

**Labour Market Enforcement Strategy 2024 to 2025: call for evidence  
Response from the Low Incomes Tax Reform Group (LITRG)**

**1 Summary and About Us**

- 1.1 We are a group of tax professionals with specialist interest and insight into the pay and tax issues facing the low-paid (more on 'who we are' below).
- 1.2 We are very pleased to be able to input into the call for evidence. We have answered the questions where we think we can add the most value. We have tried to provide evidence wherever possible.
- 1.3 We have expertise in employment status and the director will note that the problem of 'false self-employment' and the issues facing those with 'worker' status run as a theme throughout this response. We are very happy to be contacted if it would be helpful for us to further expand on the points made.
- 1.4 The Low Incomes Tax Reform Group (LITRG) is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998, LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low-income workers, pensioners, migrants, students, disabled people, and carers.
- 1.5 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 1.6 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

**2 Questions**

**2.1 Improving the radar picture**

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- 2.1.1 **Labour market non-compliance threats (measured by degree of non-compliant behaviour) are greatest in the following sectors: care, agriculture, hand car washes, construction, food processing, which should therefore be the focus of attention for the enforcement bodies.**
- 2.1.2 Based on our work, we know there are issues around false self-employment in both the care sector and construction, which result in both tax and employment law non-compliance. False self-employment (treating a worker as self-employed when the true nature of his/her engagement is that of employment) is often foisted upon workers, in order to drive down the engager's costs (including employers' National Insurance Contributions) and responsibilities. But there are then knock-on effects for workers.
- 2.1.3 False self-employment not only denies workers the certainty of having their taxes and National Insurance Contributions (NIC) dealt with under PAYE but also denies them employee or 'worker' rights such as the National Minimum Wage (NMW), holidays and having a workplace pension. This is often only the start of problems for workers - the 'self-employed' status acting as a gateway to other, perhaps less obvious issues – for example, their engagers not having Employers Liability Insurance etc.
- 2.1.4 In our additional, informal submission to the director provided on 4 January 2023 (appended), we provide more details about what is happening in the care sector and the role that introductory agencies have in facilitating it (see the section on false self-employment). Off the back of a recent report by the National Direct Payments Forum looking at different self-employment arrangements in the care sector, we have written an article<sup>1</sup> providing some further thoughts about what is driving the self-employment phenomenon.
- 2.1.5 In terms of evidence, a recent Resolution Foundation report included some interesting statistics on the scale of potential false self-employment in the care sector:<sup>2</sup>
- 2.1.6 *'Another specific group of care workers who potentially face employment standards problems are personal assistants (PAs) directly employed by the people they provide care for. Estimates indicate there were around 100,000 personal assistants in England in 2021- 22 who were funded by direct payments, and an unspecified number working in a purely private fashion. Our focus groups showed these workers operate in a largely informal and unregulated space and, although this suits some, it leaves others highly exposed to poor and potentially unlawful treatment. Critically, at least one-in-ten PAs are classed as self-employed, and therefore have no protection when it comes to minimum wage, holiday pay or notice periods. But this classification is questionable: PAs do have a large degree of control over how they do their job, but they cannot substitute themselves with another – a key test of self-employment status.'*

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<sup>1</sup> <https://www.litrg.org.uk/latest-news/news/230823-are-you-self-employed-pacarer>

<sup>2</sup> <https://www.resolutionfoundation.org/events/do-we-care-about-carers/>

