Recruitment & Employment Confederation

# REC Response to the Government Consultation: *Make Work Pay: Ending One-Sided Flexibility – Reforms of Zero-Hours and Similar Contracts*

August 2026

## Executive Summary

The approach taken by these proposals to delivering the Government's simple manifesto intent - that someone working a regular week should have a contract that reflects that week and the security that brings - is unnecessarily bureaucratic, over-reaching and damaging to the interests of workers and companies alike.

Especially, given current labour market conditions, including for young people, these provisions need reform, and their introduction must be carefully managed. The proposals set out in the Government's consultation, *Make Work Pay: Ending One-Sided Flexibility – Reforms of Zero Hours and Similar Contracts*, would create a range of unintended consequences for workers that create the risk of lower employment opportunities and a boom in false self-employment in the grey economy, leading to a lower level of workers' rights overall.

These proposals are also, as the Government's own figures show, going to come at a large cost to employers in all sectors, slowing potential for economic growth and complicating the delivery of public services. By limiting the well-regulated flexibility employers rely on to manage demand, short-term projects and fluctuations in workload, the reforms could increase operating costs, reduce job opportunities and ultimately constrain job creation across the economy.

## Guaranteed hours provisions are not appropriate to genuinely temporary workers - agency workers should be exempt

The Government's proposals do not reflect the realities of agency work and are fundamentally unworkable for the sector. Guaranteed hours provisions were not designed with agency workers in mind, yet they are being applied to a model that operates very differently from the employment arrangements these reforms were intended to address. As a result, the consultation raises more questions than it answers and highlights the significant practical difficulties of extending guaranteed hours requirements to agency work.

Agency work provides essential flexibility for both workers and employers. It enables businesses to respond to changing demand while allowing individuals to choose when and where they work. Protecting that flexibility matters. It helps people enter and remain in employment, supports public services and contributes to economic growth.

Agency work is driven by fluctuating demand, short-term assignments and a tripartite relationship between workers, employment businesses and hirers. Applying guaranteed hours requirements to this model would create significant complexity, cost and administrative burden, while offering limited benefit to most agency workers. Major questions remain about how the proposals would operate in practice, and there is still considerable uncertainty about implementation. With multiple parties involved and responsibilities unclear, the risk of confusion, dispute and unintended consequences is high.

The wider economic impact must also be considered. The Government's latest assessment estimates that reforms to zero-hours contracts could cost businesses up to £2.9 billion. Businesses are concerned not only by the increased costs but also by the Government's failure to quantify the impact that reduced labour market flexibility could have on jobs, growth and hiring decisions. Its own assessment acknowledges that these effects are likely to be significant but have not been monetised.

Many agency workers actively choose temporary work because it provides the flexibility needed to balance employment with caring responsibilities, study, health conditions and other commitments. Agency work also supports labour market participation by providing a route into employment for people who might otherwise struggle to enter or remain in work, including many young people who are not in education, employment or training (NEET).

Agency work is equally vital to public service delivery. NHS trusts, local authorities, schools and other public sector employers rely on agency workers to respond to changing workforce needs, whether covering winter pressures, seasonal demand or temporary staff shortages. Reducing flexibility will not increase workforce capacity. Instead, it risks reducing work opportunities, increasing bureaucracy and placing additional pressure on already stretched management resources.

While some countries have introduced mechanisms that allow workers to access contracts more closely aligned with their regular working patterns, these provisions are generally targeted at long-term on-call or zero-hours arrangements rather than temporary agency work. For example, Ireland's banded-hours system and the Netherlands' requirement to offer fixed hours after a sustained period of regular work are designed to address persistent mismatches between contracted and actual hours. Extending similar requirements to agency workers, whose role is often to provide short-term capacity, risks undermining the flexibility that makes agency work valuable to workers and employers alike.

Reforms of this scale can only succeed if Government works in genuine partnership with business. Employers and employment businesses must be fully involved in the development of implementation plans, guidance and enforcement frameworks. This will be particularly important if guaranteed hours provisions are extended to agency work, given the complexity of tripartite working relationships and the significant number of unresolved questions about how the proposals would operate in practice. Any implementation would need to be carefully phased, supported by clear guidance and accompanied by sufficient lead-in time to avoid disruption and unintended consequences.

The Recruitment & Employment Confederation (REC) strongly believes that extending guaranteed hours provisions to agency work would be a mistake. The agency work model operates differently from permanent direct employment and cannot be effectively accommodated within the proposed framework without risking significant disruption to workers, hirers and employment businesses. If the Government nevertheless decides to proceed with these proposals, agency work should be exempt from the guaranteed hours provisions in recognition of its unique role in supporting labour market flexibility, public service delivery and economic growth.

## If agency workers are included, the proposals must be radically different

If the Government decides to apply guaranteed hours provisions to agency workers, the REC calls for the following changes to ensure the proposals are workable and reflect the realities of the agency work model:

- A **52-week reference period** that better reflects the seasonal and fluctuating nature of agency work.
- An **eight-hour low-hours threshold** to ensure very short or occasional assignments are not inadvertently captured.

- **Proportionate notice and compensation requirements** for shift changes and cancellations, avoiding measures that could discourage the provision of agency assignments and flexible work opportunities.
- **Employment businesses**, rather than hirers, to be responsible for making guaranteed hours offers. Employment businesses are best placed to administer the right in practice, and this approach would align with existing legal responsibilities while avoiding a situation in which clients are discouraged from engaging agency workers because of the risk of unaffordable or unnecessary direct employment obligations.

## Any implementation must be phased and extended for agency work

If guaranteed hours provisions are extended to agency workers, implementation should be phased in over a longer period to give employment businesses, recruiters and hirers sufficient time to adapt their systems, contracts, processes and workforce planning arrangements. The introduction of new provisions should not take effect before 2028.

This is particularly important because implementation for agency work is significantly more complex than for direct employment. The agency market involves tripartite relationships between workers, employment businesses and hirers, alongside multiple assignment types, fluctuating demand patterns and existing regulatory obligations. These complexities require substantial changes to systems, contracts and operational processes that cannot be delivered at the same pace as reforms affecting direct-hire employment.

A phased approach would minimise disruption, enable operational challenges to be identified and addressed, and allow Government to assess the impact on workers, businesses and labour market flexibility before full implementation. It would also provide an opportunity to evaluate whether the legislation is achieving its intended objectives without creating unintended barriers to employment and flexible work.

The Government's delays in finalising policy details should not be compensated for by reducing the time available for businesses to prepare. Employment businesses and hirers will require sufficient lead-in time to implement significant operational changes effectively. Compressing implementation timelines would increase costs, create uncertainty and heighten the risk of unintended consequences for both workers and businesses.

While the suggested changes and proposed phasing would improve the practical operation of the proposals, they would not address the fundamental challenges of applying guaranteed hours provisions to agency work.

# Introduction: *the Government is at risk of damaging workers income and opportunities if it proceeds with these reforms as proposed*

1. The REC supports the Government's manifesto objective that people working regular hours should have contracts that properly reflect those hours and provide the security that comes with them. However, the approach taken by these proposals to delivering that simple intent is unnecessarily bureaucratic, overreaching and potentially damaging to the interests of workers and businesses alike.

2. Given current labour market conditions, including significant challenges relating to economic inactivity and youth employment, these provisions require substantial reform and their introduction must be carefully managed. The proposals set out in the Government's consultation, *Make Work Pay: Ending One-Sided Flexibility – Reforms of Zero Hours and Similar Contracts*, risk creating a range of unintended consequences for workers, including reduced employment opportunities and a growth in false self-employment within the grey economy, ultimately leading to a lower level of workers' rights overall.

3. The Government's own impact assessment also demonstrates that these reforms are likely to impose significant costs on employers across all sectors, reducing potential for economic growth and creating additional challenges for the delivery of public services. By limiting the well-regulated flexibility that employers rely on to manage fluctuations in demand, short-term projects and changing workforce requirements, the proposals risk increasing operating costs, reducing employment opportunities and constraining job creation across the economy.

