

**Make Work Pay:
Modernising the
Agency Work
Regulatory Framework**

Submission by the Trades Union Congress

Introduction

The TUC is the voice of Britain at work. We represent more than 5.5 million working people in 47 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Our affiliated unions represent agency workers across a range of sectors, both in the private and public sector. Agency work is one of the prevalent forms of insecure work and agency workers are a significant part of the labour market. We estimate that there were at least 789,000 people in the UK working through an employment agency during the final quarter of 2025.¹ Other estimates place this figure higher, with the Recruitment and Employment Confederation estimating that there are one million workers on agency assignments every day.²

Agency work is characterised by job and income insecurity, a reduced entitlement to employment rights and inadequate enforcement of the reduced range of employment rights to which agency workers are entitled.

Agency worker legislation should be amended and strengthened to make sure that:

- the longstanding existing issues that agency workers face (unfair deductions from pay, indecipherable pay slips, lack of comprehensible information about their assignments etc.) are tackled; and
- agency work becomes a genuine stepping stone to permanent, secure employment, which would benefit workers and drive economic growth.

This government consultation provides a welcome opportunity to address the systemic issues that workers in the agency sector face, chiefly inadequate labour market protections and a lack of effective enforcement.

Numerous proposals in the consultation will bring real benefits for agency workers:

- The proposed amendment to Regulation 12 of the Conduct Regulations to widen the scope of protection to agency workers who are engaged via an umbrella company is welcome. This will result in agency umbrella workers having the important right not to have their pay withheld in the circumstances an umbrella company hasn't received payment from an employment business.
- The recognition that transparency around key terms and conditions needs to improve. Welcome proposals include making it easier for agency workers to understand who their employer is and the requirement to agree gross pay rates

¹ TUC analysis of LFS data defines **temporary agency workers** as employees in their main job who reported that this job was not permanent in some way and that they were working for an employment agency; **permanent agency** workers as employees in their main job who reported that this job was permanent and that they were an agency worker; **agency workers** as temporary or permanent agency workers thus defined.

² Recruitment and Employment Confederation website, www.rec.uk.com/our-view/policy-and-campaigns/voice-of-the-worker

at the outset, which would avoid the current situation of confusing unfair deductions taking pay below the initial agreed rate. Unions report that one of the most common problems for agency workers is when they receive wages below the rate that they've agreed with the agency, because of deductions made by umbrella companies. The TUC has previously called for greater clarity on assignment rates and has recommended that when agency workers are informed of assignment hourly rates, these are the rates they must receive in their wage packet. It's welcome that this issue has been recognised.

- It's welcome that the government intends to restrict the use of kickbacks in the umbrella sector, which can result in a detrimental impact on workers' take-home pay.
- We support the proposal set out in paragraphs 89 and 90 to strengthen Regulation 5. We agree that Regulation 5 should be amended so that employment businesses cannot make work-finding services conditional upon workers working through an umbrella company.
- We support the government proposal to amend Regulation 32 to ensure that umbrella companies cannot opt out of the Conduct Regulations on behalf of workers. We know that some umbrella company contracts currently opt-out agency workers from the Conduct Regs, by default, and the implications are not always fully explained to the worker.

But it's important that the impact of the positive reforms included in this consultation are not undermined by the proposals to water down existing protections; proposals that appear to be driven solely by an arbitrary target to cut 25 per cent of regulation.

We are concerned that parts of the consultation are drafted in the context of reducing the regulatory burden on recruitment agencies, rather than seeking to put in place the most effective regulatory system. The proposals relating to watering down the provision of information to both workers and hirers are particularly concerning. The TUC believes the proposals framed as cutting the regulatory burden on agencies and hirers, will be counterproductive as they will result in agency workers receiving less information than they do now. This will create more confusion for workers who may be already involved in a complex employment relationship with three other parties (umbrella, agency and hirer).

After a government review³ found clear evidence that existing transparency obligations are not being followed, it is important that the focus is on enforcing and strengthening existing rights rather than admitting defeat and streamlining existing regulations because agencies are failing to comply with their basic obligations.

³ [Post Implementation Review of Regulation 13A- Key Information Documents](#)

Summary of key recommendations (in addition to the recommendations we support throughout the consultation)

1. Improving enforcement

Improving enforcement of all agency worker legislation should be a priority for the new Fair Work Agency (FWA). **This includes bringing enforcement of the Agency Workers Regulations (AWR) 2010 within the remit of the Fair Work Agency.** It is confusing for agency workers to be in a position where an enforcement body has responsibility for some of their rights, but not the most important provisions relating to equal treatment on core terms and conditions (AWR rights are enforceable via employment tribunal only).

Agency workers are around five times as likely to have no days of paid holiday entitlement than other workers. Around 21 per cent of agency workers who provided information on their entitlement said that they have no days of paid holiday entitlement (excluding public holidays), compared to around 4 per cent for other workers.⁴ **It is vital that the new Fair Work Agency triggers its holiday pay enforcement remit as soon as possible to help rectify this issue.**

It is a major omission of the consultation document, that whilst there is a reference to “improving enforcement”, there are no details about how this will be done. The 2021 agency worker survey⁵ showed that only 62 per cent of agency workers knew of the Employment Agency Standards (EAS) Inspectorate, and only 28 per cent were aware of any details of what they do. **It is vital that the new Fair Work Agency takes steps to remedy this lack of awareness.**

The existing transparency regulations need to be enforced more effectively. Paragraph 63 of the consultation focuses on the widespread non-compliance with the Key Information Document provisions. However, it fails to acknowledge that there is also an issue with ineffective enforcement of these key transparency provisions. **Compliance will not improve without a concerted drive to target enforcement activity in this area.**

TUC polling shows the widespread use of rolled-up holiday pay in the agency sector. This practice allows employers to include an additional amount with every payslip to cover a worker’s holiday pay, as opposed to paying holiday pay when a worker takes annual leave. We find that 67 per cent of agency workers report receiving rolled-up holiday pay. Employers are allowed to use this mechanism for irregular hours and part-year workers. However, among agency workers working the same or similar hours each week, 70 per cent reported receiving rolled-up holiday pay. This implies unlawful use of

⁴ TUC analysis of Office for National Statistics. (2026). *Quarterly Labour Force Survey, October - December, 2025*. [data collection]. UK Data Service. SN: 9522, [DOI: http://doi.org/10.5255/UKDA-SN-9522-1](https://doi.org/10.5255/UKDA-SN-9522-1)

⁵ Agency Worker Survey (2021), “Report of Findings Experiences and views of agency workers in the UK”, Department for Business and Trade.

the mechanism and is a further indicator that the FWA should begin its enforcement of holiday pay at the earliest opportunity.

2. Focus on strengthening existing limited rights rather than watering down existing protections to meet arbitrary reducing regulation targets

Many of the proposals to “streamline” the information given to workers and hirers, by agencies, range from absurd to a real health and safety risk.

For example, paragraphs 70 and 71 suggest that the requirement to tell an agency worker their work location should be removed. This currently needs to be provided under Reg 21 of the Conduct Regs and is not included in the revised list under paragraphs 70 and 71. This is a crucial piece of information that agency workers will need to make an informed decision about whether to accept an assignment. There is no logical reason to remove this fundamental piece of information.

3. Legislation should facilitate agency workers moving into secure employment. Any existing barriers should be removed, not strengthened.

The TUC is concerned that the consultation is seeking views about relaxing (already limited) safeguards that prevent agencies and hirers agreeing contractual terms that would restrict the opportunities for agency workers to move into permanent, secure employment. Question 4a seeks views about “relaxing restrictions” around the temp to perm fees that are negotiated between agency and hirer. Relaxing restrictions in this area would run counter to wider government aims and priorities. Temp to perm fees create a barrier to insecure workers making the transition into permanent employment, as hirers are unwilling/unable to afford the contractual fee. This barrier to secure employment hinders economic growth, as it could trap workers in lower paying, insecure employment.

The rules around temp to perm fees are already extremely relaxed, as there are currently no caps on the amount that agencies can charge as temp to perm fees. Unions report exorbitant temp to perm fees dissuading employers from taking on agency worker on a permanent basis.

The consultation itself acknowledges that “there is a clear lack of security in the agency worker market” highlighting the 2021 agency survey report which shows that:

“Over half (55 per cent) of agency workers had made a request to move to a permanent contract with a hirer in the 18 months preceding the research study. The main reason for seeking this change was to obtain greater job security, more regular or consistent working patterns, and wanting to continue to do a job they were enjoying (each mentioned by 30 per cent of those that had made a request). Other common reasons were wanting better pay (27 per cent), more agreeable working hours (24 per cent), and the good relationship they had with the hirer (23 per cent). Three in ten (30 per cent) said their request was

declined but they were offered more work, while 7 per cent said the request was turned down.”⁶

The TUC has previously recommended that these fees should be banned as they deter hirers from offering permanent positions to agency workers. **The TUC is calling for this legislation to be strengthened so that temp to perm fees are banned altogether or that a cap is placed on what can be charged to ensure these fees don't prevent agency workers moving into permanent employment.**

Any legislative changes should break down barriers to permanent employment, not reinforce them.

4. Amend conduct regulations to improve transparency in the agency supply chain

To provide greater assurance for businesses, the Conduct Regulations (19 and 21) should be amended so that agencies are required to inform hirers where they use labour market intermediaries/umbrellas in their supply chain. This is particularly relevant with the recent changes to tax legislation where hirers could become liable for the tax infringements of other actors in the supply chain.

5. Enable agency workers to enforce all their rights via employment tribunal

Regulation 30 should be amended to make it possible for agency workers to bring claims related to breaches of the Conduct Regs to employment tribunals. Currently they can only enforce their rights via civil court or the FWA.

