Low Incomes Tax Reform Group.
A voice for the unrepresented.

Make Work Pay: modernising the Agency Work Regulatory Framework
Response from the Low Incomes Tax Reform Group (LITRG)

1 Executive Summary

1.1 We welcome the opportunity to respond to this consultation on streamlining agency work regulation and extending regulation to umbrella companies. We have insight and expertise in pay and tax issues affecting low-paid agency workers. While employment law and rights sit outside our direct remit, we are very aware of the kinds of practices used by some intermediaries that can negatively affect low-paid agency workers, including those engaged through umbrella companies.

1.2 This submission supplements the comments made in our meeting on 27 March 2026. Our comments are restricted to areas where we can provide direct insight based on our work. We have also addressed the consultation questions thematically (security, transparency, choice) rather than responding to each one individually. We are happy to discuss any part of our response in further detail if that is helpful.

1.3 Many workers who are engaged in agency or umbrella work do not do so out of choice, but because they have limited options. This creates a structural imbalance, where workers are expected to understand and accept ever-more complex arrangements without meaningful bargaining power. Having some baseline protections in this area is therefore very important. However – as with everything – it is essential to adopt an approach that balances regulation with realities on the ground.

1.4 In some places, the current suite of regulations may not be effective at protecting workers and may be imposing disproportionate administrative burdens on businesses (and therefore driving undesirable behaviours and outcomes). In particular, in relation to the questions on how the provisions could be streamlined to better support security and transparency, we:

CHARTERED INSTITUTE OF TAXATION
30 Monck Street, Westminster, London, SW1P 2AP

REGISTERED AS A CHARITY NO 1037771

Tel: +44 (0)20 7340 0550
E-mail: litrg@ciot.org.uk

Web: www.litrg.org.uk

- explain why parts of the framework are not effective (for example, due to 'information overload')
- highlight system risks, including displacement away from regulation
- and set out a clear policy ask to help protect workers from an urgent, unscrupulous practice (banning the elective deduction model)

1.5 In relation to the proposals on choice and the role of umbrella companies, the new joint and several liability regime for tax purposes should better protect workers from direct pay and tax issues. It should also help fix associated issues like 'kickbacks' which are currently distorting practices. Although employment law and tax sit in separate regimes, the new tax rules should also improve due diligence by agencies and end clients as to the umbrella companies they use. In practice therefore, they should root out bad behaviour and drive better practice across the board – hopefully meaning all types of unfair arrangements become less common.

1.6 However, empowering workers with greater choice in how they are engaged and paid, may risk workers moving from a now-strengthened umbrella company setting, into situations where there may be weaker protections. It must be remembered that workers are as much at risk of tax abuses from an agency as from an umbrella company – the compliance issues we have seen arise are not necessarily from the nature of the organisation but from the function it performs – specifically, paying workers.

1.7 Recognising that there will always be more that can be done in terms of improving outcomes for workers who remain within umbrella arrangements, we recommend that HMRC's 'what good looks like' guidance for umbrella companies is mapped directly into the regulations to help improve standards.

1.8 Finally, we emphasise that current regulation may be seen as only partially effective because compliance and enforcement are inconsistent. Visible, robust, proactive enforcement by the new Fair Work Agency (FWA) must underpin any reforms. Enforcement is not supplementary; it is the critical path to achieving compliance, protecting workers and transforming the current landscape.

2 About Us

2.1 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 who are least able to pay for professional advice. We also produce free information, primarily via our website www.litrg.org.uk, to help make a difference to people's understanding of the tax system.

2.2 LITRG works extensively with key stakeholders such as HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the tax system. LITRG also considers the welfare benefits system, and other related systems, to the extent that they interact with tax.

2.3 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.

3 Streamlining regulations – security and transparency

3.1 From a worker perspective, having baseline protections in the form of agency work regulations in place is essential to:

- Provide basic safeguards for a vulnerable workforce
- Add transparency in what can often be complicated relationships
- Help prevent exploitative practices

3.2 However, whether the regulations in their current form achieve this, is open to question. While some provisions remain clearly very important and easy to justify in the current environment, such as those around not charging fees to work-seekers, others are less so. In particular, we are thinking about the complex and overlapping matrix of information provision requirements. These also appear to sit uneasily alongside broader obligations for 'workers' under general law.[1]

3.3 As we understand it, agency workers are supposed to get, as a minimum, overarching employment terms, assignment specific information and a Key Information Document (KID).[2] This latter initiative was intended to ensure workers receive clear and basic information about how they will be paid, in an easily accessible way.

3.4 An accurate, helpful KID should be the first document that a worker receives. In practice, however, presumably to prevent slowing down the engagement process (and thus, undermining the flexibility that underpins the use of agencies in the first place), it seems that some employment businesses may be taking shortcuts.[3] They may be producing generic KIDs that cover engagement conditions for the majority of their workers. Workers may be offered more than one such KID depending on the different methods of engagement available. For example, we once heard from a supply teacher who was given seven KIDs. We understand that sometimes initial KIDs should be followed by more tailored KIDs reflecting the more specific terms of the chosen method of engagement.

