The Taylor Review of Modern Working Practices

Consultation on Agency workers recommendations
Department for Business, Energy & Industrial Strategy
February 2018

May 2018

THE TAYLOR REVIEW OF MODERN WORKING PRACTICES – CONSULTATION ON AGENCY WORKERS RECOMMENDATIONS

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?** **(a): If slightly or strongly agree, what key facts do you think should be made prominent?**	In theory this sounds like a good idea but it would depend on the timing of the document and what information is provided. (a) Information on the actual rate of pay once all deductions are made.

(c) Thinking about work seekers and employers in the recruitment sector, would ensuring work seekers are provided with a key facts page have a:

	Significantly pos impact	Small positive impact	Some neg and some pos impact	Small neg impact	Significantly neg impact	No impact	Don't know
Individual work seekers	Significantly positive impact - There is currently no requirement on businesses to provide agency workers with anything in writing at the very outset of their employment.						
Employers in the recruitment sector	Negative: additional burden of having to prepare a key facts page, although likely to be a generic doc (and some information has to be given already). Positive: transparency will help to drive up standards and result in greater competition, which can have positive benefits; Will potentially assist with the attraction and retention of work seekers.						

2.	**What information would be important to include in a 'key**	We agree with the recommendations of the Government, but what needs to be considered is how this document would sit alongside the contract

	facts' page?	of employment. In view of the speed at which assignments might be entered into, it might be preferable to have a two stage process whereby a generic key facts document would be produced at the outset of the engagement which provides basic information applicable to all workers engaged by the agency. This could then be followed up by a second key facts document within the first month of the assignment so that the individual has key facts specific to them and can ensure that the pay that they have received is correct.
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?**	This is a difficult question to answer as it is effectively impossible to ensure that every work seeker has "understood" the document. The provision of this document should be made a legal requirement and failure to provide this document should be something that is capable of enforcement by the individual and/or the EAS. In terms of understanding of the document, consideration should be given to providing a helpline number that the work seeker can ring to discuss the document in further detail. This might be a service that could be provided by the EAS. Consider making it conditional that the 'key facts' document is received and signed for before or within a specific period following the start of the engagement. If the scheme is introduced or trialled, it will be important to evaluate the extent to which it assists work seekers in making decisions, and/or to what extent it encourages agencies to raise standards. Some academic research might assist.
3.	**Should an employment business be required to ensure that the work seeker understands fully the information being given to them?**	As above, this is a difficult condition to comply with, so we would recommend that to the extent possible the key facts document should be a standard format used by all agencies, and that it include the provision of a helpline. It should be a requirement that translation whether by a language line service and/or by a written translation in the workers first language to give the best chance of understanding. Realistically, the requirement would be to show that the work seeker has received the document, that it contains all of the required information, and that the work seeker has signed an acknowledgement to

		confirm their understanding.
3.	**(a) if yes, how do you think this should be achieved?**	As above, the form should require a signed acknowledgement from the work seeker, together with information (either on the form itself or in supporting documentation) outlining where they can take advice. It would also be helpful for the form to be in a standardised format. Whilst the format could be standardised, the information in the form relating to the individual work seeker would be confidential between the parties.
4.	BEIS has estimated the cost of a new information document to be between £33,000 and £1 million over a ten year period. This is based on the assumption that it will take up to one hour to produce a key facts page. **Do you feel an hour is an accurate estimate of the time it would take to produce information document for a work seeker?**	About right. Unlikely to be more than this, especially since work seekers are already entitled to receive a written statement of terms within one month of the start of their employment.
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?**	N/A
5.	**(a) If so, for what reason? e.g. as a work seeker or employment business for payroll purposes. What has your experience been?**	N/A
6.	**Do you know of any examples of the benefits and/or problems for agency workers of using an umbrella company or intermediary?**	Benefits: unaware of any tangible benefits for agency workers unless engaged as genuine self-employed contractors and looking for help with setting up limited status etc Problems: these can include delays with getting paid; the rate of pay differing significantly from the headline rate of pay due to deductions for tax and

		NI, administrative fees etc.
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?	No
	ii. Be aligned to the regulation of the types of employment rights already regulated by EAS under the current legislative framework 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?	Yes
	Please provide reasons for your response.	To the extent that umbrella companies are used by employment agencies to perform the tasks and obligations which would otherwise be performed by the agency, it would be sensible for the extension of the remit of the Employment Agency Standards Inspectorate to be aligned to the regulation of the types of employment rights already regulated by the EAS. Any extension of the remit of the EAS should however be subject to an evaluation as to how effectively the EAS is already regulating employment rights under its current powers. Such an evaluation should include whether the EAS provides a cost effective, efficient and user friendly system for both agency workers and agencies in respect of the enforcement of rights.

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

	Significantly pos impact	Small positive impact	Some neg and some pos impact	Small neg impact	Significantly neg impact	No impact	Don't know
Individual work seekers	Significantly positive - there is currently no requirement on businesses to provide agency workers with anything in writing at the very outset of their employment.						
Employers in the recruitment sector	Some negative and some positive impact – Negative: there will be the additional burden of having to prepare a key facts page, although likely to be a generic document (and some of the information has to be given already). Positive: transparency will help to drive up standards and result in greater competition, which can have positive benefits; Will potentially assist with the attraction and retention of work seekers.						

7. **(b) Thinking about work seekers and employers in the recruitment sector, would extending the regulations of the Employment Agency Standards inspectorate to cover umbrella companies have a:**

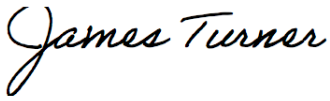
	Significantly pos impact	Small positive impact	Some neg and some pos impact	Small neg impact	Significantly neg impact	No impact	Don't know
Individual work seekers	Significantly positive - would remove potential confusion as to potential rights and means of enforcement						
Employers in the recruitment sector	Small positive impact - Might assist in defending agencies from claims and complaints where the umbrella company is at fault rather than the agency.						

Section 3 - Pay between assignments

8.	**Have you used or are you currently using a pay between assignments (PBA) contract?**	*N/A*
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**	N/A

	working?	
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?**	Yes, but it will depend on actual evidence that the PBA model is being abused. No justification for wider state enforcement unless the evidence demonstrates that the conditions and requirements for use of the PBA model aren't being met by the agencies that use this model. If agencies who use this model aren't paying the guaranteed minimum pay between assignments then clearly this needs to be addressed. Consider whether work seekers are currently provided with enough information to make an informed decision regarding the use of the PBA model.
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?**	Yes, if it can be shown that the availability and means of enforcement are such that claims can be handled more efficiently and effectively than they could in the employment tribunals. Could lead to potential confusion and a lack of awareness amongst agency workers as to their rights and means of redress, a point which needs to be evaluated through further research.
Further comments		

8 May 2018



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