Paul Scully MP

Parliamentary Under Secretary of State (Minister for Small Business, Consumers and Labour Markets)

BEIS

6th April 2022

By email only

Dear Minister,

# Employment Bill to improve enforcement in the recruitment sector for the protection of people and businesses

We are writing to urge the government to maintain its longstanding commitment to include an Employment Bill in the legislative agenda for the forthcoming parliamentary session. The Bill is needed to tackle wide ranging, systemic issues in the labour market enforcement system, such as extending the powers and remit of the enforcement bodies so they can effectively tackle with wide spectrum of exploitation.

As representatives of businesses and workers respectively, we are concerned about reports that the government is planning to renege on its promise to improve regulations and enforcement for agencies and those employed through them. Without the Bill, thousands of hard-working individuals and their employers will become entangled with exploitative labour market intermediaries that fragment the employment relationship and embroil both worker and agencies in fraudulent tax models. Good firms may be exposed to unfair competition, driving standards down rather than up. We’d expected the employment bill to be the vehicle for delivering this much needed reform, including through the creation of a single enforcement body (“SEB”) and proper regulation of “umbrella companies” – a step that is long overdue.

The recruitment sector needs an effective, specialist and properly resourced regulator. The current Employment Agency Standards Inspectorate does good work, but it needs further resources to be able to regulate the large recruitment sector effectively. Retaining the specialism and targeted enforcement of the recruitment sector in the new SEB will be essential. But agency workers also need protection from those parts of the umbrella company sector that subject them to exploitations such as wage theft, or embroil them in tax avoidance schemes, often with devastating consequences to unsuspecting workers. Compliant recruitment businesses also need the assurance that exploitative companies, that flout the rules and exploit workers, will be properly investigated and sanctioned. If not, non-compliant companies will operate with impunity and undercut the businesses that play by the rules. Given the current cost of living crisis some umbrella companies will no doubt be looking to prey upon workers who are in need of every extra penny. This is why we need an Employment Bill without delay.

This is a growing issue and needs to addressed sooner rather than later as increasing numbers of workers move to umbrella arrangements. Research by the Chartered Institute of Taxation estimated that the number of workers engaged through umbrella models rose by 75,000 between 2015 and 2019 with almost half a million workers now engaged in this way. With the changes to the IR35 rules in 2021 this number will have continued to increase and working through an umbrella is more common than ever. While agencies work within a clear and specialist framework of laws, including the Employment Agencies Act and Conduct Regulations, no such framework yet exists for umbrella companies.

It's been over four years since the government accepted a recommendation, from the Taylor Review of Modern Working practices, that umbrella companies needed to be regulated. Recruiters and workers alike have responded to the government's call for evidence on umbrellas with the good faith that action is imminent. It’s time the government made good on this promise and to protect hard-working businesses and workers in the recruitment sector.

Whilst umbrella companies are a crucial element of what the employment bill would have covered there are several other areas that would also have been addressed. Wider reforms to the labour market enforcement system are needed and remain a priority for ensuring efficient and effective enforcement practices in the UK labour market. The existing enforcement bodies such as Employment Agency Standards Inspectorate, HMRC’s National Minimum Wage Team and the Gangmaster Labour Abuse Authority are doing the best they can but need proper resourcing, and powers that enable them to investigate effectively, to really deliver on enforcement.

Yours sincerely

Frances O’Grady

General Secretary

Trades Union Congress



Neil Carberry

Chief Executive
Recruitment and Employment Confederation