6. To improve transparency for agency workers, introduce sanctions (payable to workers) for non-compliance with the obligation for agencies to provide workers with a Key Information Document

The TUC believes that there should be a sanction for non-compliance with the obligation on agencies to provide agency workers with a Key Information Document (KID). Where agencies are found to have breached this obligation, they should be subject to a financial sanction which is **payable to the worker**. We believe this would provide an effective deterrent and drive-up compliance.

7. Amend Conduct Reg 13A so that the KID provides clearer information to the agency worker about who their employer is and how to contact them

The Conduct Regs should be amended so that it is made clear to a worker, before they start an assignment, who their employer will be. The current KID template is too complicated and uses legalese that could cause confusion. **Information and transparency provisions should have a practical focus, including providing workers with contact details for their employer so they know who to contact if a problem arises.**

⁶ Agency Worker Survey (2021), "Report of Findings Experiences and views of agency workers in the UK", Department for Business and Trade.

8. Introduce a new legal requirement to provide workers with clear payslips

The conduct regulations should be amended to make it a requirement for agency workers to receive clear, succinct payslips. A payslip template should be developed after consultation with unions.

9. Umbrella companies should be banned

Given the longstanding, significant problems associated with umbrella companies, the TUC believes that the only effective way to prevent the exploitation of workers by umbrella companies is to prohibit recruitment agencies and employers from using them. Our recent polling shows that the same issues steadfastly remain and show no signs of abating. At paragraphs 89 and 90 the government recognises that an alternative model is perfectly feasible.

10. The FWA should be empowered to enforce the terms and conditions of agency staff supplied to work on vessels regularly working from UK ports.

Unions in the maritime sector have highlighted the lack of effective enforcement for offshore agency workers.

Following successive incidents affecting seafarer and offshore wind workers' jobs, including the P&O Ferries scandal, we would welcome support for measures to provide stronger protections for seafarers and exploited migrant agency workers. Offshore crewing agencies are undercutting seafarers by supplying agency workers on inferior terms and conditions. They do this by exploiting migrant agency workers by flagrantly breaching core UK workplace protections such as NMW, working time regulations and other agency worker protections.

To recap, P&O Ferries dismissed 786 directly-employed seafarers and replaced them with agency seafarers employed through an offshore crewing agency, International Ferry Management, created and registered in Malta. P&O Ferries did this for the specific purpose of using international agency seafarers on inferior terms and conditions. It was widely reported that the agency workers used by P&O Ferries were paid below NMW⁷ and experienced breaches of wider agency worker legislation. The use of these agency workers undercut RMT and Nautilus members collectively agreed terms and conditions.

During the P&O scandal the regulator should have been able to board the vessels to see the contracts of employment that the agency staff were on. That information could then have been acted on, for example in cases of NMW underpayment. Other measures in the ERA (eg the Seafarers Charter) would also be reinforced by stronger regulations

⁷ 22 March 2022, "New P&O crew on less than £2 an hour, union claims" - www.bbc.co.uk/news/business-60821266#:~:text=Indian%20agency%20workers%20hired%20to,is%20%C2%A38.91%20per%20hour.

and enforcement responsibilities for maritime agency workers, carried out by the Fair Work Agency.

At present, the only regulatory protection is in Title 1.4 (Recruitment and Placement Services) of the Maritime Labour Convention. These minimum standards include a voluntary list of [Recruitment and Placement Services](#) 'approved' by the Maritime and Coastguard Agency (MCA). Unions report that this is virtually meaningless, in reality. For example, ERSG Ltd is still on this list. ERSG contracted at least 36 UK crew to work for Norwegian contractor Solstad on the Neart na Gaoithe wind farm in October 2022. The crew were employed by Umbrella company Payeworx Ltd, which they were not aware of. Due to the government of the day's decision to extend the offshore wind workers' concession scheme, the UK crew (including RMT members) were dismissed weeks into a 12-month contract and replaced by migrant workers on lower pay, with no redress or sanction on the umbrella company/employer, ERSG or end hirer.⁸ Again, to all intents and purposes ERSG has a spotless record and is endorsed by the only regulator with any jurisdiction.

11. The Conduct Regs should make it clear that umbrella margins/fees are not permitted and that any charge for using these services should be borne by the agency, not the worker.

As well as banning kickbacks in the industry and making sure that agency workers are paid the advertised rate for the job, we think the Conduct Regs could be further strengthened to explicitly state that workers should not bear any cost for using umbrella companies. The Conduct Regs should make it clear that umbrella margins/fees are not permitted and that any charge for using these services should be borne by the agency, not the worker.

Overview of key Labour Force Survey (LFS) data⁹

Unique analysis by the TUC provides a useful overview of agency work in the labour market.¹⁰ Our analysis challenges some of the misconceptions that exist about the nature of agency work. Some hirers and agencies argue that agency work is a choice

⁸ Friday November 18 2022, 9.00am, The Times, Sarah Ward, British wind farm crews replaced by foreign workers

⁹ Office for National Statistics. (2026). *Quarterly Labour Force Survey, October - December, 2025*. [data collection]. UK Data Service. SN: 9522, DOI: <http://doi.org/10.5255/UKDA-SN-9522-1>

¹⁰ TUC analysis of LFS data defines **temporary agency workers** as employees in their main job who reported that this job was not permanent in some way and that they were working for an employment agency; **permanent agency** workers as employees in their main job who reported that this job was permanent and that they were an agency worker; **agency workers** as temporary or permanent agency workers thus defined; and **other workers** as employees in their main job who meet neither agency worker definition. Percentages of each worker group meeting a specific condition are based on the members of the worker group who provided information on the condition (i.e. the valid per cent).

made by workers who value flexibility and control over a more secure employment relationship. However, current labour market data calls that belief into question for many and indicates worse conditions for agency workers than other workers.

- **Nearly seven in 10 agency workers report working full-time in that role (68 per cent), rising to 73 per cent among permanent agency workers.** This suggests that agency work is not a flexible working choice, comfortably fitting around other life commitments, but is instead their primary source of earnings. This is only marginally lower than for other workers, of which 76 per cent report working full-time.
- **Agency workers are around twice as likely as other non-permanent employees to be in temporary work against their wishes.** Around four in 10 temporary agency workers reported taking this temporary job because they could not find a permanent one (42 per cent). By contrast, only 20 per cent of other temporary workers reported this. Conversely, other temporary workers were more likely to have made an active choice about this—around 27 per cent of other temporary workers reported taking this temporary job because they did not want a permanent job, compared to only 19 per cent of temporary agency workers.
- **Agency workers are around twice as likely to want longer hours than other workers.** Around 17 per cent of agency workers reported wanting to work longer hours, at their current rates of pay, compared to just 9 per cent for other workers. This indicates that agency workers face greater financial insecurity due to insufficient working hours than other workers.
- **Agency workers are around seven times more likely to be employed on a zero-hours contract (ZHC) than other workers.** Around 22 per cent of agency workers report working on zero-hours contracts, compared to just 3 per cent for other workers. Temporary agency workers specifically are even more likely to be on a zero-hours contract, with around 34 per cent reporting this. This demonstrates that agency workers face greater income and working hours insecurity than other workers.
- **Agency workers are around five times as likely to have no days of paid holiday entitlement than other workers.** Amongst agency workers who provided information about their paid holiday entitlement, around 21 per cent report having no days of paid holiday entitlement (excluding public holidays), compared to around 4 per cent for other workers.¹¹ This may reflect the prevalence of rolled up holiday pay for agency workers or a greater lack of transparency and enforcement of agency workers' rights and conditions in general.
- **A significant proportion of agency workers indicate having been at their current employer in excess of two years.** About half of agency workers overall

¹¹ Amongst otherwise valid response estimates, 20 per cent of agency workers and 12 per cent of other workers were unable to provide information about their paid holiday entitlement. These have been excluded, following ONS advice.

report continuous employment at their current employer for two or more years (49 per cent), around a third for temporary agency workers (32 per cent) and nearly three in five for permanent agency workers (59 per cent). This shows that for many agency workers their typical work is akin to permanent employment, but they aren't entitled to the same job security and employment rights that their permanent counterparts enjoy.

This background data is important. It helps to build a picture of the realities of agency work. In particular, it shows that:

- to best meet the needs of workers, agency worker legislation should facilitate their transition to more stable, permanent employment and not put up barriers that prevents this from happening
- the full spectrum of legislation relevant to agency workers should be enforced by the relevant regulator. For example, many agency workers want more hours and will be entitled to equal treatment on working hours after 12 weeks, via the Agency Worker Regulations. It's important that existing regulations designed to give agency workers more hours are robustly enforced.

Overview of key issues faced by agency workers – TUC polling

The TUC recently commissioned a poll to better understand the working conditions and challenges faced by agency workers.¹²

Alongside the LFS data it gives us a useful overview of the realities of agency work.

Key findings:

Agency work is full time work for a majority of agency workers

- For almost three-quarters of agency workers, their household income, either completely or mostly comes from agency work. This reinforces our earlier finding from the LFS analysis that agency work is not a convenient side-hustle, but typically a primary source of earnings. Where we found 68 per cent of agency workers reporting working full-time in our LFS analysis, we similarly find 67 per cent of agency workers working full-time in our own poll.

Likely non-compliance with holiday pay rules

- Rolled-up holiday pay allows employers to include an additional amount with every payslip to cover a worker's holiday pay, as opposed to paying holiday pay when a worker takes annual leave. We find that 67 per cent of agency workers

¹² We surveyed 311 general workers and 300 agency workers (current or within the last 6 months) in Great Britain. The general worker sample used quotas and weights to ensure it represents the working population (16+) of Great Britain, by gender, age, region, ethnicity, full/part-time status, socioeconomic grade and industry sector. The agency workers sample used wide quotas to ensure it captured a range of demographics and sectors but was not weighted. Fieldwork was conducted online by Hold Sway from 8 to 20 April 2026

report receiving rolled-up holiday pay. Employers are allowed to use this mechanism for irregular hours and part-year workers. However, among agency workers working the same or similar hours each week, 70 per cent reported receiving rolled-up holiday pay. This implies unlawful use of the mechanism.