4. As drafted, the guaranteed hours proposals risk damaging an already fragile labour market and require significant revision to avoid unintended consequences. The REC is clear that any new framework must not undermine agency work, which is a fundamental pillar of the UK labour market. Preserving this flexibility will be essential to achieving several of the Government's wider objectives, including reducing economic inactivity and tackling the challenge of young people who are NEET, delivering the workforce needed to support the Industrial Strategy, helping businesses navigate economic uncertainty and ensuring that vital public services such as schools and the NHS can access the staff they need when demand arises.

5. The UK's flexible labour market is a competitive advantage that benefits workers, employers and the wider economy. It supports workforce participation, enables organisations to respond to changing demand and provides routes into work for people who might otherwise struggle to access employment. While getting the design of these reforms right matters across the labour market, agency work is particularly vulnerable because of the unique way the sector operates and the scale of its contribution, with around one million agency workers on assignment each day.

6. While the REC supports measures to improve job security, the proposals as currently drafted risk significant unintended consequences. This is not an argument against improving security for workers, nor is it a suggestion that concerns are limited to agency work alone. However, agency work presents particular challenges which make inclusion within the guaranteed hours framework especially problematic.

7. The REC's position is clear:

- Agency workers should be exempt from guaranteed hours provisions.
- If the Government decides to include agency workers within scope, the proposals must be amended to make them workable for the agency model. Achieving this will require meaningful engagement with business and representative organisations, such as the REC, to resolve the many outstanding implementation questions and avoid unintended consequences.
- Any implementation must be phased over an extended period to allow employment businesses, hirers and workers sufficient time to adapt.

8. The agency work model, which is already a highly regulated sector, operates differently from conventional employment and exists to provide flexibility that benefits both workers and businesses. It enables employers to respond to fluctuating demand, particularly in uncertain economic conditions, and many agency workers actively choose this form of work because it allows them to balance employment with study, caring responsibilities, health conditions, phased retirement and other commitments.

9. Agency work provides a route into employment for people who might otherwise struggle to access the labour market, enabling them to gain experience, develop skills and progress into permanent roles if they choose. This contribution is particularly important at a time when the UK needs to reduce economic inactivity and address persistently high levels of young people who are NEET.

10. The REC is concerned that the proposed guaranteed hours framework has been designed primarily around traditional employment relationships and does not adequately reflect the realities of agency work or the preferences of many workers. The proposals are based on an assumption that greater contractual certainty will always be preferable to flexibility. However, for many agency workers, flexibility is not a disadvantage but a positive choice that enables participation in the labour market. Applying a framework designed around standard employment relationships risks reducing that flexibility, limiting opportunities for workers and making it harder for employers to access the labour they need.

11. Applying these provisions to agency workers would likely result in fewer opportunities for flexible work, reduced availability of assignments, increased regulatory and compliance costs and a weakening of a labour market model that plays an important role in connecting people to work. While the REC believes that exempting agency workers from guaranteed hours provisions is the most effective and proportionate approach, wider concerns about the impact of the reforms on flexibility, hiring, employment costs and growth would remain.

12. This response draws on feedback from REC members, labour market data and legal analysis and outlines the changes required, alongside an appropriate implementation period, should agency workers remain within scope.

REC Recruitment & Employment Confederation

# Section 1: Guaranteed hours proposals risk damaging an industry that supports growth, jobs and labour market participation

1. The recruitment industry plays an important role in supporting economic growth and workforce participation. The sector contributes more than £40 billion to the UK economy each year, accounting for around 1.6% of UK Gross Value Added (GVA). On any given day, approximately 872,000 temporary and contract workers are on assignment through recruitment businesses across the UK. In stronger economic conditions this has averaged at around one million workers a day.

2. The industry's contribution extends far beyond filling vacancies. Recruitment businesses help employers address skills shortages, access specialist talent and respond to evolving workforce requirements, while supporting individuals to enter, re-enter and progress in employment. This role is particularly important at a time when labour market participation remains a key challenge. Concerns about economic inactivity continue to grow, alongside the increasing number of young people classified as NEET.

3. The value of this contribution is not solely economic. Agency work is increasingly providing the type of flexibility that workers actively want. For those balancing study, caring responsibilities, health conditions, phased retirement or other commitments, flexibility is not a compromise but a positive choice. Government research shows many workers in flexible working arrangements value those arrangements because they suit their lifestyles and circumstances.

4. These proposals should recognise that the needs and preferences of workers are not uniform. While some workers prioritise greater certainty of hours, others place a high value on flexibility, autonomy and control over when and how they work. It is therefore not sufficient to argue that workers who do not want guaranteed hours can simply decline them. If hirers and employers face increased costs, risks or administrative burdens, the flexible opportunities themselves may cease to be offered, reducing choice and limiting routes into employment.

5. Applying guaranteed-hours requirements to agency work would create significant complexity, cost and administrative burden, while offering limited benefit to the vast majority of agency workers. The proposals would require employment businesses and hirers to manage new regulatory obligations across highly variable assignments and complex labour supply chains. Rather than increasing opportunity, there is a real risk that these additional burdens would reduce the availability of flexible assignments, limiting worker choice and restricting access to employment.

## Guaranteed hours proposals do not adequately reflect current labour market realities

6. The guaranteed-hours proposals should not be viewed in isolation from the wider economic and labour market context. Employers are already facing significant cost pressures, driven by increases in employer National Insurance contributions, sustained wage growth and continuing economic uncertainty.

7. Over the longer-term REC labour market evidence points to softer hiring conditions across many sectors, including slower recruitment activity, weaker vacancy growth and reduced employer confidence.

8. Recent REC Labour Market Tracker data also points to the fragility of the labour market recovery. Although active job postings and new job postings in July 2026 were higher than a year earlier, recruitment conditions remain uneven. Entry-level hiring has yet to recover fully, even though opportunities have improved across sectors including hospitality, tourism and construction over the summer.

9. The challenge now is to sustain that hiring momentum. Businesses are already factoring anticipated employment costs into recruitment decisions, including the potential impact of guaranteed hours proposals. The Government's own assessment suggests these reforms could impose up to £2.9 billion of additional annual costs on employers, this £2.9 billion is equivalent to the cost of employing around 137,000 full-time 18 to 20-year-olds on the National Minimum Wage. At a time when many sectors are already absorbing higher labour costs, reforms should avoid creating additional barriers to job creation and labour market participation.

**The temporary labour market is a critical pillar of the UK economy and should be protected**

10. Temporary agency work is an important part of the economy and a cornerstone of the UK labour market. At a time of economic uncertainty, temporary employment is proving to be one of the most resilient parts of the labour market. REC Report on Jobs data for June 2026 shows that temporary billings increased for the third consecutive month, reaching an index of 52.7, the strongest rate of growth since April 2023, with growth recorded across all regions. Recruiters reported that employers continue to prioritise temporary workers to maintain flexibility and respond to uncertain economic conditions.

11. The contrast with the permanent labour market is striking. While permanent placements have now fallen for 45 consecutive months, temporary recruitment continues to expand. Overall vacancies declined in June 2026, but this was driven primarily by weakness in permanent roles, while temporary vacancies remained comparatively stable. Demand for temporary workers also improved in parts of the private sector despite wider labour market challenges.

12. The value of temporary labour is particularly evident in sectors characterised by fluctuating demand. In hospitality, where staffing requirements vary significantly across seasons, events and trading periods, temporary workers remain an important operational resource. Although demand remains below growth levels, the temporary hospitality index increased from 45.8 to 46.5 in June, marking the third consecutive month in which the rate of decline has eased and indicating a gradual stabilisation in employer demand.

13. Taken together, these trends demonstrate that the temporary labour market is not a problem to be fixed through excessive regulation, but a vital economic stabiliser. It helps businesses manage uncertainty, maintain productivity and create employment opportunities at a time when permanent recruitment remains subdued. In considering any reforms, it is essential to distinguish between genuine long-term regular work patterns that may justify greater predictability of hours and the temporary fluctuations in demand that are inherent to many sectors and are most effectively met through flexible staffing arrangements.

14. Guaranteed hours proposals that fail to recognise the value of temporary agency work and the realities of the agency work model risk undermining one of the most resilient and effective parts of the labour market.

