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Volt Europe Ltd

RESPONSE TO "GOOD WORK: THE TAYLOR REVIEW OF MODERN WORKING PRACTISES – CONSULTATION ON MEASURES TO INCREASE TRANSPARENCY IN THE UK LABOUR MARKET

SUBMITTED TO THE DEPARTMENT FOR BUSINESS, ENERGY AND INDUSTRIAL STRATEGY – 23 MAY 2018

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Responses

Introductory Definitions

Volt is a global staffing company and provider of MSP and RPO solutions. Volt Europe Ltd is providing this response on behalf of itself and the other UK companies within the Volt Group. Volt has been trading in the UK since 1978. Within Europe we are a medium sized business and our recruitment is predominantly in the professional and/or highly skilled worker space.

We are a private sector business (although our parent is a publicly traded company) providing services either as an Employment Agency or Business, or sourcing the services of Employment Agencies or Businesses as an MSP on behalf of our end clients.

Qu. 1: Have you provided a written statement of employment in the last 12 months to:

a) Your permanent employees

Yes. We provide these as standard to all employees (it forms part of the employment contract)

b) Your non-permanent staff?

Yes, although obviously that is not a written statement of employment, because they're not employees. But we have provided a statement which is equivalent to that required to be provided to employees. It should be noted that most non-permanent staff are engaged via umbrella companies or the contractors own limited company and are therefore not contracted with us at all (although they provide services to our clients).

Qu. 2: In general when do individuals starting paid work in your organisation receive:

a) A written statement

For employees, typically a few weeks before they start but sometimes only a few days before in circumstances where the employee joining us is not subject to a notice period elsewhere.

For workers, who we engage for the benefit of our clients, mostly in the week before the work begins but sometimes for short notice placements, the day before or occasionally only an hour or two before.

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b) An employment contract or other employment particulars.

As above, but with the obvious caveat that workers are engaged via contracts for services not contracts of employment.

Qu. 3: How long, on average, would it take a member of staff to produce a written statement for a new starter?

Usually under half an hour to actually produce the document but often an hour or so to collate all the information needed to populate the document. Naturally, changing our systems to reflect any change to who needs a statement or what that statement contains, would result in some significant and time heavy re-programming at the point of the change.

Qu. 4: How often do you seek legal advice when producing a written statement?

Rarely. Fortunately our company is large enough to have a skilled in house HR team but smaller companies would probably need such advice more often.

Qu. 5: Are there any other business costs associated with producing a written statement, in addition to personnel and legal costs that we should be aware of?

None.

Qu. 6 through Qu. 8

Not applicable.

Qu. 9: To what extent do you agree that the right to a written statement should be extended to cover permanent employees with less than one month's service and non-permanent staff?

We agree, although speaking from the perspective of our sector within the recruitment industry, we think this tends to happen on or before start date in any event (albeit possibly not the exact content of information being proposed in this consultation). For the sake of clarity, given that many parties may be involved in a contractual chain, we consider it would be sensible that this responsibility (if extended) should rest with the party paying the worker. We do not consider that a mandatory template would be helpful, but a voluntary template would be helpful for smaller companies who do not have internal compliance teams.

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Qu. 10: The following items are currently prescribed contents of a principal written statement. Do you think they are helpful in setting out employment particulars?

a) The business name

Yes, but with respect to workers provided by an agency the "business name" isn't necessarily informative. They need to know who the client is, which agency found them the work and if different, who will pay them. Although in practise, this is only really relevant if something goes wrong – the vast majority of the time contractors are principally worried about getting the money they believe they are due at the time they believe payment is due. As outlined above, we consider the party paying the worker to be best placed to provide this information.

b) The employee's name, job title/description of work and start date

Yes, although we would note that start dates are often provisional pending the outcome of background checks.

c) If a previous job counts towards a period of continuous employment, the date that period started

We have no objection, although for workers, this isn't relevant because they are not employed.

d) How much and how often an employee will get paid

Yes.

e) Hours of work (and whether employees will have to work Sundays, nights or overtime)

Yes, with the understanding that those on shift work, may not know their shifts at the point such a document is issued.

f) Holiday entitlement (and if that includes public holidays)

Yes, where applicable – some workers will of course be engaged to provide services via business to business contracts.

g) Where an employee will be working and whether they might have to relocate

Yes, although in practise it is the client who determines relocation, not the agency and sometimes that won't be apparent to either party at the point the contract commences.

h) If an employee works in different places, where these will be and what the employer's address is.

