

The Rt Hon Kemi Badenoch MP
Secretary of State for Business & Trade
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

26 May 2023

Dear Secretary of State,

Workers (Predictable Terms and Conditions) Bill

As the voice of the recruitment industry, the [Recruitment & Employment Confederation](#) is writing to make clear our serious concerns about the plans to introduce the above Bill, without a full cost impact assessment of the implications for employment, productivity and growth in this country. In particular we are concerned that some of the proposals presented in the Bill have the possibility to undermine the entire UK temporary labour market, a sector which on any given day places over 1 million people on a work assignment, employs directly around 200,000 people, and which contributed £36.4 billion to the UK economy in the last year. There is a significant risk of the Bill failing to achieve its goals, layering red tape onto firms, and undermining good practice in the temporary work sector.

Temporary Workers are well protected in law and their employer is the temporary agency - a right to request to a commercial client after only a few weeks is inappropriate and burdensome

Temporary workers are already afforded clear protections under the Agency Workers Regulations 2010, and the mechanisms by which they are placed on assignment are further protected by the obligations incumbent on recruitment firms via the Employment Agencies Act 1973 and Conduct of Employment Agencies and Employment Businesses Regulations 2003. The REC goes further than this still by ensuring our corporate members abide by the ethical framework set out in our Code of Professional Practice.

Under the current legal framework, temporary workers work in an inherently flexible manner, with neither party having an obligation to the other in terms of working pattern. This flexibility is the key reason why people choose temporary, contract or freelance work. We have found there are many groups of people - in particular those with caring responsibilities and over 50's - who prefer this type of work as it helps them manage their own work/life commitments. Depending on the contracts they are engaged on, the workers have no obligation to work even when work is offered, and employers can respond to the inevitable peaks and troughs in demand, that are often unpredictable. As an example, many of our members in the logistics and retail sector have experienced temporary work assignments were lower this spring than the year prior because the weather was unseasonably wet and cold - meaning consumers did not start buying for summer until much later in the season. This two-way flexibility is a vital part of the UK labour market, and business operations more generally. Agencies react to it by being able to move temporary workers to different sectors, so that they can remain employed even when clients in one sector cannot offer work.

This gets to the heart of our issue with the Bill. Like any employer, agencies will be willing to follow a right to request framework and offer a more regular pattern of work to a temp where they can. This section of the Bill is not the issue for us. It is entirely unreasonable, to expect a client with a commercial relationship to an agency to do so for a temp who has worked for them for just a few weeks. We would concede that, as the original *Good Work* report concluded, that after 12 months on assignment this may be appropriate, but this is not the case after a few weeks. A right like this creates expectation for temps,

and red tape for firms, when the likely outcome in every case is a rejection for the legitimate reasons that the Bill sets out. It also tramples on the commercial relationship between the agency and the client, including arrangements for temp-to-perm transfers. We would ask you, even at this late stage, to consider removing Government support from the Bill unless this charter for pointless process is removed.

Agency workers are different from those on direct hire zero-hours contracts - they already have two-way flexibility

It is important to make the distinction between temporary agency workers on contracts for services and the rights and protections they receive as set out above, and other workers engaged on zero-hours contracts. Zero-hours contracts are not the same as those for temporary workers (contracts for services) but the two are often conflated. Zero hours refers instead to workers engaged directly by a business/organisation to work without fixed or minimum hours. Unfortunately, the way in which they can be deployed has sometimes led to the imbalanced one-sided flexibility that causes issues for many workers. In these contracts it is solely the employer who decides whether work is available for their worker or not, and the worker must work if asked to. This is different to the genuine two-sided flexibility of the temporary worker on a contract for services, which has helped sustain our labour market through recent and many previous cycles of economic uncertainty. The UK recruitment industry is recognised as a professional service that helps client businesses, of all sectors and sizes, manage workforce recruitment and retention issues, with a focus on ensuring efficiency for the client and support for the candidate jobseeker. The proposed changes are so broad in scope that they are failing to address specific issues with zero-hours contracts and instead targeting the wrong area. If enacted as currently defined, this Bill would dampen the successful balance that employers and workers rely on within agency work.

Inclusion of Umbrella Companies in any changes is vital to protect workers

Finally, the current proposals need to consider the likely behavioural response of some temps and agencies to the Bill. There is not one form of temporary agency work. For instance, the Bill does not mention how the new rules will apply to workers placed by an agency but employed by an umbrella company, a growing part of the market and one desperately in need of better regulation. Umbrella companies currently operate outside the existing compliance framework for the recruitment industry and without a more tightly defined explanation in this proposed legislation, there is a danger of leaving them, and the workers they place, outside the scope of these new regulations as well. This would further increase the potential for exploitation that is already rife within that part of the market, and which is a target area for HMRC and the Employment Agency Standards Inspectorate. Although the draft legislation refers to 'temporary work agency', it has not been defined and it is currently unclear whether umbrellas and payment intermediaries would be subject to the new law. Non-inclusion of these workers would create an incentive to shift many more temps into this area - to avoid the issues with clients listed above, but also the more effective proposals for a right to request to the agency and may open more workers up to higher costs of employment and scam operators, as we have seen with a number of tax avoidance schemes.

Given the enormous impact these changes will have on the UK labour market and its competitive edge globally, we urge you to reconsider government's support for the Bill in its current form. We are not opposed to change and are keen to provide our insight and expertise on how the proposals will affect the industry we represent, but the ability of short-term temps to force a process on clients when the chances of acceptance of a request are next to zero will create process and grievance in an unnecessary way. Given the quick progress of this bill through Parliament, we request an immediate pause in Government support for the Bill to allow officials and sponsoring MPs to review the terms and ensure a revised version of the Bill is brought forward.

This Government is rightly committed to reducing red tape and helping business to make a difference on growth. By ensuring this Bill is amended to remove the right to request to a client - or make that right available after 12 months - you would stop a piece of unworkable and burdensome law becoming a source of frustration to temps, agencies and companies alike.

Yours sincerely,



Neil Carberry
Chief Executive