- 2.1.7 The report also says academics at King's College London undertook detailed interviews with 105 PAs in 2019. They found that many were happy with their job, but also faced poor employment conditions. In their sample almost half had no employment contract.
- 2.1.8 Some recent statistics on self-employment in construction suggest that there were 1.2 million self-employed construction workers in 2022/23.<sup>3</sup> Our belief, based on our knowledge of the demographic of workers paid under the Construction Industry Scheme (CIS), is that a large percentage of these workers are likely to be in false self-employment.
- 2.1.9 In construction, engagers can often get away with false self-employment because workers may be told that because they have a Unique Taxpayer Reference (UTR) from previous periods of self-employment, their position is temporary, or because they provide their own small tools, they are self-employed. All of these things are incorrect. Worryingly, there are probably many people who are falsely self-employed in the construction industry who do not even realise that they are being treated as self-employed - until something goes wrong (e.g. they need to claim welfare benefits and can't because they have paid no NIC). Certain factors in the construction industry - self-billing invoices and the CIS (being given 'payslips' and having tax (but not NIC) deducted at source) - mean engagers can easily disguise false self-employment.
- 2.1.10 We do not have any first-hand experience of the other sectors on the list; however, they feel roughly right to us. This is because, firstly, it seems to us that the agriculture and food processing sectors will be amongst the most prevalent for using agency workers and other types of flexible workers – who will no doubt be a core part of their business model for managing uncertain or seasonal demand. We know that agency workers are often vulnerable – they may be young, have limited education or have English as a second language (see question below). Even if they are not, for the majority, agency work will not be a matter of choice; rather, it will be something they are forced to turn to if they have not been successful in finding a permanent job or, alternatively, if they wish to gain experience and employability. They may therefore have limited bargaining power.
- 2.1.11 We do not know exactly what issues of non-compliance there are in hand car washes, however there is potential for them to be serious and widespread as with the other sectors discussed above, based on our understanding that those workers are also often young, sometimes unskilled, migrants (see question below). See also our comments later in section 2.13 about Autoclenz v Belcher.
- 2.2 **Some groups of workers (for example, women, younger people, migrants, those with protected characteristics), are at higher risk of experiencing labour market non-compliance than others.**
- 2.2.1 Agree – it is easy to envisage these types of workers being at high risk due to a number of possible factors, such as:
- fear of sexual harassment or violence (in the case of women),
  - limited English language skills and cultural differences (in the case of migrants), or

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<sup>3</sup> <https://www.unitetheunion.org/news-events/news/2023/august/shock-rise-in-bogus-self-employment-in-construction/>

- poor awareness and understanding of the requirements and protections of the UK system (in the case of young people).

This leaves them particularly vulnerable to poor treatment or exploitation but also probably more unable or unwilling to challenge engagers or complain. We are also concerned that some disabled people and people with learning disabilities are particularly open to exploitation.

### 2.3 **Jobseekers are increasingly using non-traditional means to find work (for example, online or via apps, social media) placing them at greater risk of fraud and scams.**

2.3.1 Agree – it does appear people may be using non-traditional means like social media. Interestingly, they may be using these means to find non-traditional types of work also. See our recent consultation response to HMRC<sup>4</sup> about stooge directors being recruited on social media for a fee to front tax avoidance umbrella companies. The consultation response contains extracts of queries we have received and social media posts we have found to help illustrate the issue.

### 2.4 **Ongoing labour shortages in some sectors are not translating into improved conditions for workers in those sectors.**

2.4.1 We do not know for sure, however our understanding is that current labour shortages are mainly in higher paid, skilled roles rather than typically low paying sectors, where there may still be competition and where there will probably always be someone else willing to work on the terms being offered – even if those terms are degraded.

### 2.5 **Improving focus and effectiveness**

#### 2.5.1 **Workers and employers are sufficiently aware of employment rights and know where to go for help.**

2.5.2 Do not agree. There is still low awareness and understanding of ‘worker’ status and the rights that it brings, despite several very high-profile court cases, such as the Uber BV v Aslam case discussed later in this submission at para 2.13.

2.5.3 In terms of where to go for help - there are different avenues for reporting problems listed on GOV.UK,<sup>5</sup> for example, ACAS or directly to HMRC NMW unit, the Employment Agency Standards Inspectorate, the Health and Safety Executive, etc. There are now other bodies such as JobsAware, casting themselves as general reporting bodies,<sup>6</sup> yet it is not clear whether each and every contact is answered, what happens after a report is made via the facility or how it interacts with the existing enforcement bodies.