Yes to the former, but if the worker is not employed, there will be no employer's address to provide. As outlined in (a) however, we have no issue with any or all of the client, agency and agent for payment (if different) being stated. If there is an employer of course, that can be included but we need to be cautious to mandate employer address because there won't always be one.

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Qu: 11: Do you agree that the following additional items should be included on a principal written statement?

a) How long a temporary job is expected to last or the end date of a fixed term contract?

For a fixed term contract, we agree. For a temporary job, we agree this should be provided where it is known, but it will not always be known.

b) How much notice the employer and the worker are required to give to terminate the agreement?

Agree, noting that there might not be an employer and this would therefore be "engager" notice.

c) Sick leave and pay entitlement?

It should be provided, but we don't feel there is any need for this to be in a principal written statement unless the provisions are different from statutory.

d) The duration and conditions of any probationary period?

We have never had a circumstance where a client has requested a probationary period.

e) Training requirements and entitlement?

We agree that training requirements need to be stated but training entitlements are in experience never included because a client is looking for someone who comes prepared with all the training they need.

f) Remuneration beyond pay e.g vouchers, lunch, uniform allowance?

We agree.

g) Other types of paid leave e.g. maternity, paternity or bereavement leave?

It should be provided, but we don't feel there is any need for this to be in a principal written statement unless the provisions are different from statutory.

Qu: 12: To what extent do you agree that the principal written statement should be provided on (or before) the individual's start date?

We agree.

Qu: 13: To what extent do you agree that other parts of the written statement should be provided within two months of their start date?

We agree.

Qu. 14 through Qu. 17

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Not applicable.

Qu. 18: Which of the following best describes your awareness of the Acas guidance on written statements?

The author of this response has a good knowledge of the Acas guidance but that is not representative of the company generally. In general, we consider that few people know it exists.

Qu. 19: If you have some knowledge of the Acas guidance on written statements, how helpful did you find it?

Quite helpful – it is a good deal more accessible that the original legislation.

Qu. 20: What do you think are the implications for business of the current rules on continuous service?

In general we find they work well, provide certainty and our own experience would indicate there is no reason to change the current situation. It is also worth noting that most work that is ad hoc, will be provided by workers who are not eligible for continuous service in any event.

Qu. 21: If you are employed or represent employees, what are the implications for you or those you represent of the current rules on continuous service?

Not applicable.

Qu. 22: Do you have examples of instances where breaks in service have prevented employees from obtaining their rights that require a qualifying period?

No for our employees and not relevant for our workers.

Qu. 23: Do the current rules on continuous service cause any issues in your sector?

No. The contractors we place with clients are not employed by us so this legislation does not impact them.

Qu. 24: We have committed to extending the period counted as a break in continuous service beyond one week. What length do you think the break in continuous service should be?

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As outlined previously, we don't think there is a case for a change but in so far as those agency workers who are engaged via pay between assignments models are used to 2 weeks pay between assignments (they tend to forget it's a 4 week gap), we would support 2 weeks.

Qu. 25: Do you believe the existing exemptions to the break in continuous service rules are sufficient?

Yes, although as outlined above, for us, they are rarely relevant.

Qu. 26: We intend to update guidance on continuous service, and would like to know what information you would find useful in that guidance.

It only needs to include an explanation of the legislation in a fashion that is clearly understandable to a lay person.

Qu. 27: Do you agree that the government should take action to change the length of the holiday reference period?

While not really a problem currently for our sector, we agree this would provide greater fairness for seasonal workers who are often low paid and therefore should receive greater protection.

Qu. 28: If you answered yes to Q27, should government:

a) Increase the reference period from the current 12 weeks to 52 weeks recommended in the review
b) Set a 52 week default position but allow employees and workers to agree a shorter reference period.
c) Set a different reference period.

We are happy to accept the 52 week recommendation. It isn't clear to us how allowing agreement to a shorter reference period would do anything other than add additional administration for no benefit.

Qu. 29: What is your understanding of atypical workers' arrangements in relation to annual leave and holiday pay?

a) Are they receiving and taking annual leave?

For those working through umbrella companies, yes they receive it. Most take all of it. In practise those that don't take all their leave are often on short term (3 to 6 months) assignments at high pay and often choose to take a break between assignments rather than leave during an assignment. For contractors who provide services through their own limited

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companies, we do not necessarily have visibility of what leave they take because their leave is not on chargeable to the client that is simply marked as a day on which services were not provided which may be at the contactor's behest or the clients.

b) Are they receiving holiday pay but not taking annual leave?