Indicators of non-compliance with the AWR

- TUC polling reveals that there may be a significant minority of agency workers who are not benefitting from their equal treatment rights under the AWR. 57 per cent of agency workers have had assignments over 12 weeks. After 12 weeks, they are generally getting more pay (74 per cent) and more working hours (74 per cent). 59 per cent got more holiday entitlement after 12 weeks. However, these improvements are not universal, with a quarter (25 per cent) receiving no more pay, a quarter (25 per cent) receiving no more hours, and 40 per cent receiving no more holiday entitlement after 12 weeks. The data suggests that many agency workers are getting an uplift in core terms and conditions after the 12-week qualifying period, suggesting a majority of employers are taking steps to comply with the equal treatment provisions under the Agency Worker Regulations. However, the data above also suggests that a significant minority of workers are not getting an uplift in terms and conditions after 12 weeks, which we think may suggest non-compliance with the Regulations. It's vital that the government takes further steps to assess compliance with the Agency Workers Regulations. A key first step would be to include the AWR within the remit of the FWA.
- 62 per cent of agency workers have been offered an assignment of more than 12-weeks, only for it to be cancelled earlier than 12 weeks. For agency workers employed by an umbrella company, three quarters (75 per cent) reported this experience, indicating the exacerbated precarity experienced by these workers, to be further discussed below. The TUC is concerned that these cancelled shifts, that were intended to last more than 12 weeks, have been cancelled as employers seek to avoid the equal treatment provisions that workers would have become entitled to after 12 weeks. This is another reason to strengthen the enforcement of the AWR by bringing them within the remit of the FWA.
- Only 55 per cent of agency workers get access to facilities like the canteen from their first day of work. Access to collective facilities is a day one right under the AWR, so this is a clear example of non-compliance.
- Too many agency workers (29 per cent) report being treated less well than permanent members of staff, suggesting that the objective behind the AWR, to ensure equal treatment of agency workers, is not being met.

Challenges associated with agency work

Feelings of insecurity

- A third of agency workers (33 per cent) feel insecure all or most of the time, which means they feel at risk of losing their work or not getting the hours or pay they need. Just over a third of agency workers (34 per cent) report struggling to cover household expenses. This contrasts with, respectively, 17 per cent and 24 per cent of the wider working population.

Issues with pay

- Agency workers are also more likely to receive the wrong and late pay (each 21 per cent) than for the general working population (11 and 9 per cent respectively).

Transparency issues

- Too many agency workers are not receiving basic information and access at work: only 55 per cent are provided with key information, such as pay rates, notice periods, and holiday entitlements before commencing work; and only 42 per cent typically get informed about vacancies at the employer from their first day of work.

Temp to perm fees preventing agency workers from moving into permanent employment

- 40 per cent of agency workers have lost out on a permanent role due to a temp-to-perm fee

Use of goods and services as a condition of the agency finding them work.

- Regulation 13 requires both employment agencies and employment businesses to notify work-seekers of the particulars of goods or services for which they may be charged a fee before providing or arranging the provision of any goods or services for the first time by you or by someone else. Work-seekers can withdraw from such goods and services without being subject to a detriment. Our polling shows that 42 per cent have been obliged to pay the agency for certain goods or services as a condition of the agency finding them work, which suggests widespread non-compliance and ineffective enforcement in relation to this Regulation.

Umbrella companies

- A quarter (25 per cent) of agency workers in our poll are employed by umbrella companies. Among these, 61 per cent say they didn't have a choice about this

arrangement and 55 per cent say they had to agree to use the umbrella company in order to get a work assignment.

- Significant proportions of agency workers employed by umbrella companies have experienced a range of different problems at work. In order of prevalence:
 - 27 per cent experienced problems with sick pay all or most of the time, and 23 per cent had this problem occasionally.
 - 21 per cent experienced problems with pensions all or most of the time, and 24 per cent had this problem occasionally.
 - 21 per cent were unable to access their payslips most or all of the time, and 23 per cent had this problem occasionally.
 - 20 per cent had pay deductions taken for services that they didn't use all or most of the time, and 33 per cent has these deductions occasionally.
 - 20 per cent experienced problems with holiday pay most or all of the time, and 29 per cent had this problem occasionally.
 - 17 per cent received confusing payslips most or all of the time, and 25 per cent received these occasionally.
 - 16 per cent received incorrect pay most or all of the time, and 32 per cent received incorrect pay occasionally.

2021 DBT survey findings¹³

The 2021 DBT survey findings are similar to the 2026 polling findings, highlighting the lack of improvement in compliance during this period.

Unfair charges

Regulation 13 requires both employment agencies and employment businesses to notify work-seekers of the particulars of goods or services for which they may be charged a fee before providing or arranging the provision of any goods or services for the first time by you or by someone else. Work-seekers can withdraw from such goods and services without being subject to a detriment:

Two-thirds (65 per cent) of agency workers had been charged for services or equipment over the 18 months prior to the survey, which typically related to DBS checks (30 per cent of all agency workers), training (30 per cent) or uniforms (25 per cent). Most workers

¹³ Agency Worker Survey (2021), "Report of Findings Experiences and views of agency workers in the UK", Department for Business and Trade.

experiencing deductions being made had been notified in advance for at least some of these, **though 15 per cent had not.**

Lack of clarity

Employment agencies (64 per cent), rather than a hirer (19 per cent) or umbrella company (15 per cent) were typically responsible for paying agency workers. While most workers (83 per cent) felt that who was responsible for paying them had been made clear to them on their current or most recent assignment, **14 per cent felt that it had not been made clear (rising to 22 per cent among those paid by an umbrella company).**

The government's 2021 Agency Worker Survey Report found that transparency issues remain widespread in the agency worker market. 14 per cent of agency workers said it was not made clear who was paying them, and 15 per cent did not receive payslips for their most recent assignment. Additionally, 15 per cent of agency workers who experienced salary deductions (for example DBS checks, training, uniform costs, etc) had not been notified in advance, while nearly a third (32 per cent) did not receive a written statement detailing key information about their assignment. These findings show clear issues of transparency around pay, deductions, and documentation within the temporary labour market.

Lack of payslips

While the majority (81 per cent) of agency workers received payslips for their current or most recent assignment, 15 per cent said this was not the case

Lack of written statement

The majority of agency workers (65 per cent) recalled being provided with a written statement detailing key information relating to their current or most recent, main assignment, however, a third (32 per cent) did not.

Lack of information around health and safety risks

While the majority of agency workers (64 per cent) were informed about the health and safety risks of their current (main) assignment, 30 per cent were not. In instances where health and safety information was provided, it was typically part of a formal induction at the beginning of a contract, and delivered in person

General issues in agency work

In the two years prior to the survey, three in ten agency workers (30 per cent) experienced problems relating to fair treatment with an employment agency (22 per cent), an umbrella company (18 per cent) and/or a hirer (19 per cent). The majority of those with a problem reported having just one problem during that period.

Detailed responses to questions

Question 1a – Do you agree that the key objectives listed should underpin the regulations: ensuring fair remuneration; ensuring a wide-ranging coverage of protection; providing assurance for business?

Yes. However, the principles should be expanded and developed further. Please see question below.

Question 1b – Please explain your answer.

The key objectives should be more precise.

To properly improve the security of agency workers, any objectives should reference the key rights that agency workers are already entitled to, how these could be enforced better and areas where the regulations need to be strengthened further.

Principle 1 - "Ensuring fair remuneration"

TUC polling reveals that agency workers are not receiving fair remuneration. Agency workers are also more likely to receive the wrong and late pay (each 21 per cent) than for the general working population (11 and 9 per cent respectively).

After "*all work undertaken*" the following text should be inserted, "*taking into account all relevant legislation*". This would make it clear that all legislation relevant to agency workers such as the Agency Workers Regulations 2010, which cover equal treatment on pay, are included in the basic objectives. "*Fair remuneration*" is too vague and is open to interpretation. A better phrasing of the objective would be "*Ensuring an agency worker receives the full pay to which they are legally entitled*".

Including "*employment businesses and agencies should have the autonomy to negotiate agreements with hirers that ensure fair compensation for their services.*" in the objectives suggests that the market should have wide discretion to determine contractual terms, which could lead to agency workers and wider society experiencing a detriment. There needs to be regulation of contractual terms between agency/hirer/umbrellas.

The inclusion of this statement in the principles would bring with it two risks:

1. Recruitment agencies could take this as a green light to charge exorbitant commission rates. We already see this in some sectors such as education. This profiteering could see vital funds being drained from the public sector.
2. The proposal (later in the consultation) to relax the restrictions around temp to perm fees, seems to stem from this principle. It is not appropriate for agencies and hirers to have unfettered discretion over the level of temp to perm fees. We hear from unions that temp to perm fees are set at high levels and can act as a disincentive to hirers looking to offer agency workers permanent employment. EAS inspectors have previously suggested to union officials that temp to perm fees should be set at a "fair" level. However, there is nothing in the regulations or EAS official guidance that references "fair" levels of temp to perm fees. Regulations should determine the parameters of the contractual negotiations

between agencies and hirers. If not, profiteering agencies could price agency workers out of permanent employment.

3. In the absence of robust regulations around contracts between hirer and agency, it is very likely that additional costs are passed onto workers through deductions to their pay (kickbacks in umbrella sector) or unfair barriers are erected preventing agency workers from transitioning to permanent employment (unfair temp to perm fees).