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<sup>4</sup> <https://www.litrg.org.uk/latest-news/submissions/230623-tougher-consequences-promoters-tax-avoidance>

<sup>5</sup> <https://www.gov.uk/pay-and-work-rights>

<sup>6</sup> <https://www.jobsaware.co.uk/report>

- 2.5.4 So, should workers use ACAS or JobsAware? Or should they go directly to the enforcement body concerned? What if their complaint spans more than one area? Can they complain to one body and be confident it will be passed to the other? Should they go to them all? The issue, as ever, where there is overlap, is the potential for 'passing the buck'.
- 2.5.5 Low-paid workers require certainty and simplicity. The various routes into the enforcement bodies could be leaving workers confused and afraid of getting things wrong. Ideally there needs to be a single, well-publicised, telephone gateway where workers can go to receive advice and report problems, as well as an internal case management system – this would ease the worker's task of navigating the different enforcement mechanisms. Ultimately, with a single enforcement body no longer on the cards, if similar benefits are to be achieved, it is essential for the existing bodies to work better together and provide a proper joined-up service.
- 2.5.6 The additional issue is that there doesn't appear to be any body looking at the overarching issue of 'status' from an employment law perspective, that could help workers understand the key concept of 'worker' but also help them access the rights that hinge on the status.
- 2.5.7 To help illustrate the confusion and gaps, we have recently received a query to our website, which we summarise below. As the individual seems to be questioning their employment status in relation to his employment law rights, in particular deductions from wages, this should have gone to ACAS or HMRC NMW unit rather than a tax charity. (It is worth saying at this juncture that we have also heard of workers contacting ACAS about complex tax problems, which require specific expertise that ACAS are not set up to deal with. Without the correct technical advice, people's complex problems can be inadvertently further compounded.)
- 2.5.8 *I would like some advice and guidance please. My partner has been working for the same delivery company with no other work undertaken, for several years. He is self-employed but works like an employee as he does deliveries to the price that is set and to the schedule he is told. Items he has delivered keep going missing and the company are making multiple deductions from his pay for the cost, with no discussion or breakdown. Sometimes it could be the customers that are being dishonest and even though the company say they waive liability once things have been delivered, they still make the deductions from my partner's pay to reimburse the customer. When asking the company to change the schedule to avoid problems, they have indicated that he can take it or leave it. The number of drops he is required to do each shift means it is not possible for him to take photos of the deliveries he has made as evidence. We are trying to ascertain his self-employed status and wondered if you could advise. Many thanks.*
- 2.5.9 Of note is the fact that this relates to delivery driving. As such, we take the opportunity to repeat that, in general, we are very concerned about delivery drivers, including those who work in the gig

economy who have little autonomy from their engager.<sup>7</sup> We urge the director to keep this sector on her radar.

**2.6 Workers have confidence in the three enforcement bodies that their cases are being dealt with proactively.**

2.6.1 We do not know.

**2.7 Compliance and enforcement interventions by the three bodies are helping to ensure a level playing field for business.**

2.7.1 We do not know.

**2.8 Current enforcement penalties (for example, financial, reputational) deter more serious labour market exploitation.**

2.8.1 We do not know.

**2.9 The enforcement bodies have a difficult job prioritising their resources but, on balance are addressing the right issues.**

2.9.1 We do not agree. In contrast to the GLAA<sup>8</sup> and HMRC NMW unit<sup>9</sup>, it is hard to know exactly what issues the Employment Agency Standards Inspectorate (EAS) are addressing as they are not really visible. There isn't really much detailed, granular information published about how they use their enforcement powers in actual cases.<sup>10</sup>

2.9.2 In any case, we think the EAS need to proactively address the issues that there seem to be around introductory agencies (as per the comments in the appended informal submission from December

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<sup>7</sup> We set out some detail around our concerns in our submission to the 2023/24 strategy:

<https://www.litrg.org.uk/sites/default/files/220527%20Labour%20Market%20Enforcement%20Strategy%202023-2024%20CFE.pdf>

<sup>8</sup> The GLAA issue press releases where people are able to see some real-life, positive examples of them exercising their functions: <https://www.gla.gov.uk/whats-new/latest-press-releases/> This helps create the impression that they are fully focused on mission priorities in terms of stamping out vicious and bad working practices.