**Agency work creates pathways into employment and supports labour market participation**

15. REC's *Voice of the Worker* research demonstrates the value agency work provides to those who choose it. Nearly eight in ten temporary agency workers (79%) say their work meets an important need for flexibility, while more than half (53%) believe it is the right type of role for their current stage of life. More than two-thirds (68%) also report that agency work offers a better work-life balance.

16. REC worker research also highlights the personal value many workers place on flexibility, with respondents describing agency work as allowing them to fit work around caring responsibilities, health needs, study and other commitments. These findings reinforce the importance of preserving opportunities that reflect the diverse ways in which people want to participate in the labour market.

17. For employers, agency workers play a critical role in managing fluctuations in demand, responding to seasonal peaks, providing cover for absences, supporting project-based work and maintaining operational continuity during periods of workforce pressure. This flexibility is particularly important in sectors such as healthcare, logistics, manufacturing, hospitality, retail and construction, where labour requirements can change quickly and workforce shortages can have significant operational consequences.

18. For workers, agency employment provides opportunities to combine work with study, caring responsibilities, health conditions, phased retirement and other personal commitments. For many, agency work is not simply a temporary alternative to permanent employment, but a deliberate choice that enables them to remain economically active while retaining control over when and how they work. The proposals could therefore result in a worse outcome for many workers. To avoid triggering guaranteed hours obligations, employers may become more cautious about offering additional shifts or extra hours, reducing opportunities to increase earnings and gain experience. This is particularly relevant in manufacturing, where workforce requirements often fluctuate in line with production schedules and customer demand. Rather than increasing security, the proposals risk reducing the availability of work and levelling down opportunities for agency workers.

19. Rather than increasing security, the proposals risk reducing the availability of work and levelling down opportunities for agency workers. In some cases, they may also incentivise businesses to move away from employment models altogether and towards self-employment arrangements that offer greater flexibility for firms but fewer employment rights and protections for workers. The result could be a growth in forms of work that provide less security than agency employment, contrary to the policy intent of the reforms.

20. Beyond meeting business needs, temporary work also plays an important role in supporting labour market participation. By offering opportunities that accommodate different lifestyles, responsibilities and circumstances, it enables a wider range of people to engage in the labour market. This flexibility is particularly valuable for those balancing caring responsibilities, managing health conditions, studying or transitioning into retirement, while also providing an accessible route for people seeking to build experience and develop skills. Parliament's Women and Equalities Committee inquiry has highlighted how rigid workplace requirements

can disproportionately exclude these groups from sustainable employment, underlining the importance of flexible pathways into work.

21. Agency work also plays a significant role in helping people enter, re-enter and progress in the labour market. For many individuals, it provides an accessible first step into employment, enabling them to gain experience, develop skills and build confidence in the workplace. This is particularly important for people entering work for the first time, those seeking practical experience, individuals returning after periods of inactivity, career changers and older workers seeking flexible employment.

22. The agency work model therefore delivers flexibility that works for both sides of the labour market. It allows employers to access talent when it is needed, while supporting labour market participation among people who might otherwise be unable to work. This balance of flexibility and opportunity is a longstanding strength of the UK labour market and should be protected from impractical regulatory burdens so that it can continue to support economic resilience, workforce participation and productivity.

**People choose flexible work because it is what they want**

23. The Government's own research supports this view. 72% of workers in *'insecure work'* said their arrangements suited their lifestyle, while 63% of agency workers said agency work suited them and their lifestyle.

24. Research on zero-hours contracts also found that zero-hours vacancies attracted around 20% more applicants than comparable fixed-hours roles, while only 15% of zero-hours workers applied for fixed-hours alternatives.

25. These findings demonstrate that flexibility is valued by many workers and remains an important part of the labour market. They also reinforce the importance of recognising that workers are not a single group with identical preferences. Many workers value greater certainty and predictability, but many others actively prioritise flexibility and control over when, where and how they work.

26. Importantly, the question is not simply whether workers would choose guaranteed hours if they were offered them. The more significant risk is that increasing the cost, complexity and legal uncertainty associated with flexible work arrangements will reduce the number of opportunities available in the first place. If employers and hirers conclude that flexible assignments are too costly or burdensome to offer, workers will lose access to forms of employment that they actively value and choose.

**Agency work is particularly important for young people and those on the margins of the labour market**

27. The benefits of agency work are particularly significant for young people and others seeking an entry point into employment. For many individuals, temporary assignments provide an opportunity to gain workplace experience, develop transferable skills and build confidence in a working environment that may otherwise be difficult to access.

28. This matters not only for individual life chances but also for the wider economy and public finances. Supporting more people into work increases tax revenues, reduces dependency on welfare and helps tackle economic inactivity. At a time when levels of youth inactivity and

NEET status remain a significant policy challenge, protecting effective routes into work should be a policy priority.

29. The value of flexible, entry-level employment opportunities is widely recognised. Recent polling commissioned by the British Retail Consortium found that four in five adults believe part-time work plays an important role in helping young people enter employment.

30. Sectors that rely on flexible staffing models are often among the largest providers of these opportunities. For example, retail and its supply chain account for almost a quarter of youth employment, with around 780,000 jobs held by 16 to 25-year-olds, more than half of whom work part-time. Similar patterns can be seen across hospitality, tourism, logistics and other sectors that provide accessible routes into work for young people and those with limited labour market experience.

31. However, many of these sectors are already facing significant cost pressures. Retail alone has lost almost 400,000 jobs over the past decade, while employers across the economy continue to absorb increases in wage and employment costs. Against this backdrop, it is important that guaranteed-hours reforms do not inadvertently reduce the availability of flexible and entry-level opportunities.

32. Through flexible and accessible work opportunities, agency work provides an important pathway into employment for young people, returners to work, carers, disabled people, older workers and others who might otherwise struggle to enter or remain in the labour market. If guaranteed-hours proposals are applied to agency work without recognising the realities of temporary labour markets, they risk disproportionately affecting many of the groups the government are seeking to support.

**Agency work supports progression into permanent employment, skills development and economic growth**

33. Agency work does not simply provide access to work, it also creates pathways into long-term employment. Temporary assignments frequently allow workers to demonstrate their capabilities, gain experience and build relationships with employers, creating opportunities to progress into permanent roles. Employers similarly benefit from the ability to recruit proven candidates following temporary assignments.

34. Reforms that risk weakening these established pathways into work could also reduce incentives for employment businesses to invest in sourcing, assessing, training and placing workers.

**Supporting growth, skills and the Industrial Strategy requires flexibility**

35. These considerations are particularly important in the context of the Government's wider Industrial Strategy, which must be underpinned by effective workforce planning, skills-based hiring and stronger coordination across government departments. Labour market flexibility plays a crucial role in enabling businesses to respond to economic change, access scarce skills and support growth across priority sectors.

36. As the REC highlighted in its report, *Overcoming Shortages: How to Create a Sustainable Labour Market*, improving workforce planning and labour market efficiency could contribute up to £39 billion annually to the UK economy and support the long-term objectives of the Industrial Strategy.

37. The evidence demonstrates that agency work operates fundamentally differently from traditional employment. Employment businesses cannot guarantee work where demand is determined by hirers.

## Guaranteed hours proposals risk damaging the resilience of front-line public sector services

38. Public sector employers rely heavily on agency workers to fill vacancies, respond to fluctuating demand, maintain safe staffing levels and ensure continuity of essential services. Agency work is not simply a staffing mechanism but a critical component of public service delivery, enabling NHS trusts, local authorities, schools, prisons and other public sector organisations to provide essential services.

39. Limiting workforce flexibility in these sectors risks increasing staffing costs, exacerbating existing workforce shortages and placing additional pressure on already stretched public services. If guaranteed-hours provisions reduce the availability of agency workers or make temporary staffing arrangements more costly and complex, the consequences will be felt not only by employers and workers but also by the patients, pupils, service users and communities who depend on those services.

**Health and Social Care sectors require flexibility**

40. In health and social care, where recruitment and retention challenges are already significant, reducing the availability or attractiveness of agency work could have consequences not only for employers and workers but also for the quality, resilience and continuity of frontline services.