3.5 This can result in a proliferation of documents - especially if workers are signed up with multiple agencies – leading to confusion, bewilderment and 'information overload'. This can be particularly acute for people who do not have English as a first language or who lack the requisite background knowledge to decipher it all. Alternatively, workers may get little paperwork or none at all, given it is potentially so burdensome to administer. In particular, we understand there are real practical

[1] See page 32 - Agency workers and the right to a written statement of employment particulars: https://assets.publishing.service.gov.uk/media/5fb53e94d3bf7f63def366c3/eas-brief-guide-for-agencies.pdf

[2] https://www.gov.uk/agency-workers-your-rights/basic-information-you-should-receive#

[3] https://www.theglobalrecruiter.com/be-compliant-with-your-kids/

difficulties in producing accurate KIDs in a real-world setting where umbrella companies are involved.[4] In such circumstances, some agencies may prioritise their operations and competitiveness over regulatory compliance.

3.6 Unsurprisingly we receive worker queries suggesting that while transparency requirements exist on paper, they are not consistently delivering genuine understanding in practice.

3.7 Moreover, even if workers are given the correct documentation, this does absolutely nothing to help them if that documentation is based on underlying terms that are abusive. For example, we understand some agency workers are being given terms that result in them being treated as 'self-employed' for employment law rights, incorrectly – and consequently being denied holiday pay etc. We know this as the elective deduction model or hybrid model.[5]

3.8 While agencies and employment businesses must operate in accordance with the law[6] and the Fair Work Agency (historically the Employment Agency Standards Inspectorate (EAS)) monitors compliance at agency level, the regulations do not respond to this model, and the state has no real power to secure redress for the worker. The worker would instead need to enforce a wider employment law right like holiday pay individually in the tribunal, which is very difficult.

3.9 As a result, while there is a perception that agency workers enjoy an extra layer of protection from exploitative or misleading exploitative agency practices, in our view, the regulations in their current form offer only limited, indirect protection to workers in terms of real-world issues.

3.10 Taken together, this does suggest that the current framework is not fully effective and does require a wholesale review. While we are not an agency or hirer and so cannot comment in detail on how the regulations should be simplified or streamlined to make them more workable and less disruptive from a business perspective, we offer the following two observations from a worker standpoint:

1) the current framework is narrow, rigid and outdated. Incremental streamlining of the current regulations is unlikely to be sufficient alone, to bring about better protection for workers. As part of modernising the framework and closing the gaps, the government may need to consider **adding** regulations to target real harms, like the elective deduction model. To be clear, this model presents a significant risk to the agency worker market currently and we think it should be expressly prohibited.

2) Where regulatory requirements are overly burdensome or complex and enforcement is weak (more on this later), there is not just a risk of businesses disengaging from the

[4] https://www.gov.uk/guidance/key-information-document-guidance-for-agency-workers-paid-through-umbrella-companies

[5] https://www.litrg.org.uk/working/umbrella-company-workers/elective-deduction-model

[6] Specifically the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003

regulations but actually operating outside of them altogether. We are already seeing this in different parts of the labour market:

- In the care sector, 'introductory' agencies appear to be completely oblivious to their 'employment agency' status, in some cases even handling payments in a way that suggests they fall within the stricter definition of an employment business without any acknowledgment whatsoever.[7]
- More widely, businesses are increasingly sourcing freelance shift labour through app-based or freelance models that bypass traditional agency frameworks. Absent these routes, many of these individuals would likely have been engaged through regulated agency structures with greater protection.[8]

3.11 The policy risk is therefore not limited to non-compliance within the current system but extends to migration away from it entirely – leaving workers without any protection whatsoever. This underlines that simplification and clarity are not merely administrative concerns, but are central to maintaining engagement with regulated models and ensuring that worker protections function as intended.

4 Umbrella company regulation – choice

4.1 We have long-standing insight into pay and tax issues affecting workers in the umbrella company sector. These are primarily linked to tax non-compliance, particularly problems like disguised remuneration (DR) but extend to other issues such as opaque deductions, a lack of pay rate transparency and a perception (largely caused by the lack of transparency) that workers are funding their own employment costs from their entitled pay.

4.2 In addition, workers do not always receive the employment rights to which they are entitled (particularly around holiday pay) and/or do not understand who is responsible for providing their employment rights across the supply chain. We draw your attention to the comments above about the elective deduction model, which also features in supply chains containing umbrella companies.

4.3 Interestingly we receive few, if any, queries around the use of the discretionary bonus payment models used by umbrellas. As we explained in our umbrella company report[9], umbrella companies often adopt this model to protect against instances where the agency defaults on payment. Where late payment occurs, the umbrella will pay the worker their basic rate while withholding the 'commission' or 'bonus' payment until the sum is received from the agency. It is our understanding though, that in the vast majority of cases, the 'discretionary' bonus element is routinely paid and so this arrangement is at least tolerated by workers.