<sup>9</sup> HMRC have started to issue a little 'inside' information in the form of their educational bulletins, but could probably go further by providing actual case studies: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1164147/National\\_Minimum\\_Wage\\_Naming\\_Scheme\\_Round\\_19\\_21st\\_June\\_2023\\_Educational\\_Bulletin.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1164147/National_Minimum_Wage_Naming_Scheme_Round_19_21st_June_2023_Educational_Bulletin.pdf)

<sup>10</sup> We note 2 case studies in the most recent annual report:

<https://www.gov.uk/government/publications/employment-agency-standards-eas-inspectorate-annual-report-2021-to-2022/employment-agency-standards-eas-inspectorate-annual-report-2021-to-2022-html-version>

2022) and improve enforcement of the Key Information Documents (KID) (see comments later in para 2.12).

- 2.9.3 From the information released by HMRC NMW unit, our perception is that HMRC are still focussed on 'low-hanging fruit' within an employment setting. HMRC's naming list certainly suggests that HMRC enforcement officers' caseloads are tilted towards 'broader' cases where a greater number of workers have been underpaid a smaller amount. For example, on the recent list from June 2023, 202 employers were named. The Government figures show that a large proportion (39%) of NMW breaches were for incorrect deductions from employee wages, including for costs and expenses of acquiring and maintaining uniforms.<sup>11</sup> The company at the top of the list underpaid its 17,607 staff by an average of £57.80 each, which implies the employer had fallen into such a pitfall.
- 2.9.4 We note that the June 2023 information relates to investigations concluded in 2017-2019 so is very out of date, however assuming the real time focus remains the same, we think HMRC now need to turn their attention to the arguably more complex and serious breaches of minimum wage rules that tend to go hand-in-hand with 'false self-employment' and denial of 'worker' rights as explained throughout this submission. On the June 2023 list, only 6 employers were on the list for 'worker status error'.<sup>12</sup> We do not condone any employer paying someone less than the minimum wage but focussing on employers and cases of genuine confusion or misunderstanding where the resulting underpayments are small and, of themselves, probably do not cause significant worker detriment does nothing to help those workers whose employers are recklessly or deliberately underpaying the minimum wage.

## 2.10 **Better Joined-Up Thinking**

### 2.10.1 **Coordinated enforcement actions by the enforcement bodies are helping to achieve a more compliant labour market and Cross-government working has been effective in tackling labour exploitation in high-risk sectors (for example, care, hand car washes, agriculture, construction)**

2.10.2 Do not agree.

2.10.3 Unfortunately neither appear to be the case given we are still talking about the same issues and the four sectors that are labelled as high-risk currently, have been labelled as high-risk for many years.

2.10.4 We would have thought that coordinated actions and effective cross-government working would have resulted in a deterrent effect and would have acted as a serious disincentive to poor practice in these areas. While we accept that attitudes to compliance can take some time to change, the fact that we don't seem to be much further forward at all, suggests that engagers feel that the potential gains still outweigh the risks.

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<sup>11</sup> <https://www.gov.uk/government/news/more-than-200-companies-named-for-not-paying-staff-minimum-wage>

<sup>12</sup> Defined as 'This includes instances where the worker is incorrectly treated as self-employed, or an unpaid intern that should be classified as worker'

## 2.11 **Improving Engagement and Support**

### 2.11.1 **Failure to provide detailed, timely, physical, and accessible payslips can leave workers vulnerable to exploitation.**

2.11.2 Agree. Payslips are vital to workers for all sorts of reasons, many of which are set out in a recent article we have written.<sup>13</sup>

2.11.3 Yet, some workers either don't get payslips at all (we have heard from someone who has worked in a company for 19 years and never received a payslip!), or ostensibly get them but then have problems accessing them, because of engagers using online systems or password protected documents for security reasons, which workers can get easily locked out of.<sup>14</sup>