41. Social care providers frequently depend on temporary staff to respond to unexpected absences and fluctuations in demand. Any reduction in staffing flexibility could make it more difficult to provide timely care, creating risks for vulnerable individuals and placing additional pressure on already stretched services.

42. Concerns are particularly acute within healthcare. As one large REC healthcare member observed: *"I don't understand how the NHS, which runs the biggest temporary staffing system in Europe, is going to cope with this."*

43. Healthcare employers have highlighted concerns about maintaining service continuity and filling urgent staffing gaps where temporary workers are unavailable or unwilling to accept assignments under new arrangements. Given the extent to which temporary staffing supports safe staffing levels during periods of unpredictable demand, any reduction in workforce flexibility could weaken workforce resilience and ultimately affect patient care.

44. These concerns have also been echoed by NHS Employers, which has warned that the proposed guaranteed-hours reforms could impose significant financial and administrative burdens on NHS organisations. NHS Employers estimates that the changes could result in recurring annual costs of around £900 million across the NHS in England, including the need for more than 800 additional administrative staff and around 610 whole-time equivalent managers to support compliance, workforce monitoring, workforce planning and payroll administration. The organisation has further noted that NHS staff banks differ significantly from the types of working arrangements the reforms are intended to address, with around 85 per cent of bank workers already holding a substantive NHS contract and choosing to

undertake additional shifts through staff banks. Survey evidence also suggests that 74 per cent of bank-only workers value the current arrangements because they allow them to choose the shifts and hours they work.

45. NHS Employers has cautioned that, if not carefully designed, the reforms could make bank working less attractive, reduce workforce availability and increase reliance on more expensive agency staffing. In both health and social care, employers therefore warn that reduced staffing flexibility could increase operational pressures, undermine workforce resilience and make it more difficult to maintain safe and effective services, ultimately impacting the quality and timeliness of care received by patients and vulnerable service users.

**Case Study: Guaranteed Hours and Healthcare Staffing**

46. *The following case study from one REC member, a healthcare workforce provider supplying temporary healthcare professionals to NHS organisations and other healthcare providers, illustrates concerns that are widely shared across the sector regarding the application of guaranteed hours to agency workers.*

47. *The member explained that NHS trusts and healthcare providers control workforce planning, budgets, shift creation, patient demand and shift cancellations, while agencies facilitate access to qualified workers when staffing gaps arise.*

48. *For example, a hospital may request agency nurses with only a few hours' notice to cover unexpected sickness absence, emergency leave, surges in-patient admissions or increases in patient acuity. Equally, shifts may be cancelled at short notice when staffing levels improve, patient demand falls or operational priorities change. In these circumstances, the agency has no control over either the original request or the cancellation.*

49. *The member argued that requiring agencies to offer guaranteed hours or compensate workers for cancelled shifts could create liabilities arising from decisions made entirely by the hirer. This could expose agencies to significant financial and administrative burdens, particularly if they are required to compensate workers upfront and subsequently recover costs from NHS trusts.*

50. *The member also warned that the proposals could reduce the flexibility that attracts many healthcare professionals to agency work and discourage healthcare providers from using temporary staff due to increased legal and financial risks. Given that agency staffing is frequently relied upon to maintain safe staffing levels during periods of unpredictable demand, any reduction in workforce flexibility could weaken NHS workforce resilience and, ultimately, affect patient care.*

51. *The member therefore argued that agency workers should either be excluded from the guaranteed hours framework, or that responsibility for any obligations should rest with the organisation making workforce planning and staffing decisions. While this example reflects the experience of one provider, similar concerns have been raised by other REC members supplying healthcare staffing.*

**Education requires the ability to keep skilled professionals in front of children and students**

52. The education sector depends heavily on flexible staffing arrangements. Schools regularly use agency teachers and support staff to cover sickness absence, parental leave, vacancies and unexpected increases in demand.

53. REC members have raised concerns that guaranteed hours requirements could make short notice supply teacher assignments harder to fill, particularly where schools cannot predict

staffing needs with certainty. Reduced flexibility may also discourage longer-term placements; despite the benefits these assignments can provide for educational continuity and pupil outcomes.

54. This could increase disruption for children while placing additional administrative and financial pressures on schools already operating within tight budgets.

### Case Study: Administrative Burdens in Schools

55. *The following case study from one REC member specialising in the education sector illustrates a range of operational, administrative and legal concerns arising from the guaranteed hours proposals. While based on the experience of a single organisation, the issues identified reflect concerns raised by education staffing providers more widely.*

56. *The member places thousands of temporary workers in schools each month, often through multiple local authority and academy trust arrangements. They report that educational establishments are unlikely to assume responsibility for monitoring qualifying periods, managing guaranteed hours offers or tracking workers who move between assignments, schools and agencies. Given existing workload pressures, many schools may lack the time, resources or specialist knowledge required to administer these obligations effectively.*

57. *As a result, agencies would be expected to carry much of the administrative burden associated with the new requirements, despite having limited control over assignment patterns, staffing decisions and the hours ultimately offered by schools. Where workers undertake assignments across multiple schools, potentially through different agencies, determining responsibility for guaranteed hours entitlements would be particularly complex.*

58. *The member also highlighted concerns regarding legal liability. Although hirers determine workforce demand and assignment requirements, employment businesses may bear much of the legal risk associated with compliance. This creates significant commercial exposure for agencies managing large pools of temporary workers, with the member estimating that more than 3,000 workers may be active on their books at any one time.*

59. *The member warned that the proposals could have unintended consequences for schools and pupils. If agencies face increased costs, legal risks and administrative burdens associated with longer-term assignments, they may become less willing to facilitate such placements. This could discourage schools from engaging supply teachers for extended periods, even where doing so would provide valuable continuity for pupils. Reduced use of longer-term temporary assignments may therefore result in more frequent changes in teaching staff and greater disruption to children's education.*

60. *Overall, the member is concerned that the proposals would transfer substantial administrative, legal and commercial risk onto employment businesses without adequately recognising that workforce demand, scheduling decisions and assignment durations are primarily determined by the hirer.*

### Other Public Services are equally dependent on flexible work

61. Prisons rely on temporary staff to maintain safe staffing levels and respond to short-notice workforce gaps. Restrictions that reduce access to temporary workers could hinder employers' ability to meet essential staffing requirements, with implications for operational effectiveness, safety and resilience.

62. Questions have also been raised about the impact of the guaranteed hours proposals on public sector procurement. Increased labour costs, additional compliance requirements and uncertainty around guaranteed hours obligations could discourage suppliers from bidding for public sector contracts, reducing competition and limiting access to flexible workforce solutions across public services.

63. Similar issues arise in relation to short-term public sector contracts that depend on temporary staffing solutions. For example, one REC member supplies workers for a 12-week Ministry of Defence catering contract supporting military training exercises. The member indicated that they would be reluctant to take on similar contracts in future because of the potential liabilities created by the proposals.

64. Under the current proposals, workers engaged on these short-term assignments could fall within the scope of guaranteed hours requirements, making such contracts significantly more complex and potentially uneconomic to deliver. Given that workforce demand, scheduling decisions and assignment durations are largely determined by hirers, members argue that the proposals fail to reflect the realities of temporary staffing markets and could have unintended consequences for the resilience and delivery of public services.

# SECTION 2: Guaranteed hours provisions are not appropriate to genuinely temporary workers - agency workers should be exempt

## Government evidence strengthens the case for agency work exemption

1. While the Government's analysis acknowledges the distinct nature of agency work and estimates there are around 1 million temporary agency workers in the UK, agency work was never the primary target of these reforms. The proposals were designed to address concerns in other parts of the labour market, not the temporary agency sector. Government should recognise that agency work is a distinct and well-regulated form of employment and should not be treated in the same way as the arrangements these reforms were intended to address. Failing to recognise this difference risks drawing agency work into a framework that is neither designed for nor compatible with the realities of the sector.

2. It is evident that the concerns that began to emerge about zero hours contract and the proposals to deal with these were never the intended target area agency work. By a a quirk of the definition of zero hours and low hours workers, these provisions have swept up agency work despite the key differential between agency workers and directly engaged zero and low hours workers.