Principle 2 - "ensuring wide-ranging coverage of protection"

This principle should be amended so it says, "all agency workers should benefit from the safeguards" rather than a "wide range of agency workers should benefit from the safeguards". We don't believe there is a case for certain groups of agency workers to be excluded from the scope of the legislation.

Principle 3 - "Providing assurance for businesses"

This is sensible, but this principle is undermined by proposals later in the document (paragraph 46) which suggest removing some of the key information an agency is currently required to give to a hirer. We are concerned that these proposals could result in unqualified agency workers being placed in roles which could have an impact on their health and safety and the employer's operations. For example, Unite the Union has reported instances of unqualified agency workers being placed in manufacturing plants which has then caused operations to be detrimentally impacted.

For example, in paragraph 46, the government is proposing:

"46. The government's view is that the essential information that must be given to hirers under the regulations, before work commences, could be streamlined and consolidated to:

- any requirements or authorisations required by law (for example right to work checks), and;
- any requirements or authorisations required by a relevant professional body or regulator (for example Disclosure and Barring Service (DBS) where relevant, or other checks for regulated professions such as nurses or solicitors)."

As it currently stands under regulation 19 of the Conduct Regs, agencies have to provide:

*That the work-seeker has the **experience, training, qualifications** and any authorisation that the hirer considers necessary, or that the worker needs to have by law or by the requirements of any professional body, to carry out the work. This requirement can be properly discharged when registering a work-seeker. During the registration process you can request to see evidence of training completed, qualifications, and authorisations such as certificates and registrations with professional bodies. You must keep evidence that you have done this.*

So, it appears some of the information provisions contained in Regulation 19 would no longer be required in the proposal set out in paragraph 46. This is a significant proposed watering down of the legislation. The consultation doesn't provide any justification or rationale for doing this other than complying with the arbitrary target to cut 25 per cent of regulation.

To provide greater assurance for businesses, the Conduct Regulations should be amended so that agencies are required to inform hirers where they use labour market intermediaries/umbrellas in their supply chain. This is particularly relevant with the recent changes to tax legislation where hirers could become liable for the tax infringements of other actors in the supply chain.

There is another important objective that should underpin any agency worker legislation:

- Ensuring agency work legislation does not become a barrier to secure, permanent employment. Existing regulations should be reviewed and where they are found to impede agency workers from moving into permanent employment, they should be removed or amended.

Question 2a – In your view, do the current regulations meet these objectives?

No, the current regulations fail to address the many issues that agency workers face.

This overarching objective relates to making sure agency workers have a decent level of security in the labour market. Our polling shows that a third of agency workers (33 per cent) feel insecure all or most of the time, which means they feel at risk of losing their work or not getting the hours or pay they need. Just over a third of agency workers (34 per cent) report struggling to cover household expenses. This contrasts with, respectively, 17 per cent and 24 per cent of the wider working population. This shows that agency workers face greater insecurity in the labour market than other workers and that legislation needs to be strengthened.

With reference to the specific objectives covered in question 2, existing regulations fail in the following ways:

- Ensuring fair remuneration

In relation to agency workers experiencing problems with pay, The Low Incomes Tax Reform Group, an authoritative voice in this sector providing advice to low paid agency workers, highlights that the following umbrella company practices are currently a risk for low paid workers¹⁴:

Wage theft

¹⁴ 6 April 2026, LITRG website - www.litrg.org.uk/working/umbrella-company-workers

In particular, non-payment of accrued holiday pay. If workers are not on a 'rolled-up' system and leave an umbrella company having taken fewer holidays than they are entitled to, they should be paid in lieu of the untaken holiday – but it is our understanding that this does not always happen.

Skimming

Some umbrella companies take extra amounts from the assignment rate before arriving at a worker's gross pay. There has recently been an example where an extra £2 per pay period was wrapped up in a deduction called 'employment costs' – making it very hard to spot.

Payroll-fraud

It would appear that some umbrella companies are calculating and taking deductions from people's pay and either not paying them over to HMRC at all or are paying over reduced amounts (by understating workers' pay figures in their submissions to HMRC thereby reducing the tax/National Insurance amounts that are calculated and that they pay over).

Existing regulations are failing workers consistently. Regulation needs to be strengthened, and the government should bring forward the regulation of umbrella companies to the earliest possible opportunity.

- Ensuring wide-ranging coverage of protection

The lack of effective enforcement means that agency workers do not benefit from wide-ranging coverage of protection. The Agency Worker Regulations are not enforced by the relevant regulator, and we fear that agency workers are missing out on key rights such as equal treatment on pay. Elsewhere in the consultation response we have flagged our concerns about the lack of enforcement of key transparency provisions, confirmed by the recent government review.

Question 3 – Do you have views on how the government can ensure that the distinction between the activities of employment agencies and employment businesses are clearly defined? For example, changes to regulation 8, or publishing specific guidance.

The TUC believes that there can be confusion amongst agency workers as to how they are engaged and the distinction between the activities of employment agencies and employment businesses. Therefore, we urge the government to seek to address this, including considering whether amending Regulation 8, as well as publishing specific guidance would add clarity.

Question 4 – Do you think the government should relax restrictions on how and when employment businesses can charge end hirers?

No. The consultation states that "The government maintains that, wherever feasible, business-to-business arrangements should be permitted to negotiate terms that best meet their specific needs."

The TUC strongly disagrees with this statement. There is a strong risk that what best meets the needs of the businesses involved, will come at the expense of what is best for the worker. Relaxing restriction around temp to perm fees, for example, will erect further barriers to agency workers getting into permanent employment.

The TUC believes that existing levels of temp to perm fees are already prohibitive to hirers wanting to take on agency workers on a permanent contract. Whilst reliable, comprehensive data on this is difficult to source, it seems that a temp to perm fee of 15-25 per cent of a candidate's first yearly salary is common.

TUC polling shows that 40 per cent of agency workers believe they have lost out on a permanent role due to a temp-to-perm fee. **This demonstrates that temp to perm fees are already a significant barrier to agency workers getting into secure employment.**

Temp to perm fees create a barrier for insecure workers to make the transition into permanent employment as hirers are unwilling/unable to afford the contractual fee. This barrier to more secure employment hinders economic growth as it could trap workers in lower paying, insecure employment.

NASUWT has provided anecdotal evidence that agencies have charged temp to perm fees of £10,000 plus where schools wanted to take on an agency worker. In one case NASUWT is aware of a supply agency holding out for approximately 60 per cent of the annual wage of a senior leader/headteacher in a school.

The TUC has previously recommended that these fees should be banned as they deter hirers from offering permanent positions to agency workers. Furthermore, there are currently no caps on the amount that agencies can charge as temp to perm fees. The TUC is calling for this legislation to be strengthened so that temp to perm fees are banned altogether or that a cap is placed on what can be charged to ensure these fees don't prevent agency workers moving into permanent employment.

The TUC would also like to flag the original DTI guidance¹⁵ accompanying the legislation which states that:

"The purpose of regulation 10 is to ensure that employment businesses do not use transfer fees unreasonably as a means of discouraging or deterring hirers from offering permanent work to temporary workers, having those workers supplied through a different employment business, or introducing them to a third party to be employed by that party. Nevertheless, this regulation should allow employment businesses to protect their legitimate business interests."

¹⁵ DTI Guidance on the Conduct Regs, "GUIDANCE ON THE CONDUCT OF EMPLOYMENT AGENCIES AND EMPLOYMENT BUSINESSES REGULATIONS" 2003 - www.clarityappointments.co.uk/content-documents/35058/DTI-Employment-Agencies-Act-2003.pdf

It's important that the original intent of the legislation is recognised and upheld.

Question 5 – Do you agree that the principle that employment businesses cannot withhold, or threaten to withhold, payment for work done should be maintained?

Yes, absolutely. Regulation 12 is one of the key provisions in the Conduct Regs because it relates to ensuring an agency worker gets paid in the event a hirer doesn't pay the agency. It is vital that this safeguard is maintained and that the worker is not at risk of losing their income because of any contractual dispute between the agency and hirer. Agency workers undertake their work in good faith and should be paid accordingly. The agency model would soon collapse if workers didn't have faith that they would get paid.

Regulation 12 also provides an agency worker with an alternative route to recovering unpaid wages. It means that an agency worker who has suffered unfair deductions can ask the EAS to recover any wage theft. If this regulation was removed then it would mean that an agency worker's only enforcement route would be via employment tribunal, which could be expensive and time consuming.

The TUC agrees with the government's view "that this is one of the key protections that the Conduct Regulations should cover."

Question 6 – Do you agree that regulation 12 should place an obligation on umbrella companies to pay workers for all work done, including in situations where they have not received payment from an employment business?

Yes, we support the government view that regulation 12 should be amended to account for scenarios where agency workers are paid via an umbrella company, including where the umbrella company may not have received payment from an employment business.

It is a major loophole in existing protections that agency workers, using umbrella companies, fall outside the scope of the protection provided by Regulation 12.

Question 7 – Is there additional information beyond requirements or authorisations required by law, and requirements or authorisations required by a relevant professional body or regulator, that should be obtained and provided to hirers under these regulations, rather than agreed to through contractual arrangements?

Yes. The provision of information that is required under the existing regulations 19, 20, and 21 should be maintained and not watered down.

We are concerned that the proposal in the consultation document to "streamline" existing regulations is in fact a proposal to remove vital bits of information that an agency must provide to a hirer. This could result in unqualified agency workers being placed in roles which could create health and safety risks for themselves, other workers and the wider public. Unite the Union has also flagged that this could have an adverse impact on the employer's operations. For example, Unite reported instances of

unqualified agency workers being placed in manufacturing plants which has then caused operations to be detrimentally impacted.

It's important that the hirer has evidence of a worker's experience, training and qualifications. This shouldn't just be done on an assumed basis.