2.11.4 Website queries we have received over the past year help illustrate both issues, for example:

2.11.5 *Hi, my issue is with registering my employment with HMRC. I never received a payslip for my first pay and HMRC doesn't know I'm employed. I called HMRC, they requested some information including the company PAYE reference number. I got all the information myself except for the PAYE ref num. I requested this and was told by the head of HR that this is a confidential company reference number and he refused to give it to me. Is it confidential? I am confused as on my PTA and previous employer payslips all that information is readily available.*<sup>15</sup>

2.11.6 *Hello, I recently left my job as an hourly paid worker with a local public body. I only ever had a zero hours contract and my working hours were different every month, so it was very important that I kept an eye on my payslips. About 5 years ago the organisation moved our payslips online, which I was always able to access at home but now when I try to log in I am getting a message that the page is no longer accessible externally. My question is this: can my former employer prevent me from accessing my payslips like this? I would have thought that as they were addressed to me, the correspondence belongs to me? This is important to me as I will be owed some holiday pay and will need to check that this is correct. I am also registered as self employed and need to check that my PAYE income is correct when completing my tax return. Finally, I am generally annoyed that I was forced into getting these online payslips in the first place and now my former employer has control over this personal information. Many thanks for your assistance!*

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<sup>13</sup> <https://www.litrg.org.uk/latest-news/news/230417-why-payslips-are-so-important>

<sup>14</sup> Some statistics on this can be found in the CIPP 2022 payslip survey:  
<https://online.flippingbook.com/view/527095327/4/>

<sup>15</sup> LITRG note - an Employer PAYE reference number is not 'confidential' – indeed, it is a number that should be routinely shared with HMRC and employees in various different scenarios, as we explain here:  
<https://www.litrg.org.uk/latest-news/news/230120-how-find-your-employer-payee-reference>. A lack of payslips and HMRC being unaware of someone's employment are the types of things that raise questions about whether an employer has set a worker up on the payroll and is dealing with their tax properly.



- 2.12 **Key Information Documents (KIDs) are providing these workers entitled to receive them all the information they need in relation to their employment.**
- 2.12.1 Do not agree – As we have stated in our recent consultation response to HMRC on tackling umbrella company non-compliance,<sup>16</sup> KIDs are not being used as intended, with little sign of enforcement activity from the EAS.
- 2.12.2 Of note are the statistics set out in the HMRC umbrella company call for evidence response which show that only 50% of workers reported receiving a KID when they were first engaged, with the already low figures dropping markedly after redeployment.<sup>17</sup>
- 2.12.3 Even where workers do ‘receive’ them,<sup>18</sup> we have seen poor examples of KIDs, with lots of ‘example’ information and non-indicative, round sum numbers used by default.<sup>19</sup> This does not give a worker anything that they can use and apply.
- 2.12.4 Given the potential of the initiative, this is very disappointing.<sup>20</sup> Indeed, if it was working properly, the KID should easily respond to several of the issues that have been highlighted on more than one occasion with umbrella companies – for example a lack of transparency between the assignment rate and PAYE rate and clarity in terms of who the legal employer is. Perennial issues with umbrella companies are causing considerable effort all round, for the authorities, for workers, for charities trying to support workers. Many of the workers affected are from overseas and are working in our public sector - ultimately, these issues could affect trust in the UK systems and the reputation of UK plc. As such, it is vital the EAS take a much stronger approach to enforcing KIDs.
- 2.13 **Lack of contractual clarity around employment status can put people at greater risk of exploitation.**
- 2.13.1 Agree, although it is not a case of contractual clarity. Often the contracts can be very clear; the issue is that they contain sham terms or are foisted on workers with little bargaining power – or both.