[7] https://www.taxadvisermagazine.com/article/introductory-agencies-and-self-employed-live-carers

[8] https://www.tuc.org.uk/research-analysis/reports/behind-app

[9] https://www.litrg.org.uk/reports/labour-market-intermediaries

4.4 We are, therefore, concerned about the proposal 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. An umbrella company has no independent source of income from which to pay workers – requiring payment in the absence of funds would likely create cashflow pressures and in some cases business failure – an outcome that would be more detrimental for workers than a delayed payment.

4.5 In terms of tax non-compliance, the introduction of a new chapter in the Income Tax (Earnings and Pensions) Act 2003 (ITEPA)[10] represents a significant and long-awaited reform. The measure would make employment agencies, or in some cases end clients, jointly and severally liable for amounts that should have been accounted for under PAYE where an umbrella company is part of the labour supply chain. It sends a firm message that the government wants to protect workers from tax non-compliance and associated practices such as kickbacks.[11]

4.6 The new rules should also improve due diligence by agencies and end clients as to the umbrella companies they use. In practice therefore, the rules should root out bad behaviour and drive better practice across the board – hopefully meaning all types of unfair arrangements in the umbrella space become less common.

4.7 On this, we note that the consultation proposals include: "Employment businesses cannot make work-finding services conditional upon workers working through an umbrella company.'' There are undoubtedly good intentions here but given what we say above about joint and several liability, it is important that officials carefully consider how these proposals will work alongside HMRC's legislation. In particular, that they do not encourage workers away from a setting that HMRC has recently strengthened, into a setting where pay and tax is less protected. It must be remembered that workers are at as much of a risk of tax abuses from an agency as from an umbrella company – the compliance issues we have seen arise not necessarily from the nature of the organisation but from the function it performs – specifically, paying workers.

4.8 We do, however, recognise that there will always be more that umbrella companies could do to improve transparency and to aid workers' understanding of their positions and have recently set out some thoughts on this in an article written for Contractor UK on what good looks like in the umbrella sector.[12]

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[10] https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm2400

[11] Kickbacks were originally intended as a small commercial 'thank-you' to agencies for their recommendation/facilitation of umbrellas, however over time the kickbacks demanded grew steeper, meaning that umbrellas had to turn to devices to fund them in order to secure business – typically tax non-compliance. They are now interdependent. So, if tax non-compliance becomes impossible under joint and several liability, problematic kickbacks should also die out.

[12] https://www.contractoruk.com/umbrella_company/umbrella_companies_what_good_should_look.html

4.9 Our points align closely with HMRC's subsequent 'examples of good practice' pointers for umbrella companies.[13] The actions that umbrella companies can take are split into two sections – operating responsibly and providing a good service. The actions are grouped under different high-level headings including:

- Umbrella companies should be run by fit and proper people
- Umbrella companies should be financially viable
- Umbrella companies must follow the statutory requirements that apply to all employers
- Umbrella companies must accurately operate the payroll for their employees
- Umbrella companies should compete based on lawful practices
- Umbrella companies should be clear, open and honest in the information they provide their employees
- Umbrella companies should provide employee care
- Umbrella companies should provide recruitment agencies with the information they need to meet their legal obligations

4.10 In our view, these principles and the detailed actions that sit under each, are well thought out and researched. In effect, these provide a ready-made framework for responsible operation. We suggest that finding a way to embed such principles in regulation would offer a practical and proportionate way to raise standards and improve worker outcomes.

5 Final thoughts – enforcement

5.1 Effective enforcement underpins all of the issues discussed above. Consideration should therefore be given not only to the rules themselves, but to how they are enforced, including clarity of responsibilities, operational capability and available resources.

5.2 While we have offered no detailed design recommendations as to the rules themselves, we want to emphasise that in many ways, the 'correct' regulations might be those that the Fair Work Agency is best able to implement and operate.

5.3 A simpler, more targeted framework may ultimately be more effective in practice if it enables clear, consistent and visible enforcement. Where rules are not enforced, they risk becoming ineffective and may inadvertently incentivise avoidance or disengagement from the regulated system.

5.4 The existing enforcement set-up presents challenges in terms of the range of risks in the agency work sector, especially if it includes umbrella companies. The Employment Agency Standards Inspectorate (EAS) was a very small body with a narrow view which arguably led to a more sparing approach to enforcement. It has now been absorbed by the Fair Work Agency (FWA). But it is hard

[13] https://www.gov.uk/guidance/examples-of-good-practice-for-umbrella-companies-in-the-temporary-labour-market

to see how the FWA could enforce in the proactive and holistic way required to bring about meaningful protection for workers – even on a fairly superficial level – without a significant change away from EAS' legacy approach. We think there should be some early and detailed conversations – including with HMRC– about the needs and practicalities going forward – including getting the right support and expertise in place and ensuring adequate funding. Good enforcement is central to the success of any regulatory framework. Without it, even well-designed rules will fail to deliver.

LITRG

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