In paragraph 46, the government is proposing:

"46. The government's view is that the essential information that must be given to hirers under the regulations, before work commences, could be streamlined and consolidated to:

- *any requirements or authorisations required by law (for example right to work checks), and;*
- *any requirements or authorisations required by a relevant professional body or regulator (for example Disclosure and Barring Service (DBS) where relevant, or other checks for regulated professions such as nurses or solicitors)."*

As it currently stands under Regulations 19-21 of the Conduct Regs, agencies have to provide to the hirer:

*That the work-seeker has the **experience, training, qualifications** and any authorisation that the hirer considers necessary, or that the worker needs to have by law or by the requirements of any professional body, to carry out the work. This requirement can be properly discharged when registering a work-seeker. During the registration process you can request to see evidence of training completed, qualifications, and authorisations such as certificates and registrations with professional bodies. You must keep evidence that you have done this.*

This is a significant proposed watering down of the legislation. The consultation fails to provide any justification or rationale for doing this, other than complying with the arbitrary target to cut 25 per cent of regulation.

Furthermore, this proposal conflicts with the key objective of "providing assurance for businesses" which is set out in the consultation. Hirers should be given important information about the experience, training and qualifications of agency workers that are coming into their businesses.

RMT has provided a useful case study demonstrating why these provisions should not be watered down.

Network Rail's growing use of agencies is a good example of the health and safety risk in reducing or 'streamlining' the information requirements in the Conduct Regs. Due to the impact of the previous government's Modernising Maintenance programme, Network Rail's spend on agencies to carry out essential maintenance work on the

country's rail infrastructure has increased by 47 per cent since 2019-20.¹⁶ This means that there are now more agency workers maintaining rail infrastructure across England, Wales and Scotland than was previously the case and Network Rail has planned for this arrangement until 2029. Therefore, the government's proposal to loosen the requirements around providing information about experience, training and qualifications to hirers is a major concern for the safety of rail workers and passengers.

Question 8 – Where an umbrella company is involved, should the umbrella company be obliged to pass on any information they are aware of, relating to the two areas outlined above, to the relevant employment business (or to the end hirer when there is no employment business in the supply chain)?

Regulations 19-21 should not be watered down. Umbrella companies should be obliged to pass on any information relating to the required information set out in these regulations. The umbrella will often be the legal employer of the agency worker. It would be reasonable and responsible for a worker's employer to inform an organisation that it is supplying workers to, that they possess the necessary experience, training and qualifications to carry out the role.

Question 9 – Do you agree that additional obligations and safeguards should remain in place where the work-seeker will be required to work with vulnerable persons?

Yes. We believe that the "additional" (existing) obligations and safeguards should be in place for all workers.

Question 10 – Do you have views on how the processes relating to information gathering and sharing should be streamlined in order to facilitate workers taking up positions quickly and to reduce the administrative costs involved?

The consultation hasn't made a reasonable case for removing the information requirements relating to training, experience and qualifications set out in Regulations 19-21. Therefore, we don't believe "streamlining" is appropriate.

EAS guidance¹⁷ also states that information provided by an agency to a hirer under Regulation 21 can be provided verbally if needed:

"This can be provided verbally but must be confirmed in writing within three business days and should include the work-seeker's name (and company name if a limited company), the experience, training, qualifications and authorisations that they have to

¹⁶ 2024/25, Supplier Spend Report, Network Rail, Annex A <https://www.networkrail.co.uk/wp-content/uploads/2025/08/Network-Rail-Supplier-Spend-Report-FY2024-25.pdf>

¹⁷ June 2020. "Employment Agency Standards Inspectorate A brief guide for agencies" - <https://assets.publishing.service.gov.uk/media/5fb53e94d3bf7f63def366c3/eas-brief-guide-for-agencies.pdf>

undertake the role and a statement that the work-seeker is willing to do the work in question.”

Therefore, if an agency needs to move at speed to “facilitate workers taking up positions” quickly they can pick up the phone to the hirer, give them the information and then provide it in writing over the next few days. There is nothing in the existing regulations that prevents agencies and hirers from exchanging the necessary information quickly.

Question 11 – In your view, are there any alternatives to these obligations which would give hirers and clients the necessary security and confidence?

No. The TUC believes the existing information requirements under Regulations 19-21 should be maintained.

Question 12 – In your view, should the government make changes to the length of the qualifying period (12 weeks) after which agency workers are entitled to equal basic working and employment conditions, including equal pay?

The TUC believes the qualifying period should be scrapped and that agency workers should be entitled to equal treatment rights from day one of their assignment.

Indicators of non-compliance with the AWR

- TUC polling reveals that there may be a significant minority of agency workers who are not benefitting from their equal treatment rights under the AWR. 57 per cent of agency workers have had assignments over 12 weeks. After 12 weeks, they are generally getting more pay (74 per cent) and more working hours (74 per cent). 59 per cent got more holiday entitlement after 12 weeks. However, these improvements are not universal, with a quarter (25 per cent) receiving no more pay, a quarter (25 per cent) receiving no more hours, and 40 per cent receiving no more holiday entitlement after 12 weeks. The data suggests that many agency workers are getting an uplift in core terms and conditions after the 12-week qualifying period, suggesting a majority of employers are taking steps to comply with the equal treatment provisions under the Agency Worker Regulations. However, the data above also suggests that a significant minority of workers are not getting an uplift in terms and conditions after 12 weeks, which we think may suggest non-compliance with the Regulations. It’s vital that the government takes further steps to assess compliance with the Agency Workers Regulations. A key first step would be to include the AWR within the remit of the Fair Work Agency.

Removing the qualifying period would also make the legislation easier to understand for both employers and workers. It would also remove the administrative burdens associated with operating a qualifying period, such as keeping records related to the 12-week qualifying periods.

Extending the qualifying beyond 12 weeks would have a detrimental impact on agency workers, meaning they would have to wait an even longer period before achieving parity on key terms and conditions, despite doing the same job as their permanent counterparts.

Question 13 – In your view, should the government consider any other changes to the Agency Workers Regulations 2010 to reduce administrative burdens for businesses?

The TUC does not believe that the government should be considering any changes to the AWR that will reduce “administrative burdens” on businesses. Our recent polling points to significant levels of non-compliance with the AWR, which suggests that the government should focus on strengthening the legislation and improving enforcement.

Evidence of non-compliance with the AWR:

- 62 per cent of agency workers have been offered a greater than 12-week assignment, only for it to be cancelled earlier than 12 weeks. For agency workers employed by an umbrella company, three-quarters (75 per cent) reported this experience, indicating the exacerbated precarity experienced by these workers, to be further discussed below. The TUC is concerned that these assignments, that were intended to last more than 12 weeks, have been cancelled as employers seek to avoid the equal treatment provisions that workers would have become entitled to after 12 weeks. This suggests the anti-avoidance provisions in the AWR need to be strengthened. This is also another reason to strengthen the enforcement of the AWR by bringing them within the remit of the FWA.
- Only 55 per cent of agency workers get access to facilities like the canteen from their first day of work. Access to collective facilities is a day one right under the AWR, so this is a clear example of non-compliance.
- Too many agency workers (29 per cent) report being treated less well than permanent members of staff, suggesting that the objective behind the AWR, to ensure equal treatment of agency workers, is not being met.

Under Regulation 13 of the Agency Worker Regulations 2010 agency workers have the right, from day one, to be informed by the hirer of any relevant vacancies, to give them the same opportunity as a comparable worker to find permanent employment with the hirer.

This scope of this regulation has been addressed by the Court of Appeal in the case of *Kocur v Angard Staffing Solutions Ltd and anor.*¹⁸ The Court held that the right under

¹⁸ 26 April 2022, “The Agency Worker Regulations do NOT give agency workers the right to apply for internal vacancies on the same terms as employees” - www.boyesturner.com/news-and-insights/agency-worker-regulations-do-not-give-agency-workers-right-apply-internal-

regulation 13 is limited to the right to be **informed** of relevant vacancies. It does not give agency workers the right to apply or be considered for vacancies on the same terms as the hirer's directly recruited employees. It therefore follows that an employer's obligation under Regulation 13 will be satisfied if it informs agency workers of the existence of available vacancies, even if they aren't given the opportunity to apply for them.

The TUC believes the legislation should be amended to make it explicit that agency workers have to right to apply for vacancies as well as be informed of them. Article 6 of the EU Directive¹⁹ on temporary agency work states that:

*Temporary agency workers shall be informed of any vacant posts in the user undertaking **to give them the same opportunity as other workers in that undertaking to find permanent employment.** Such information may be provided by a general announcement in a suitable place in the undertaking for which, and under whose supervision, temporary agency workers are engaged.*

Giving an agency worker a right to be informed of vacancies, but not apply for them, does not provide those workers with an opportunity to transition to permanent employment. The AWR should be amended to align with the original intent of the Directive.

There should be a provision that collective agreements can permit the employer and unions to negotiate circumstances where the right to apply for vacancies may not apply. For example, in a redundancy situation, where it may be appropriate for permanent staff at risk from redundancy to have first access to any potential vacancies.

Question 14 – Do you have any views on how the regulations listed above operate in practice, and whether there are any changes that the government should consider?

The TUC does not believe that Regulations 28-31 should be amended or "streamlined". They provide important protections for workers. The consultation has not put forward any reason or rationale for "streamlining" these regulations, other than asking whether it might be a good idea.

In particular, it is vital that Regulation 29 is not "streamlined". This ensures that agencies maintain accurate records which enables workers and FWA inspectors to determine whether compliance with the legislation has been maintained. For example, the type of record that an agency must keep (under Schedule 4 of the Conduct regs) includes a copy of the Key Information Document. As stated above we know there are shockingly low levels of compliance with this legal requirement. Any move to water

[vacancies-same-terms-employees#:~:text=It per cent20does per cent20not per cent20give per cent20agency,fear per cent20of per cent20breaching per cent20the per cent20AWR](#)

¹⁹ DIRECTIVE 2008/104/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008

down this record keeping requirement would make it even more difficult for the new FWA to enforce these provisions.