3. Firstly, agency workers who register for work as 'temps' clearly have different expectations to those seeking directly engaged work. Being able to register for temporary work will provide them with the flexibility that they typically are seeking.

4. Temp agencies are in the business of placing their 'temps' into assignments. Their role is to find assignment for workers and if assignment come to an end they are always stiving to find alternative assignments which can be offered to their temps, who in turn are under no obligation to accept them.

5. The evidence also recognises that the proposals could reduce demand for agency labour, create overstaffing risks, require agency-hirer contracts to be renegotiated and alter existing staffing models. Particular impacts are identified in sectors such as hospitality, retail, logistics and administrative services, where workforce flexibility plays a critical role.

6. These findings strengthen rather than weaken the case for exempting agency workers. The Government's own analysis recognises that agency work operates differently from direct employment, that workforce demand is often temporary rather than permanent, and that applying guaranteed hours requirements could create significant operational and commercial challenges.

**Yet the Government's evidence base remains incomplete**

7. One of the most notable aspects of the Government's latest publications is the extent to which they acknowledge limitations in the evidence available to support these proposals. The documents recognise that:

- Information on agency worker contractual hours is sparse.
- Evidence on agency worker working patterns is limited.
- There is no robust national dataset on guaranteed-hours arrangements.

- There is limited evidence on how different policy options would affect agency workers.
- Behavioural responses from workers and employers have not been fully modelled.

8. These gaps are particularly significant given the potential scale of the changes and the importance of agency work to the wider labour market.

**Key impacts remain uncertain and unquantified**

9. The Government's own analysis highlights that a number of potentially important impacts remain uncertain or unquantified. While the assessment identifies potential effects on staffing models, demand for agency workers and labour market behaviour, there is limited evidence on how businesses and workers are likely to respond in practice. This uncertainty is especially significant given the size of the agency workforce and the sectors that depend on it.

10. The Government's findings are also notable for what they do not quantify. While considerable attention has focused on the estimated direct costs of the reforms, the assessment acknowledges that the impact of reduced labour market flexibility has not been monetised, despite being likely to be significant. For many employers, particularly those operating in sectors that depend on temporary labour, the loss of flexibility may be at least as consequential as the direct compliance costs associated with the proposals.

**Government findings support a precautionary approach**

11. Taken together, the Government's findings support the need for caution. The evidence base remains incomplete, the behavioural impacts remain uncertain, and the operational challenges associated with applying guaranteed hours provisions to agency work are explicitly acknowledged within the Government's own analysis.

12. These factors strengthen the case for treating agency work differently and exempting agency workers from a framework designed primarily around direct employment relationships.

## The proposals would increase costs, complexity and reduce opportunities

**Operational complexity across agency supply chains**

13. Members have highlighted substantial practical concerns around implementation. These include the need to record and monitor shift offers, refusals, cancellations and associated timings, as well as determining whether refusals need to be formally recorded for compliance purposes. Businesses would also need to ensure offers are made within prescribed reference periods and maintain records that many do not currently collect. Unlike a one-off systems change, these requirements would create an ongoing and repetitive administrative burden that would need to be managed continuously.

14. The challenge is particularly acute in the agency work sector, where individuals frequently work across multiple assignments, clients and locations and agencies. Workers may be engaged simultaneously by different hirers, work both directly and through agencies, or move between assignments over short periods. Members have questioned how guaranteed-hours obligations would operate in practice in these circumstances, particularly where workers receive competing offers, choose to accept guaranteed hours with only one client, or work for

competing organisations. The current proposals do not appear to provide sufficient clarity on how these scenarios would be managed.

15. Members are also concerned that the burden will fall disproportionately on SMEs. While larger organisations may be able to adapt through significant investment in systems, processes and compliance functions, smaller employment businesses and hirers often lack the resources to absorb such changes. Businesses have stressed that implementation would require fundamental changes to operational processes rather than simple amendments to existing systems, with record-keeping requirements posing a particular challenge.

16. At the same time, hirers may become more cautious about engaging agency workers if doing so creates additional obligations, costs, legal risks or uncertainty around future liabilities. Businesses are particularly concerned that the proposals could reduce demand for temporary labour by making flexible staffing models more complex and therefore less attractive.

17. The consequences would be felt across multiple sectors that rely on the ability to respond quickly to changing demand. Logistics businesses managing seasonal peaks, NHS trusts covering staff absences, social care providers maintaining continuity of care, manufacturers responding to changing production schedules, schools sourcing supply teachers at short notice and hospitality businesses dealing with fluctuating customer demand could all become less willing to engage agency labour where future workforce requirements cannot be predicted with certainty.

**The cost to business will be substantial**

18. One of the clearest messages from the government's evidence is the scale of costs Government expects businesses to face as a result of these reforms. According to the Government's own estimates:

- Total employer costs could range from £350 million to £2.9 billion per year.
- Net costs could reach £300 million to £1.4 billion annually.
- Over ten years, costs could total between £3 billion and £14.1 billion.
- Direct business costs from guaranteed hours alone are estimated at between £100 million and £450 million annually.

**The impact of lost flexibility has not been quantified**

19. The Government argues that some of these costs may be offset by improvements in wellbeing, retention and productivity. However, it also acknowledges that many of these benefits are difficult to quantify.

20. The documents further highlight significant administrative costs, with workforce planning costs alone estimated at between £170 million and £420 million each year.

21. For businesses already facing increased employer National Insurance contributions, National Living Wage increases and wider economic uncertainty, these additional costs cannot be ignored.

22. The cost of the Government's reforms to zero-hours contracts has understandably focused attention on the new upper estimate of £2.9 billion. However, looking beneath the headline figure reveals why businesses remain particularly concerned. It is not only that the estimated costs are significantly higher than previous projections for the wider package of reforms; it is

also that the Government still has no estimate for the impact that reduced flexibility could have on jobs, hiring and economic growth, despite businesses consistently identifying this as the factor most likely to influence employment decisions.

23. The Government's own options assessment acknowledges that these impacts have not been monetised, while indicating that they could nevertheless be significant. As a result, the full economic consequences of the proposals remain uncertain.

**Agency work operates differently from direct employment**

24. Agency work differs fundamentally from direct employment because it operates through a network of parties rather than a simple employer-employee relationship. Responsibilities are often shared across hirers, employment businesses, managed service providers, master vendors, umbrella companies and workforce management systems. However, many aspects of the proposed framework appear to have been designed with a conventional employment model in mind.

25. As a result, applying guaranteed-hours obligations to agency work is unlikely to be compatible with the way the sector operates in practice. Agency workers are frequently engaged to meet temporary, unpredictable or fluctuating demand, making flexibility an essential feature of the model rather than an exception.

26. This flexibility supports businesses and public services across the economy in a wide range of circumstances, including:

- Seasonal peaks in sectors such as agriculture and retail.
- Christmas and holiday trading surges.
- Hospitality and tourism fluctuations.
- Logistics and warehousing pressures.
- Healthcare demands, including flu epidemics.
- Project-based work and business transformation programmes.
- Sickness absence and parental leave cover.

## Significant legal and practical issues remain unresolved

**Responsibilities and liabilities remain unclear**

27. The consultation does not adequately explain how guaranteed-hours obligations and liabilities would be allocated between employment businesses, hirers, umbrella companies and other intermediaries.

28. Without greater clarity, workers may be uncertain about who is responsible for making guaranteed-hours offers, while employment businesses and hirers face increased compliance risks and legal uncertainty. Members have repeatedly raised concerns about a lack of clarity regarding where responsibility sits within often complex labour supply chains, particularly where multiple parties are involved in sourcing, placing and managing workers.

29. Key issues remain unresolved, including liability and enforcement arrangements, the calculation of working patterns, the interaction between hours worked across multiple hirers, and the operation of any entitlement where assignments end unexpectedly. Questions also remain about how the framework would operate where workers hold multiple assignments simultaneously, work both directly and through agencies, or undertake assignments for

competing organisations. Members have highlighted uncertainty around how guaranteed-hours offers would work in practice where a worker receives competing offers or wishes to accept guaranteed hours with only one client.