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<sup>16</sup> <https://www.litrg.org.uk/latest-news/submissions/230825-tackling-non-compliance-umbrella-company-market>

<sup>17</sup> See para 3.52 to 3.56 – [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161119/M4027\\_Call\\_for\\_Evidence\\_SoR\\_UCs\\_0103.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161119/M4027_Call_for_Evidence_SoR_UCs_0103.pdf)

<sup>18</sup> We put ‘receive’ in inverted commas because some workers are directed to generic KIDs that are just posted on websites

<sup>19</sup> See an example here: [https://www.sanctuarypersonnel.com/rails/active\\_storage/blobs/eyJfcmFpbHMiOnsibWVzc2FnZSI6IkJBaHBBd2NwQmc9PSIsImV4cCI6bnVsbCwicHVyIjoiYmxvYl9pZCJ9fQ==--ba4e619de3dbd08a123b881ce3c6a7800fe03c0b/Umbrella%20Company%20-%20key%20information%20document.pdf?source=google.com](https://www.sanctuarypersonnel.com/rails/active_storage/blobs/eyJfcmFpbHMiOnsibWVzc2FnZSI6IkJBaHBBd2NwQmc9PSIsImV4cCI6bnVsbCwicHVyIjoiYmxvYl9pZCJ9fQ==--ba4e619de3dbd08a123b881ce3c6a7800fe03c0b/Umbrella%20Company%20-%20key%20information%20document.pdf?source=google.com)

- 2.13.2 In *Autoclenz Ltd v Belcher* [2011]<sup>21</sup>, which incidentally involved hand car washers, certain workers who had been classified as self-employed were in fact employees with a contract of employment. The company involved was a large one offering car valeting and related services. The individuals concerned in the case all had written contracts, the terms of which were quite explicit in saying that they were being engaged as self-employed contractors rather than as employees. The worker was termed a ‘Sub-contractor’. Under the terms of that agreement, the worker confirmed that he was ‘a self-employed independent contractor’.
- 2.13.3 The terms were very clear but it went wrong for the company because the employment tribunal was entitled to ignore the terms of the written documentation and to look, instead, at the reality behind the workers’ contracts. This was because, in the view of the courts, the workers had only one choice: to sign up on the terms dictated by the company or seek work elsewhere.
- 2.13.4 Once this principle – looking at the reality behind the contracts – was applied, all sorts of findings of fact by the employment tribunal justified its conclusion that these individuals were working under a contract of employment.<sup>22</sup>
- 2.13.5 The *Autoclenz* approach (that is that parties cannot necessarily rely on the paperwork or contract in place, if the reality of the situation is different) is therefore relevant when analysing contractual terms in the context of applying employment law legislation aimed at protecting vulnerable workers.

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<sup>21</sup> <https://www.supremecourt.uk/cases/uksc-2009-0198.html>

<sup>22</sup> Including the following factors:

- the individuals in question could not be described as being in business on their own account;
- they had no control over the way they did their own work, being subject to the direction and control of other employees, and being obliged to clean the cars in accordance with a detailed specification;
- they could control the hours they worked only in the sense that they could leave when their share was done;
- they had no real economic interest in the way the work was organised, though they could earn more by doing more work;
- they had no say in the contractual terms, which were devised by the company;
- their invoices were prepared by the company, which also decided the amount of deductions to be made for insurance and materials, without any evidence of the correlation between those deductions and the actual costs;
- the company determined the rates of pay, increasing or reducing those rates unilaterally;
- the individual workers were fully integrated into the company’s business and, with only a few exceptions, did no other similar work;
- despite a substitution clause in the written agreement, the individuals were in fact required to do the work themselves; and despite another clause that implied that there was no obligation on the workers to turn up, or on the company to provide work, this was wholly inconsistent with what happened in practice.

It was also noted that the company provided, at the time under consideration, all the equipment and materials, including jet washers, vacuum cleaners, sponges and chemicals.

It was recently used in the Uber BV v Aslam case<sup>23</sup> to help decide that the drivers were ‘workers’ for employment law purposes.