Regulation 30 should be amended to make it possible for agency workers to bring claims related to breaches of the Conduct Regs to employment tribunals. Currently they can only enforce their rights via civil court or the FWA. The civil court is a costly route for workers and the EAS (now incorporated into the FWA) has been criticised for being under resourced and ineffective.²⁰

Question 15 – Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

No.

Question 16 – Do you agree that the key objectives listed should underpin the regulations: clarity for workers; pay transparency; proportionality?

The TUC welcomes the key objectives relating to improving clarity for workers and pay transparency.

The consultation document is correct to draw attention to the 2021 Agency Worker Survey Report,²¹ which found that transparency issues remain widespread in the agency worker market:

- 14 per cent of agency workers said it was not made clear who was paying them.
- 15 per cent did not receive payslips for their most recent assignment.
- 15 per cent of agency workers who experienced salary deductions (for example DBS checks, training, uniform costs, etc) had not been notified in advance.
- Nearly a third (32 per cent) did not receive a written statement detailing key information about their assignment.
- The survey found that 22 per cent of those paid by an umbrella company were not clear about who was paying them (as opposed to 9 per cent of agency workers paid directly by their employment business), and that 23 per cent of those paid by an umbrella company had not received a contract. The same survey found that payslip issues were more common for those being paid through an umbrella company, with 9 per cent reporting issues accessing their payslip and 12 per cent having difficulties understanding their payslip. This is compared to only 3 per cent of workers reporting these issues when paid by an employment business.

These findings show clear issues around a lack of transparency around pay, deductions, and documentation within the temporary labour market.

²⁰ May 29, 20205. "The Wild West of Employment Agencies in the UK". Good Jobs First -

²¹ Agency Worker Survey (2021), "Report of Findings Experiences and views of agency workers in the UK", Department for Business and Trade.

It's welcome that the objective, "clarity for workers", includes a reference to the importance of a worker knowing who their employer is. Many agency workers don't know who to approach to resolve workplace issues, so improving clarity and making it easier for workers to contact their employer is essential.

The objective on pay transparency is also welcome:

"agency workers should have the opportunity to agree an actual (gross) rate of pay with the employment business before they accept an assignment, and should be informed of deductions that are likely to be made from their pay".

Unions report that one of the most common problems for agency workers is when they receive wages below the rate that they've agreed with the agency, because of deductions made by umbrella companies. The TUC has previously called for greater clarity on assignment rates and has recommended that when agency workers are informed of assignment hourly rates, these are the rates they must receive in their wage packet. It's welcome that this issue has been recognised.

The TUC is concerned that the third objective, "proportionality", might be misused to undermine and weaken existing protections. As we've flagged above the existing limited protections that agency workers have are not being effectively enforced. It's not appropriate to consider watering down existing protections further, when agency workers are not benefitting from their existing rights.

The TUC is also concerned that the consultation makes sweeping statements without providing any evidence to back them up. For example, in paragraph 59 the consultation states:

"The government's view is that the current regulations do not fully take into account the nature of the modern temporary labour market. This is a fast-paced industry, where businesses are looking for a reliable workforce that can be mobilised quickly, and workers are seeking to take up roles on demand."

But there is no evidence provided to show what informed this view. The TUC believes further consideration and information should be shared with stakeholders before the government applies this objective with a view to streamlining or reducing existing regulations.

Question 17a – In your view, do the current regulations meet these objectives?

No.

TUC polling shows that too many agency workers are not receiving basic information and access at work: only 55 per cent are provided with key information, such as pay rates, notice periods, and holiday entitlements before commencing work.

Agency workers

- Lack of compliance with Key Information Document (KID)

The intended objective behind the requirement to provide agency workers with a KID before their agreement to their terms of employment was important and valuable: to improve transparency for agency workers.

The recent government review²² into the provision of the Key Information Document to agency workers highlights that the objective has not had its intended effect because of the lack of compliance and enforcement:

“However, when put into practice, the effectiveness of this measure in meeting its objectives has been limited, suggesting that further action and amendments may be needed to improve information provision for agency workers. The introduction of the requirement for a KID has not therefore fully addressed the objective of improving transparency for agency workers, and the aim to improve working conditions and workplace satisfaction for agency workers does not appear to have been met. The evidence that a significant proportion of workers are not receiving a KID highlights that lack of compliance has been a major issue with this policy, hindering the ability of this provision to meet its objectives.”

Therefore, the current regulation, designed to give agency workers greater transparency and understanding, is failing workers and not meeting the objective set out in the consultation document.

Agency workers using umbrella companies

- The TUC has heard anecdotal evidence from unions that many umbrella workers are not aware that they are using umbrella arrangements. Where agency workers do use umbrella companies, they are often not fully informed about the implications of doing so. Because of this, many agency workers are in the bizarre position of not knowing who their employer is and who they should approach to resolve any workplace issues. This is also confirmed in the recent government KID review: *“The evidence gathered indicates that many workers still find themselves in complex tax and employment relationships, or do not know who their employers are or who to go to for work-related issues.”*
- Workers face misleading and unfair deductions from pay. An agency worker using an umbrella company will often not receive the pay rate advertised by the agency. Umbrella companies deduct their operating costs from an agency worker’s pay. Other deductions can appear on a worker’s payslip such as ‘Apprenticeship Levy’. This causes both confusion and anger when a worker receives significantly less than agreed and expected.
- Payslips are often indecipherable. Umbrella company payslips are more confusing than usual payslips. This is often down to the inclusion of the ‘contractor statement’ as well as the actual payslip. This contractor statement starts with the contractor’s overall invoiced amount and then lists the employer

²² 06/02/2026, “Post Implementation Review Report of Regulation 13A – Key Information Documents” - [Post Implementation Review of Regulation 13A- Key Information Documents - Impact Assessment](#)

deductions, including the umbrella company's margin and employers' NIC, Apprenticeship Levy payments and so on. This is particularly confusing for the many workers who are unaware that they are working through umbrella arrangements or what this entails.

Again, these examples of common issues that workers face, demonstrate that existing regulations are not providing workers with the clear, comprehensible information that they need.

Question 17b – How could the current regulations be adapted to better meet these objectives?

- The current regulations need to be enforced more effectively. Paragraph 63 of the consultation focuses on the widespread non-compliance with the KID provisions. However, it fails to acknowledge that there is also an issue with ineffective enforcement of these key transparency provisions. Compliance will not improve without a concerted drive to target enforcement activity in this area.
- The TUC believes that there should be a sanction for non-compliance with the obligation on agencies to provide agency workers with a Key Information Document provision. Where agencies are found to have breached this obligation, they should be subject to a financial sanction which is payable to the worker. We believe this would provide an effective deterrent and drive-up compliance.
- The Conduct Regulations should be amended to make it a requirement for agency workers to receive clear, succinct payslips. A template should be developed after consultation with unions.
- The Conduct Regs should be amended so that it is made clear to a worker, before they start an assignment, who their employer will be, not just on paper but for the purposes of resolving any workplace issues. The current government template (see below) for a key information document should be simplified and made more accessible to workers. For example, many agency workers may not understand the legalese in this area such as "employment business". Many agency workers will not realise) that an "employment business" is in fact the agency that has sourced work for them. This could cause confusion about who their employer is.

Key Information Document

This document sets out key information about your relationship with us, including details about pay, holiday entitlement and other benefits.

Further information can be found at [for Employment Business to insert here]

The Fair Work Agency is the government authority responsible for the enforcement of certain agency worker rights. You can raise a concern with them directly on 0345 161 6000 or through the Acas helpline on 0300 123 1100, Monday to Friday, 8am to 6pm.

GENERAL INFORMATION

Your name:	
Name of employment business:	
Your employer (if different from the employment business):	
Type of contract you will be engaged under:	
Who will be responsible for paying you (if different from your employer):	
How often you will be paid:	
Expected or minimum rate of pay:	
Deductions from your pay required by law:	
Any other deductions or costs from your pay (to include amounts or how they are calculated):	
Any fees for goods or services:	
Holiday entitlement and pay:	
Additional benefits:	

- The Key Information Document given to agency workers using umbrella arrangements is potentially even more confusing for agency. Please see below. There are four parties in the agency/umbrella supply chain: agency worker, hirer, agency, and umbrella. This makes it difficult for a worker to know who is responsible for upholding their employment rights. The language in the template below needs to be simplified and not contain legalese. For example, wording could be amended to:

"The agency who found you work:

Your legal employer and who will be responsible if you have any issues:

Name of the payroll company (if the agency is using one of these and they are not your legal employer):"

This document sets out key information about your relationship with us and the intermediary or umbrella company used in your engagement, including details about pay, holiday entitlement and other benefits.

Further information can be found at **[for Employment Business to insert here]**

The Fair Work Agency is the government authority responsible for the enforcement of certain agency worker rights. You can raise a concern with them directly on 0345 161 6000 or through the Acas helpline on 0300 123 1100, Monday to Friday, 8am to 6pm.

GENERAL INFORMATION

Your name:	
Name of employment business:	
Name of intermediary or umbrella company:	
Your employer:	
Type of contract you will be engaged under:	
Who will be responsible for paying you:	
How often the umbrella company and you will be paid:	

- Transparency provisions should be redesigned in conjunction with trade unions and other stakeholders. They should be piloted with agency workers. Existing terminology in the agency sector is outdated, complex, and it is not immediately obvious what it means. The government should test whether many agency workers understand the terms “employment business” and “umbrella company”.