30. There is also a need for greater clarity regarding the respective responsibilities of agencies, hirers, umbrella companies and other parties in the labour supply chain. Without a clear allocation of responsibilities, there is a significant risk of disputes, inconsistent application and costly compliance challenges.

31. Particular uncertainty remains regarding the position of workers engaged through umbrella companies. The requirement for an agency worker to hold a worker contract or arrangement with a 'work finding agency' (section 27BVA(1)a) ERA 2025 means that it is not clear how guaranteed-hours rights would apply to these workers, or how responsibilities would be allocated between umbrella companies, employment businesses and hirers. Without clarification, there is a risk that workers performing identical assignments could be subject to different rights and obligations depending solely on the contractual structure through which they are engaged. This issue is explored in further detail in the annex.

**Multiple Guaranteed Hours Offers and worker flexibility**

32. Agency workers are frequently registered with more than one employment business and may undertake assignments for multiple hirers at the same time.

33. The framework should therefore consider how multiple Guaranteed Hours offers would operate in practice. This includes the potential contractual, tax and working-time implications that may arise where workers receive and accept more than one offer simultaneously. Any new regime should preserve the flexibility that is a defining feature of agency work while providing certainty for all parties involved.

**Employment status risks and legal uncertainty**

34. Members have also expressed concern that guaranteed-hours arrangements could, in practice, move some workers closer to employee status rather than a genuinely flexible contract-for-services model. This raises important questions about how the proposals interact with existing employment status tests and broader employment law reforms.

35. Requiring agencies to guarantee hours risks introducing mutuality of obligation, potentially blurring the distinction between worker and employee status and creating unintended employment rights liabilities *(as explored in further detail in the legal annex of this submission)*.

36. There is a concern that tribunals may ultimately determine employment status based on the reality of the working relationship rather than the contractual description of an individual as a worker. If the practical effect of guaranteed-hours arrangements is to create a more permanent and predictable working relationship, this may increase the likelihood of employment status disputes and associated claims.

37. The interaction between guaranteed-hours provisions, existing employment law and the Agency Workers Regulations 2010 (AWR) also remains unclear. Members have highlighted concerns that new rights may overlap with or alter existing legal frameworks, creating further complexity for all. Taken together, these issues create significant legal uncertainty and increase the potential for litigation at a time when the tribunal system is already under extreme pressure.

**The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) implications**

38. The TUPE provisions are highly technical and administratively burdensome for employers. These provisions were originally designed to protect employees by allowing them to retain their terms and conditions where, for example, the business they worked for was sold. They also provide protection in cases of service provision changes, including insourcing, outsourcing and changes of contractor.

39. If the guaranteed-hours provisions compel a hirer to make a Guaranteed Hours offer to an agency worker, which is then accepted, there is potential for this to be caught by the service change provisions in TUPE. The obligations that would fall on both the agency and the hirer in terms of information-sharing and consultation with relevant employees are significant, and failure to comply exposes both parties to employment tribunal claims.

40. The application of TUPE to agency workers engaged on contracts for services is, at best, unclear under existing case law. The resulting risks and administrative burdens for both hirers and agencies are unlikely to be workable in practice.

41. In particular, clarification may be required regarding responsibility for employment liabilities, continuity of service and the employment rights that attach when an individual moves between agency engagement and direct employment.

**Existing pressures on the tribunal system must be taken into account**

42. There are also important questions about enforcement. As this would be a new area of law with little established case law, there is likely to be considerable uncertainty in both interpretation and application during the early years of implementation.

43. Businesses have noted that many organisations will be reluctant to become test cases given the potential legal costs, management time and reputational risks involved. This reluctance may itself contribute to uncertainty as key questions remain unresolved for prolonged periods.

44. Consideration should therefore be given to the capacity of existing enforcement mechanisms, the proposed role of the Fair Work Agency, and the ability of employment tribunals to provide timely and effective resolution of disputes. Members have expressed concern that the Fair Work Agency may face resource constraints, potentially creating further uncertainty around enforcement and guidance.

45. Existing pressures on the tribunal system suggest caution is warranted. Lengthy delays in resolving disputes serve no one's interests, particularly workers seeking certainty over their rights and entitlements and businesses seeking clarity regarding their obligations. Introducing a new and potentially complex area of employment law without sufficiently clear guidance or effective enforcement mechanisms risks generating avoidable disputes and additional pressure on an already stretched system.

**The agency worker regulation consultation should be concluded before guaranteed-hours proposals are finalised**

46. These concerns are compounded by the fact that the Government is simultaneously consulting on wider reforms to agency worker regulation. The two policy areas are closely interconnected, and decisions taken in one area are likely to have significant consequences for the operation of the other.

**Transfer fee reforms could directly affect guaranteed-hours obligations**

47. A further area of concern is the interaction between the guaranteed-hours proposals and the Government's separate consultation; *Modernising the Agency Work Regulatory Framework*. That consultation includes proposals relating to transfer fees, namely the fees an employment business can charge where a hirer subsequently engages directly a temporary worker supplied by that employment business. Transfer fees play an important role in the agency labour market. They compensate employment businesses for the loss of a worker they have sourced and supplied and help prevent situations where a client uses a temporary arrangement to avoid a permanent placement fee despite intending from the outset to recruit the individual directly.

48. The REC has highlighted the importance of retaining transfer fees in appropriate circumstances to support investment in recruitment and preserve confidence in the temporary staffing model.

49. Against that backdrop, the interaction with guaranteed-hours obligations requires careful consideration. Under the proposed framework, hirers could potentially become liable for transfer fees not because they have actively chosen to recruit an agency worker directly, but because legislation effectively requires them to make an offer of guaranteed hours.

50. This raises a number of important questions. Would a statutory offer of guaranteed hours constitute a transfer for the purposes of transfer fee provisions? If so, who would be responsible for the resulting costs? How would any proposed restrictions on transfer fees operate where the transfer occurs as a consequence of legal obligation rather than commercial choice?

51. Until these questions are resolved, there is a significant risk of creating uncertainty for hirers, employment businesses and workers alike. For that reason, the Government's proposals on transfer fees should be settled before any guaranteed-hours obligations are introduced. Failure to do so could lead to unintended consequences, increased disputes and additional costs across the labour market.

## Changes to AWR may alter how guaranteed-hours rights operate

52. The *Modernising the Agency Work Regulatory Framework* consultation also contains proposals relating to the Agency Workers Regulations 2010 (AWR), including potential changes to the 12-week qualifying period before an agency worker becomes entitled to parity with directly engaged workers of the hirer in relation to key employment terms. The consultation also seeks views on wider reforms to the AWR framework.

53. The rights to which agency workers are entitled under the AWR, and the point at which those rights apply, are highly relevant to the proposed guaranteed-hours provisions and any changes made to them. Members have raised practical questions about whether breaks between assignments would reset qualifying periods and how guaranteed-hours rights would operate where workers move between multiple assignments or hirers.

54. Changes to the qualifying framework could significantly alter how guaranteed-hours obligations operate in practice and increase the cumulative compliance burden on hirers and employment businesses. Proceeding without clarity on these issues risks creating overlapping, contradictory or duplicate obligations.

**A joined-up approach to reform is essential**

55. The Government should therefore conclude its review of agency worker regulation before finalising any decisions on the application of guaranteed-hours provisions to agency workers.

56. A clear understanding of how the two regimes will interact is essential to ensure that any final framework is coherent, proportionate and workable in practice. This is particularly important given that international experience reflects the distinct nature of agency work. Where other countries have introduced rights aimed at addressing unpredictable hours, these measures have generally been designed for direct employment, on-call work or long-term zero-hours arrangements rather than temporary agency work, recognising the different role agency work plays in providing short-term labour market flexibility.

57. More broadly, the cumulative impact of the Government's proposed reforms has not yet been fully assessed. Measures relating to guaranteed hours, predictability of work, agency worker regulation, employment status, enforcement mechanisms and wider labour market reforms may interact in ways that substantially alter the operation of the agency work sector. Given the significance of these issues, continued engagement with employment businesses, hirers, workers and representative bodies will be essential before final decisions are made.