For those working through umbrella companies, they receive holiday pay but as outlined above don't always take it. For contractors who provide services through their own limited companies we have no visibility of their holiday pay.

c) Do you know of any other arrangements that are used?

We would note only that the consultations comments on rolled up holiday pay are not strictly accurate, to our understanding. Annual leave and holiday pay are, to some extent frustratingly, separate rights. In fact, if those rights were inextricably linked that would almost certainly resolve most of the confusing questions related to holiday pay. But given that they are separate rights, they don't have to arrive at the same time – holiday pay and annual leave often occur at separate times. The issue is when standard pay and holiday pay are rolled up into one line item on a payslip. If they are separated out, clearly showing which pay relates to what (and this is often too colloquially referred to as "rolled up" holiday pay), that, to our understanding is perfectly legal and very common in practise for atypical workers.

Qu. 30: How might atypical workers be offered more choice in how they receive their holiday pay?

We're not sure how more choice would be a benefit for the worker. This would surely just result in less certainty and more confusion – two areas the Taylor Review recommended as areas for improvement.

Qu. 31: Do you agree that we should introduce a right to request a more stable contract?

This would depend a great deal on the circumstances. A worker on NMW, working 30 hours a week for a year, on a contract that guarantees them zero hours should be entitled to a contract that reflect the reality of their working patterns. But in practise it would be totally inappropriate in some sectors. Within the gaming industry, clients typically require a huge number of contractors for 6 to 8 weeks at a time to test a game and then not again for 3 months (until the next test is due). Providing those contracts do not prevent a worker from taking other work in the down times, we don't consider that there is an issue with zero hours contracts in situations where the work is exceptionally atypical.

By contrast, highly skilled, highly paid contractors have actively chosen atypical working patterns and therefore neither seek nor want such protection (not least of all because it could impact their tax status).

We do not agree a right to request permanent work is appropriate.

Qu. 32: Should any group of workers be excluded from this right?

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Yes. Any that are working outside of IR35.

Qu. 33: Do you think this will help resolve the issues the review recommendations sought to address?

No but then neither do we believe the recommendations are relevant to all sectors and seniorities of atypical worker.

Qu. 34: Should employers take account of the individual's working pattern in considering a request?

As outlined above in the answer to 31, yes, in so far as we support a situation where the contract reflects the genuine working patterns of the relationship.

Qu. 35: Should there be a qualifying period of continuous service before individuals are eligible for this right?

Yes, because it will not always be clear at the outset that the position stated in the contract does not reflect the reality of the placement (indeed, it may not be clear to anyone – worker, agency or client – many assignments evolve).

Qu. 36: What is the appropriate length of time the employer should be given to respond to the request?

1 month.

Qu. 37: Should there be a limit on the number of requests an individual can submit to their employer in a certain period of time?

Yes, to prevent vexatious requests. Once every three months would, we consider, be reasonable on the basis that anything less than that is unlikely to have established a new pattern of work and thus grounds for a new request being made.

Qu. 38: When considering requests, should small and medium enterprises be included?

There is no reason not to. If the right flows from a desire to ensure all contractors have a contract that represents the truth of their relationship, that right should exist independent of who a contractor provides services to.

Qu. 39: Are there formal provisions in your workplace for informing and consulting employees about changes that may affect their work?

Yes – they have been initiated voluntarily by the employer. (Contractors are not employed by us and therefore fall outside these provisions).

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Qu. 40

Not applicable.

Qu. 41: How might the ICE regulations be improved?

They could be better publicised.

Qu. 42: Should the ICE regulations be extended to include workers in addition to employees?

Largely we do not agree with this because most contractors (workers) are placed on short term contracts and the longer term planning of the end client to whom they provide services, is irrelevant to them. There is possibly an argument for workers who have been with the same client for a long period (perhaps over 18 months) to be included but given the take up of the regulations is in any event very low, we see no impetus to change the current position.

Qu. 43: Should the threshold for successfully requesting ICE regulations be reduced from 10% of the workforce to 2%?

No. 10% is a pretty low bar and for employers to have to dedicate time to this (as opposed to voluntarily doing so, which it should be noted many do), we think that it would be unreasonable to mandate something that only 2% of the workforce might want.

Qu. 44: Is it necessary for the percentage threshold for implementing ICE to equate to a minimum of 15 employees?

We have no strong views.

Qu. 45 through 48

We have no submissions to make in relation to these questions.

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