The consultation should focus on these issues rather than misguided attempts to reduce protections in a sector where non-compliance with basic labour market protections is rife and labour market intermediaries can exploit workers with impunity, due to a lack of regulation/enforcement.

Question 18 – Do you agree that those listed above represent the key pieces of information required to ensure transparency for work-seekers regarding how they will be engaged, how they will be paid and what type of work they will be doing?

No.

The proposed information requirements set out in paragraphs 70 and 71 are inadequate and constitute a significant watering down of the current information provision requirements stipulated in Regulation 21 of the Conduct Regs. Agency workers should also be provided with the information below:

- Identity of the employer and details of how to contact them to resolve issues, as we know that agency workers are often passed between agency, hirer, and umbrella when they raise an issue. This must be agreed between hirer, umbrella, and agency.
- Location of assignment, so an agency worker can consider whether transport costs and childcare responsibilities will make the job possible
- Working hours, as it would be important for agency workers to understand how many hours they will be expected to work so they can make a calculation about how much money they will be expected to earn
- Holiday entitlement, as this will help workers understand how much holiday they can take and have a written record in case they need to enforce their rights
- Pay reference periods, as it is important for agency workers to understand for what work they are being paid for, and when, to help plan their finances and ensure they have been paid correctly
- Intended duration of assignment, to help agency workers plan their financial lives and commitments outside of work.
- Information about any experience, training or qualifications needed for the role to make sure the agency worker feels confident they can do the role and not subject themselves and others to any risk
- Details of the umbrella company, if one is being used, including links to signpost for further information

The information requirements set out in paragraph 71 are totally inadequate. It is not reasonable to suggest that an agency worker is not told their hours or how much they are expected to earn before they start an assignment.

It is surprising that the government is proposing to significantly reduce the amount of information that is given to an agency worker. Again, there isn't any evidence or reasoning provided to support this step. This proposal seems to be at odds with the objectives listed at paragraph 60 relating to improving transparency.

Question 19 – Do you have any views on when or how this information should be provided to work-seekers?

The TUC sees no reason to water down or amend Regulation 21 which sets out when and how this information should be given to a worker. This Regulation already gives the agency sufficient flexibility, allowing it to provide the worker with information verbally, followed up with a written confirmation.

Question 20 – Do you agree that where an umbrella company is offered to a worker as a means of providing payment, there should be an obligation on the umbrella company to provide a representative breakdown of how much they will charge for their services, and how deductions will be calculated?

Yes, as stated above, agency umbrella workers face misleading and unfair deductions from pay. An agency worker using an umbrella company will often not receive the pay rate advertised by the agency. Umbrella companies deduct their operating costs from

an agency worker's pay. Other deductions can appear on a worker's payslip such as 'Apprenticeship Levy'. This causes both confusion and anger when a worker receives significantly less than agreed and expected.

Having a representative example will help an agency worker make an informed decision about whether to use an umbrella company.

Importantly there must be an option for agency workers to reject the umbrella payment/employment model if they don't like what they see in the representative example.

Question 21 – Do you agree that the government should regulate to restrict the use of 'kickbacks' in the umbrella company market?

Yes.

We share the government's view in the consultation that "kickbacks" can result in reduced take home pay for agency workers and risks unfair/unlawful deductions being made from their pay:

*"kickbacks' are often difficult to understand, and **can have detrimental impacts on workers' take-home pay**. As highlighted in responses to the previous government's consultation on tackling non-compliance in the umbrella company market, unexplained **deductions (often in the form of "employment costs", or "timesheet rebates") are sometimes deducted from a worker's pay and can be paid back to the employment business**. The government's view is that workers should not be forced to pay a premium to have their pay processed by an umbrella company (about which they often have no choice – see Chapter 3). It should not be permissible to pass the payment of such 'kickbacks' onto workers."*

The TUC also has anecdotal evidence that agencies often use umbrellas because of these kick back financial incentives, without properly understanding the function of an umbrella company or the implications for the agency and/or agency workers.

There is no need for "kickbacks" to be used in this industry. If the umbrella company is offering a legitimate payroll function that the agency wants to use, they should pay for it, not the worker.

As well as banning kickbacks in the industry and making sure that agency workers are paid the advertised rate for the job, we think the Conduct Regs could be further strengthened to explicitly state that workers should not bear any cost for using umbrella companies. The Conduct Regs should make it clear that umbrella margins/fees are not permitted and that any charge for using these services should be borne by the agency, not the worker.

It's absurd that agency workers must pay a fee to be given the money they've earned at work. This concept would not be accepted by permanent workers across other sectors, and it is time this pernicious practice is stamped out.

Question 22 – Which of the two options would be, in your view, most effective at restricting the use of ‘kickbacks’ in the umbrella company market?

It's welcome the government is looking to restrict the use of kickbacks in the umbrella sector, which can result in a detrimental impact on worker's take-home pay.

Option 1 may not work effectively because the umbrella may seek to recoup their kickback costs via another unfair/unlawful deduction from a worker's pay and relabel it as something else.

Option 2 may be more effective but may not cover extreme examples, such as those flagged up in the APPG loan charge inquiry report, "Inquiry on 'How Contracting Should Work,'"²³ which showed that kickbacks can take the form of covert/backhand payments in kind:

*"Recruitment agencies demanding 'kickbacks' or incentives from umbrella companies for being added to a preferred supplier list/recommended to clients, **even sometimes including fitted kitchens and holidays for recruitment agency directors.** This then incentivises non-compliant providers (who because of non-compliance have higher margins) to offer large bonuses to gain access to potential clients."*

It's not clear that option 2 would tackle this type of behaviour.

The TUC is keen to work with the government on establishing the most effective way to restrict the use of kickbacks.

Question 23 – Do you have any views on how the regulations listed above operate in practice, and whether there are any changes that the government should consider?

The TUC believes these Regulations should remain as they are.

Question 24 – Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

No.

Question 25 – Do you agree that the key objectives listed should underpin the regulations?

Yes, we support these objectives.

²³ 8 April 2021. "Government must take action to clean up the 'Wild West' supply chain that exploits freelance and contract workers and encourages tax avoidance schemes", Loan Charge APPG - www.loanchargeappg.co.uk/news/press-release-2/#:~:text=Recruitment per cent20agencies per cent20demanding per cent20'kickbacks' per cent20or gain per cent20access per cent20to per cent20potential per cent20clients.

It's welcome that agency workers will be given a real choice about whether they want to be engaged and paid by an umbrella company.

A 2023 HMT Call for Evidence²⁴ *"found that a large majority (95 per cent) of the 234 who responded to this question **stated they had no option but to work through an umbrella company if they wanted to take on a particular role with a client and/or employment business.**"*

We believe this objective should be strengthened in two ways:

- The language should be tightened to say "Choice in engagement: agency workers should not be forced to be **employed**, engaged and paid via an umbrella company.
- The objective should also be amended to stipulate that agency workers should not suffer any detriment if they choose not to use an umbrella company, such as having an assignment withdrawn.

Question 26a – In your view, do the current regulations meet these objectives?

Regulation 5 of the Conduct Regs should potentially stop workers being forced to use umbrella companies.

Regulation 5 states that an *"agency must not make their work-finding services conditional upon the work-seeker using other goods or services provided by you or someone else."*

This suggests that an agency which insists on a worker using an umbrella company, before finding them employment, is in breach of the Regs.

However, the EAS, which was responsible for enforcing the Regs prior to the creation of the FWA, took a less rigorous approach to this provision, stating in their guidance that:

"This would include a situation where work-seekers are introduced to umbrella companies. You should be mindful that work-seekers cannot be forced to work through or be paid by umbrella companies, however if this is the only route that you use to pay work-seekers you must inform them of this before engaging with them and they can choose whether or not to engage with you".

The TUC believes this is a misinterpretation of the Regulations and that an agency assignment should not be dependent on the worker using an umbrella. The TUC wrote to the Director of Labour Market Enforcement (DLME) about this issue, but unfortunately no action was taken to address this.

Question 26b – How could the current regulations be adapted to better meet these objectives?

²⁴June 2023, HMT Call for Evidence on Umbrella Company Market, Summary of Responses - https://assets.publishing.service.gov.uk/media/647e047d103ca600130399a8/M4027_Call_for_Evidence_SoR_UCs_0103.pdf

The existing regulatory framework is failing workers and needs to be strengthened so there is genuine freedom of choice about whether to use an umbrella company or not.

We support the proposal set out in paragraphs 89 and 90 to strengthen Regulation 5. We agree that Regulation 5 should be amended so that employment businesses cannot make work-finding services conditional upon workers working through an umbrella company.

Question 27 – Do you agree that the government should regulate to ensure that workers cannot be forced to work through, or be paid via, an umbrella company?

Yes, workers should be free to choose not to use umbrella companies, without fear of repercussions, such as losing work.

Our recent polling found that a quarter (25 per cent) of agency workers are employed by umbrella companies. Among these, 61 per cent say they didn't have a choice about this arrangement and 55 per cent say they had to agree to use the umbrella company in order to get a work assignment.

Significant proportions of agency workers employed by umbrella companies have experienced a range of different problems at work. In order of prevalence:

- 27 per cent experienced problems with sick pay all or most of the time, and 23 per cent had this problem occasionally.
- 21 per cent experienced problems with pensions all or most of the time, and 24 per cent had this problem occasionally.
- 21 per cent were unable to access their payslips most or all of the time, and 23 per cent had this problem occasionally.
- 20 per cent had pay deductions taken for services that they didn't use all or most of the time, and 33 per cent has these deductions occasionally.
- 20 per cent experienced problems with holiday pay most or all of the time, and 29 per cent had this problem occasionally.
- 17 per cent received confusing payslips most or all of the time, and 25 per cent received these occasionally.
- 16 per cent received incorrect pay most or all of the time, and 32 received incorrect pay occasionally.