58. The Regulatory Policy Committee (RPC), the independent body that scrutinises the evidence and analysis supporting government regulatory proposals, has highlighted significant uncertainty regarding the impact of these reforms on agency workers. The RPC has recommended further assessment of agency-worker arrangements, potential substitution effects, labour market impacts and unintended consequences before final policy decisions are taken.

59. The Government should therefore refrain from reaching conclusions on the application of guaranteed-hours provisions to agency workers until the agency worker regulation review has been completed and the interaction between these reforms has been properly assessed. It should also recognise that agency work is already heavily regulated, with agency workers benefiting from significant protections under the Agency Workers Regulations 2010. Any further intervention should therefore be evidence-based and avoid duplicating or conflicting with existing regulations.

# Section 3: The guaranteed hours framework must better reflect the realities of the labour market

1. The REC's position remains that agency workers should be exempt from the guaranteed-hours provisions. However, our concerns are not limited to agency work. More fundamental changes are required to ensure the proposed framework supports labour market flexibility, workforce participation and economic growth, while delivering greater certainty for workers where appropriate.

2. While agency work represents the clearest example of the challenges created by the current proposals, employers across the wider labour market remain concerned about the potential impact on flexibility, employment costs, hiring and labour market participation. The recommendations set out below would help create a more proportionate and workable framework for employers and workers alike, although they would not resolve the fundamental incompatibility between guaranteed-hours provisions and the agency work model.

3. To inform this response, the REC consulted extensively with members operating across healthcare, logistics, construction, manufacturing, hospitality, education and professional services. While there was overwhelming support for exempting agency workers from the guaranteed-hours provisions, members also identified a number of reforms that would make the wider framework more practical and effective. These changes would be particularly important, and in many cases essential, should the Government decide to retain agency workers within scope despite the concerns set out in this response.

4. At a minimum, the framework should:
   - Adopt a 52-week reference period.
   - Introduce an eight-hour weekly threshold before rights apply.
   - Ensure notice and cancellation requirements remain proportionate and workable.
   - Place responsibility for administering guaranteed-hours offers with employment businesses.
   - Use median rather than mean calculations when assessing working patterns.
   - Exclude workers who already receive guaranteed hours above the relevant threshold.

**A longer reference period is essential to reflect genuine working patterns**

5. A 52-week reference period is essential to ensure entitlement is assessed against normal working patterns rather than temporary fluctuations in demand.

6. Agency work is inherently variable. Assignment volumes and working hours are influenced by seasonal demand, project cycles, customer requirements, temporary absences and wider economic conditions. A shorter reference period is therefore unlikely to provide an accurate picture of a worker's typical pattern of work or the underlying level of labour demand.

7. The longer reference period of 52-weeks would capture a full annual cycle of activity and provide a more reliable basis for assessing working patterns. It would reduce distortions caused by temporary peaks or reductions in demand and better distinguish between ongoing labour requirements and short-term assignments.

8. By contrast, shorter reference periods could create guaranteed-hours obligations based on exceptional rather than representative periods of activity. A 12-week or 26-week period may coincide with seasonal peaks, maternity cover, sickness cover, project mobilisation or temporary staffing shortages. In such circumstances, the resulting entitlement may bear little relation to future work availability.

9. This would create uncertainty for workers and employers alike. It could also lead hirers to become more cautious about offering additional hours during busy periods if doing so risks generating future guaranteed-hours obligations. Rather than improving predictability, shorter reference periods may reduce work opportunities.

10. For both direct hires and agency workers, the REC therefore strongly supports a 52-week assessment period. Crucially this period also aligns with the 52-week holiday pay reference period, providing consistency and reducing complexity for businesses and workers alike.

**Construction sector case study**

11. *The construction sector demonstrates why a longer reference period is essential.*

12. *Major construction projects often experience significant fluctuations in labour demand throughout their lifecycle. In addition, most projects close during the Christmas and New Year shutdown period, which can last between ten days and two weeks. During this period workers are typically encouraged to use accrued annual leave and labour providers generate little or no revenue.*

13. *A 52-week reference period would provide a much more representative assessment of working patterns by capturing seasonal shutdowns, project mobilisation phases, peak delivery periods and demobilisation activity.*

**An eight-hour threshold would better target protections while preserving flexibility**

14. The REC supports the introduction of an eight-hour weekly threshold before any entitlement arises. The guaranteed-hours framework should be focused on workers who are most likely to experience financial insecurity as a result of very low guaranteed hours.

15. Applying the framework without a meaningful threshold would impose significant administrative obligations in circumstances where the policy rationale is weaker and where workers may actively choose limited hours because they suit their personal circumstances. It would help focus resources where they are most needed while preserving access to casual and flexible work opportunities.

16. The threshold would also help ensure employers and employment businesses are not discouraged from offering guaranteed-hours contracts. If thresholds are set too high, organisations may become more cautious about offering additional hours for fear of creating future obligations that do not reflect underlying demand.

17. This could have unintended consequences for groups that particularly value flexibility, including parents, carers, older workers and disabled workers. An eight-hour threshold provides a more balanced approach that supports worker security while preserving labour market flexibility.

18. The threshold would also help mitigate practical implementation challenges in more complex labour supply chains. Where multiple parties are involved in the engagement of a worker,

such as an umbrella company and a managed service provider (MSP), providing timely notifications and passing relevant information through the chain can be difficult. An eight-hour threshold would help ensure that administrative requirements are focused on circumstances where the need for protection is greatest, reducing the risk of disproportionate compliance burdens and operational difficulties across the supply chain.

**Notice and cancellation requirements must be proportionate, workable and aligned with temporary labour market realities**

19. Notice and cancellation requirements must recognise that temporary labour markets operate in response to changing business needs, many of which arise at short notice and are outside the control of employment businesses.

20. REC members generally understand the rationale for cancellation compensation and acknowledge that compensation arrangements already exist in parts of the market. However, any statutory framework must remain proportionate and take account of established commercial arrangements between hirers and employment businesses. Members stress that these arrangements are often tailored to the specific needs of particular sectors and labour supply chains, and there is concern that a statutory regime could inadvertently displace arrangements that are already working effectively in practice.

21. Unfortunately, cancellations are an unavoidable feature of many temporary labour markets. Agency work is frequently arranged in response to unforeseen absences, sickness cover, unexpected fluctuations in demand, operational disruption and emergency staffing requirements. In sectors such as education, health and social care, logistics and hospitality, assignments are often offered, amended or cancelled at short notice in response to circumstances that cannot reasonably be predicted in advance. Overly rigid notice requirements would therefore be difficult to reconcile with the realities of temporary work.

22. The proposed notification and compensation requirements could create significant administrative and compliance burdens. Employment businesses may be required to record and monitor the timing of shift offers, worker acceptances and refusals, cancellations and compensation payments, creating ongoing compliance obligations rather than a one-off administrative adjustment. Such requirements may be particularly challenging in high-volume temporary labour markets where assignments are frequently arranged and amended at speed.

23. REC members also expressed concern about the cash-flow implications of cancellation payments. Employment businesses may be required to compensate workers immediately while facing delays in recovering associated costs from hirers. Businesses questioned how any new compensation regime would interact with existing commercial agreements and whether additional statutory requirements could create duplication, uncertainty or unintended costs.

24. These challenges are further amplified in complex labour supply chains. Information about a cancelled shift may pass through multiple parties, including hirers, managed service providers (MSPs), employment businesses, umbrella companies and workers. Delays or communication failures can occur at any stage despite no fault on the part of an individual organisation. Highly prescriptive notification requirements therefore risk creating disputes and liabilities even where all parties have acted reasonably and in good faith. Any framework should provide clarity on how notification obligations and cancellation-related liabilities will operate in these circumstances, including where responsibility sits when delays arise outside an employment business's direct control.

25. Compensation rules must be carefully designed to avoid creating unintended incentives or behavioural distortions. Any framework should protect workers without discouraging hirers from creating temporary work opportunities or reducing the willingness of businesses to engage agency labour when flexibility is needed.

