeming the benefits for hiring organisations to be direct.

Excluding job boards: Job boards are defined as an internet site which facilitates job hunting by allowing work-seekers to place their CVs on the site, submit them to potential hirers, and/or allow potential hirers to advertise posts. The service provided does not extend to matching the work-seeker to a specific vacancy. The Department proposes to exclude job boards from the scope of legislation (paragraph 20). The proposal is deregulatory with a benefit for business, but the Department has not quantified the benefit in the IA, nor mentioned it in the benefits section. The Department should, during consultation, seek to estimate the number of job boards to enable the benefit to be quantified.

Comments on the robustness of the Small & Micro Business Assessment (SaMBA)

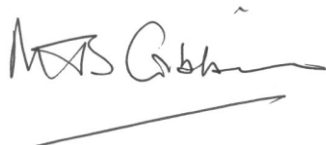
The proposals reduce the scope of regulation on business overall, therefore a SaMBA is not required.

Comments on the robustness of the OITO assessment.

The Department says that this is a deregulatory proposal that is in scope of OITO and will have a direct net benefit to business (an 'OUT'). Based on the evidence presented, the Department's assessment of the likely direction of impacts appears reasonable, and the OITO assessment is consistent with the current Better Regulation Framework Manual (paragraph 1.9.11). The Department will have to strengthen the evidence supporting the equivalent annual net cost to business and clearly explain the differences between the direct benefits and pass-through benefits, so that the RPC can validate the estimate at final stage.

Although the Department has correctly converted the Business NPV into an EANCB figure, there is some discrepancy between the figures quoted on the IA cover sheet, and those provided in Table 7 of the IA. This should be amended in the final stage IA.

Signed



Michael Gibbons, Chairman