- 2.13.6 In many cases, therefore, someone’s employment status, regardless of the contractual terms, is clear - however they need help recognising this, enforcing it and obtaining the rights that go with it. However as many workers will not see or understand the guidance on GOV.UK<sup>24</sup>, have limited access to recourse through the courts and there is no effective state enforcement of status to help protect them, they are trapped. See also the points made in para 2.5.6 onwards.

2.14 **Migrant workers coming to the UK on short-term visas are less likely to be aware of their employment rights or to seek remedies in cases of labour violations.**

- 2.14.1 Agree – we think it is hard - if not impossible - for migrant workers, without representation from a charity or trade union for example, to understand and enforce their rights or to seek help, for reasons we have set out at length in our 2023/24 response.<sup>25</sup>

- 2.14.2 A key issue is the language barrier. The facilities that there are in different languages are already limited.<sup>26</sup> But in addition, little or none of them are in Central Asian languages, which is odd given:

*‘In 2022, Ukraine remained the largest nationality with 21% (7,318) of all grants. For further detail on Ukrainian nationals on the Seasonal Worker route, see the [Statistics on Ukrainians in the UK](#) topic. However, nationals from Central Asia represent an increasing proportion of grants, with the second and third highest number of grants to nationals of Kyrgyzstan (4,341, 13%) and Uzbekistan (4,233, 12%).’<sup>27</sup>*

- 2.14.3 There are a number of things that the enforcement bodies, including HMRC tax, could work on together to make information and reporting facilities more accessible for migrant workers. We would also like to see easy read versions (as well as translations) of basic guides covering the difference between employment and self-employment for example, and/or what to do if you get in a muddle with an employment agency or umbrella company and/or don’t understand your pay.

### 3 Other comments

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<sup>23</sup> <https://www.supremecourt.uk/press-summary/uksc-2019-0029.html>

<sup>24</sup> <https://www.gov.uk/government/publications/employment-status-and-employment-rights/employment-status-and-rights-support-for-individuals>

<sup>25</sup>

<https://www.litrg.org.uk/sites/default/files/220527%20Labour%20Market%20Enforcement%20Strategy%202023-2024%20CfE.pdf>

<sup>26</sup> We provide an overview of the landscape here: <https://www.litrg.org.uk/latest-news/news/220622-working-uk-%E2%80%93-information-ukrainian-available>

<sup>27</sup> <https://www.gov.uk/government/statistics/immigration-system-statistics-year-ending-december-2022/why-do-people-come-to-the-uk-to-work>

- 3.1 The director may note the lack of comments in this response on umbrella companies. This is despite the fact they have been very high on our radar for many years and feature in consultation responses at every available opportunity. Fortunately, the government has now decided to consult on this area after many years and we very much hope<sup>28</sup> that those proposals will be developed and implemented leading to improvements.
- 3.2 While this is all in train, workers are still at risk however, and we would like to make the point that even though umbrella companies do not formally fall under the remit of the EAS at the moment, many workers in umbrella companies are handed over to them by employment businesses, which do.<sup>29</sup> In addition, many operate in GLAA licensed sectors and may be breaching certain licensing standards e.g. those covering tax and basic employment rights.
- 3.3 Finally, it goes without saying that if the EAS are eventually tasked with enforcing the regulation of umbrella companies (in the absence of a single enforcement body), they are going to need vast new resources, the right support and expertise in place and a good relationship with HMRC tax both at strategic and working level - given the cross cutting employment law/tax law issues that there are with umbrella companies. There are currently questions in our mind about the connectivity between the DLME and HMRC tax and how far we can expect a single, joined up approach to umbrella companies.

LITRG

8 September 2023

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<sup>28</sup> Our press release welcoming the consolation and proposals can be found here:

<https://www.litrg.org.uk/latest-news/news/230609-press-release-tax-campaigners-welcome-disguised-remuneration-proposals>

<sup>29</sup> Thinking back to when LITRG wrote the report on umbrella companies (<https://www.litrg.org.uk/latest-news/reports/210324-labour-market-intermediaries>), it was clear from our research that employment businesses are partly culpable for the issues that workers face when using umbrella companies.