These issues demonstrate that workers need a genuine choice about whether to use umbrella arrangements.

Unions have reported that the following problems frequently arise:

- Workers face misleading and unfair deductions from pay. An agency worker using an umbrella company will often not receive the pay rate advertised by the agency. Umbrella companies deduct their operating costs from an agency worker's pay. Other deductions can appear on a worker's payslip such as 'Apprenticeship Levy'. This causes both confusion and anger when a worker receives significantly less than agreed and expected.
- In some cases, workers are not paid at all and when they try to resolve the problem, find themselves being passed between agency, umbrella, and the organisation they are carrying out the work for. Unions have reported umbrella companies going bankrupt and failing to pay their workers. When these workers contacted their recruitment agency, they were told that the umbrella company was their employer and responsible for paying them.
- Payslips are often indecipherable. Umbrella company payslips are more confusing than usual payslips. This is often down to the inclusion of the 'contractor statement' as well as the actual payslip. This contractor statement starts with the contractor's overall invoiced amount and then lists the employer deductions, including the umbrella company's margin and employers' NIC, Apprenticeship Levy payments and so on. This is particularly confusing for the many workers who are unaware that they are working through umbrella arrangements or what this entails.
- Breaches of holiday leave and pay entitlement are widespread, with umbrella companies preventing workers from taking their holiday. Unions report that umbrella companies are also, unlawfully, giving 'rolled-up holiday pay' to their workers. Workers receiving rolled-up holiday pay receive their holiday pay as it accrues, meaning that if they do take leave, it is unpaid. This is a significant barrier to workers taking leave, which is vital to safeguard their health and wellbeing.
- The use of umbrella companies fragments the employment relationship. Workers are not sure who to contact when trying to resolve problems and can be passed between companies when seeking to resolve their issues. It's been widely reported that workers can become unwittingly embroiled in tax evasion schemes operated by the umbrella company. This has had tragic consequences for a number of workers.²⁵

Question 28 – Do you agree that the government proposal – regulating to restrict employment businesses from making work-finding services conditional upon workers using an umbrella company – is the most effective way of achieving this?

We support the proposal set out in paragraphs 89 and 90 to strengthen Regulation 5. We agree that Regulation 5 should be amended so that employment businesses cannot

²⁵ 26 November 2025, "Third of people affected by 'loan charge' could have debts wiped away", Sky News website, <https://news.sky.com/story/third-of-people-affected-by-loan-charge-could-have-depts-wiped-away-13475755>

make work-finding services conditional upon workers working through an umbrella company.

It makes sense to utilise and strengthen existing mechanisms, provided the strengthened regulation will be enforced effectively.

Question 29 – Do you have any views on when a work-seeker should choose whether they would like to be engaged and paid through an umbrella company?

Work-seekers should make this choice after they have been offered the assignment.

There is a risk that if an agency worker opts not to use an umbrella company from the outset that the agency will deliberately not offer them work.

Question 30 – Do you agree that the government should amend the exception for individuals working under a contract of service or apprenticeship to ensure those working through an umbrella company are protected against detriment?

Yes, umbrella workers should be brought within scope of this regulation.

Question 31 – Do you have any views on whether the exception for individuals working under a contract of service or apprenticeship more generally remains appropriate? I.e., where the individual is working directly through an employment business.

This regulation should apply to all agency workers regardless of employment status.

Question 32 – Do you agree that the government should regulate to prevent umbrella companies from opting out of the Conduct Regulations on behalf of workers?

Yes. We support the government's position on this.

Umbrella agency workers should be covered by the same protections as all other workers. The 2021 survey data shows that umbrella workers are even more at risk from unfair deductions from pay and confusing payslips, so it is vital they are within the protective scope of the Conduct Regs.²⁶

It's concerning that agency workers are often forced to use umbrella companies, and these companies can then opt them out of important safeguards, often through a default option in an employment contract.

Question 33 – In your view, which of the two options would be most effective at ensuring that the opt-out is not abused by businesses who seek to engage workers?

Option 2 - removing the option to opt out entirely – would be most effective.

²⁶ Agency Worker Survey (2021), "Report of Findings Experiences and views of agency workers in the UK", Department for Business and Trade.

The TUC does not believe it should be possible for workers to opt out of key safeguards.

It is not possible for workers/employers to opt out/contract out of the National Minimum Wage²⁷, and this principle should be extended to agency worker rights.

With option 1 there is also a risk that by allowing personal service company (PSC) workers to opt out of the Conduct Regulations, the government would inadvertently create a new loophole that agencies/employers could exploit by funnelling workers into a PSC to avoid their employment rights obligations.

The TUC also believes that PSC agency workers should be entitled to the basic protections offered by the Conduct Regs. For example, if a PSC worker isn't paid because the hirer fails to pay the agency, the PSC worker should be able to bring a claim relating to Regulation 12 to the FWA.

Question 34

N/A

Question 35a - Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

No.

Question 36 - For the purposes of drafting the regulations specific to umbrella companies, the government intends to use the payment limb of the definition of "employment business" in the Employment Rights Act 2025 (Clause 36, subsection 3B(b) "paying for, or receiving or forwarding payment for, the services of those persons, in consideration of directly or indirectly receiving a fee from those persons") as a basis for applying obligations or any other provision specifically to umbrella companies. Do you see any issues with this approach?

No, this appears to be fine.

Question 37 – Do you have views on how the regulations listed above should be amended to account for modern working practices and business models, including the use of umbrella companies?

Bectu, a union representing workers in the creative industries has flagged that Regulation 26 is causing issues for their members including potential non-compliance with the NMW. They have provided an illustrative case study below.

Case study: Supporting artistes paid under NMW

A supporting artiste (film extra) gets work through a casting agency. The agency issues a written call notice via email for a film job. After responding to the notice, and the

²⁷ National Minimum Wage Act 1998, section 49, <https://www.gov.uk/hmrc-internal-manuals/national-minimum-wage-manual/nmwm05050>

production agreeing to the supporting artiste being suitable, the supporting artiste is booked.

Bookings can be cancelled anytime up to 12 noon the day before the booked date under the terms of the contract. The job is booked under the Pact-FAA (Film Artistes Association) agreement terms and rates, which Bectu-FAA have negotiated with Pact (Producers Alliance for Cinema and Television) as the agreed conditions and rates applicable.

The supporting artiste (SA) is offered this job two months before filming. This job is confirmed the day before in writing by the agency, and there will be written communications from the production (via the agency) telling the SA where to attend the job and any other instructions they need to know about.

The union-agreed rates must be paid as a minimum, but in practice, supplementary fees accrue over the day so that overtime and other additional fees are due to the agency worker at the end of the day for a missed or late meal break, getting a haircut, providing clothing, etc. Quite often, the supplementary fees due are refused and not paid by the production in breach of the Pact-FAA terms and rates.

At the end of the job, the SA asks to see a payslip (known as an artiste salary voucher or a chit) for the day. The Crowd Assistant Director refuses, saying that this is too time-consuming, despite the union agreement requiring this to happen at the end of the day.

The production pays the agency, and the agency then pays the SA eight weeks later (SAs are usually paid between four to eight weeks after the job, but it can take longer), deducting 24 per cent commission and fees, including VAT. The SA is left with a take-home amount below the National Minimum Wage, and they may still have to pay tax and NI on this as an individual, as they are self-employed for tax purposes.

Example chit taking SA under NMW

Basic Daily Rate (BDR) (7hours)	£111.21
	£15.89 p/h
Agency Fees (24 per cent)	-£26.69
	- £ 3.81 p/h
VAT on agency fees	-£5.34
	-£ 0.76 p/h
Total pay to SA	£79.18
	11.31 p/h

Regulation 26 for Schedule 3 workers should be updated by tightly limiting permissible fees, capping commission, ensuring minimum wage compliance after deductions, strengthening pre assignment transparency, and closing loopholes created by umbrella company use.

There is currently no cap on commission, allowing agencies to take extremely high percentages, in some cases leaving workers with little or no pay, or even owing money after deductions.

Regulation 26 should be amended to introduce a statutory cap on total fees and commission chargeable to work seekers and require fees to be proportionate to gross pay and clearly linked to work finding activity only. They should also clarify that minimum wage compliance applies post deduction of any fees charged, not only to headline rates.

There should also be amendments to improve transparency over fees, by requiring a full breakdown of all fees, commission, VAT, and deductions before a worker agrees to the role, or for short notice offers, requiring clear written confirmation of net pay implications. This should also ensure that agencies cannot avoid Regulation 26 protections by outsourcing charging practices to umbrellas.

Non-compliance with Regulation 7 of the Conduct Regs

Unions report that agencies consistently fail to comply with Regulation 7 of the Conduct Regs and supply agency workers to replace permanent workers who are taking industrial action. USDAW recently expressed concerns about a company called Tetrosyl in North West England, using agency workers, during an industrial dispute. Ahead of the industrial action, USDAW wrote to the company and the agency they use to inform them of their legal obligations under regulation 7. Despite these letters the company continued to recruit additional agency workers ahead of the strike action. When USDAW followed up with a further letter, the employer simply stated that they were recruiting agency workers in the build up for a peak period. They failed to provide any evidence of this and USDAW activists confirmed that they had never seen the level of agency workers at the site before.

USDAW received legal advice stating that enforcement was not a realistic prospect given that there was no record of this Regulation ever being effectively enforced.

This goes to show the lack of faith that unions have in the enforcement of this key regulation and the ease with which employers can circumvent their legal requirements.

Unions report raising this issue with EAS and not getting a response. Or any response from the regulator will often come too late, once the industrial action has passed.

Question 38 – Do you have any views on how the regulations listed above should be streamlined to reduce administrative burden for businesses? • yes • no • don't know

No.