26. We question whether the evidence base fully reflects current industry practice. While Government evidence suggests that 28% of workers received no compensation following the short-notice cancellation of shifts, this does not reflect the experience reported by many members. Agencies frequently provide compensation, alternative assignments, replacement work or other practical support when cancellations occur, often going beyond what is captured in formal compensation arrangements. Members report that supporting workers when assignments change is often necessary to maintain good worker relationships, protect earnings and ensure an ongoing supply of labour to clients.

27. These findings suggest that many employment businesses already take proactive steps to mitigate the impact of cancelled assignments and support workers when changes occur at short notice. There is therefore concern that a highly prescriptive statutory regime may fail to recognise existing good practice while imposing significant additional costs and liabilities on businesses.

28. There is also a risk that overly burdensome cancellation requirements could reduce the willingness of hirers to engage temporary workers at all. By increasing the costs, risks and administrative complexity associated with flexible staffing arrangements, the proposals may result in fewer temporary assignments and reduced opportunities for workers seeking flexible employment. Members have warned that this could have wider consequences for sectors such as logistics, hospitality, education, health and social care, all of which depend on the ability to respond quickly to changing staffing and business needs.

29. The framework should therefore provide reasonable protection for workers while preserving the flexibility needed for temporary labour markets to function effectively. Any final regime should recognise the realities of temporary labour markets, avoid disproportionate administrative burdens, provide clear rules on liability within complex labour supply chains, ensure that businesses are not penalised for circumstances beyond their reasonable control, and allow sufficient flexibility for commercial arrangements that are already delivering positive outcomes for workers.

**Case study: Cyber incidents and unforeseen disruption**

30. *One member highlighted the need for exemptions or protections where shifts are cancelled due to genuinely unforeseen events outside an employer's control. For example, a significant cyber incident could disrupt business operations, staffing requirements and the ability to communicate with workers. In such circumstances, employers and employment businesses may have little or no ability to avoid cancellations despite acting reasonably and in good faith. Members therefore believe the framework should include appropriate safeguards for exceptional circumstances, including cyber incidents, severe weather events, public emergencies and other unforeseen operational disruptions.*

**Case study: Retail sector**

31. *One member highlighted a large-scale retail staffing arrangement where significant numbers of temporary workers may be cancelled at short notice due to factors outside the control of either the employment business or the worker, including sudden reductions in customer demand, supply chain disruption or operational changes.*

32. *Under a highly prescriptive cancellation regime, employment businesses could face substantial financial liabilities before recovering costs from clients, creating considerable cash-flow pressures and increasing the overall cost of providing temporary labour*

**Guaranteed-hours offers should be administered by employment businesses**

33. Where guaranteed-hours rights apply, responsibility for assessing entitlement and making guaranteed-hours offers should rest with employment businesses rather than hirers.

34. Placing responsibility with employment businesses would provide a clearer, more coherent and administratively efficient approach while maintaining a single point of accountability for workers.

35. Employment businesses are best placed to perform this role because they already maintain direct contractual relationships with agency workers and hold the information necessary to assess entitlement, including assignment histories, hours worked and pay records. They are also responsible for a range of existing legal and regulatory obligations relating to agency workers.

36. A hirer-led model would create significant practical difficulties. Agency workers often complete assignments with multiple hirers over relatively short periods of time, making it difficult to determine which organisation is responsible for assessing entitlement and issuing an offer.

37. This could result in unclear lines of responsibility, inconsistent decision-making and confusion for workers seeking to understand their rights. It would also impose additional obligations on hirers that do not align with existing agency work arrangements.

38. That said even with such an arrangement agencies would find it very difficult to provide the hours guaranteed given they don't determine the hirers' demand. This is why agency exemption makes the most sense

**Median hours provide the most accurate basis for calculating guaranteed-hours entitlements**

39. If guaranteed-hours entitlements are calculated using previous working hours, the median should be used rather than the mean.

40. Feedback from REC members consistently indicates that median hours provide a more accurate reflection of a worker's typical working pattern. Mean calculations can be significantly distorted by temporary peaks in activity, including seasonal surges, project work, overtime, sickness cover, maternity cover and short-term staffing shortages.

41. As a result, the mean risks generating guaranteed-hours obligations based on exceptional periods of demand rather than normal working patterns. This could create obligations that are disconnected from ongoing labour requirements and reduce the willingness of employers to offer additional hours even when demand increases.

42. The median provides a fairer and more representative measure because it is less susceptible to distortion by unusual spikes in activity. It more effectively identifies underlying demand and better reflects the temporary and variable nature of agency assignments.

43. The benefits of using the median are strongest when combined with a 52-week reference period. Together, these measures provide the most accurate assessment of working patterns, capturing a full cycle of business activity while reducing the impact of short-term fluctuations.

44. For these reasons, the REC believes that any guaranteed-hours entitlement should be based on median hours calculated over a 52-week reference period. This represents the most proportionate, practical and evidence-based approach for agency workers and the businesses that engage them.

**However, a one-size-fits-all approach also creates challenges**

45. While the REC believes that the median is generally the best method for calculating guaranteed-hours entitlements, the education sector demonstrates the challenges of applying a single methodology across all sectors.

46. Agency teachers and support staff experience regular and predictable periods with little or no work due to school closures. Typically, there is a half-term break approximately every six weeks, alongside longer holiday periods at Christmas, Easter and during the summer. Assignments may cease for periods ranging from two to six weeks at a time. These breaks are an inherent feature of the education calendar and do not reflect a reduction in demand for individual workers.

47. As a result, calculations based on historic hours can produce very different outcomes depending on the methodology used. In many sectors, the median is preferable because it reduces the influence of unusually busy periods and provides a more accurate reflection of a worker's typical pattern of work. However, in education, regular periods of zero or very low hours are built into the annual cycle of work. In these circumstances, a median calculation may understate a worker's typical level of engagement. In some cases, a mean average calculated over a sufficiently long period could provide a more representative picture of work undertaken across the academic year.

48. This highlights a broader concern: the appropriateness of either a mean or median calculation depends on the nature of the sector in question. Neither approach can fully account for sectors where working patterns are driven by predictable closures, seasonal cycles or client demand.

49. This illustrates the limitations of a one-size-fits-all approach to guaranteed-hours obligations. It reinforces the need either for an exemption for agency work or for sufficient flexibility within the framework to recognise the distinct characteristics of different sectors and labour markets.

**Workers who already receive guaranteed hours should be excluded**

50. Workers who already receive contractual guaranteed hours above any statutory threshold should not be entitled to an additional guaranteed hours offer under the legislation.

51. The purpose of the policy is to improve security for individuals experiencing uncertainty as a result of very low or unpredictable guaranteed hours. Extending additional rights to workers who already benefit from guaranteed working time would create complexity without delivering any meaningful improvement in worker protection. It would increase administrative burdens for employers and employment businesses while duplicating protections that are already in place.

52. The legislation should therefore make clear that workers who already receive guaranteed hours above the relevant threshold are outside the scope of any additional entitlement.

# SECTION 4: Effective implementation will require a phased approach and additional time for agency work

**Agency work requires a separate implementation timetable**

1. If the Government decides to retain agency workers within scope of guaranteed hours provisions implementation for agencies should be phased and subject to a significantly longer timetable than for direct employment relationships, rules should not be put in place to 2028 at the earliest.

2. Agency work operates through a complex multi-party labour market model involving workers, employment businesses, hirers and, in many cases, umbrella companies and other intermediaries. Unlike a conventional employment relationship, contractual responsibilities and management of the working relationship are often shared across multiple organisations. As a result, applying guaranteed-hours provisions to agency work raises a range of unique operational and legal challenges that do not arise in direct employment.

3. The scale of change required should not be underestimated. The proposed framework will require substantial redesign of systems, processes, contractual arrangements and workforce planning practices across the labour market. These challenges are significant even in direct employment relationships, but they are considerably more complex in agency work because of the multiple parties involved, the variable nature of assignments and the operation of wider labour supply chains.

4. Implementing such a significant reform without sufficient time to address these complexities would create uncertainty, increase compliance risks and undermine confidence in the agency labour market. A phased and delayed implementation approach would provide a more realistic pathway to compliance.

5. The principal implementation risk is that organisations become subject to legal obligations before the necessary systems, processes and data capabilities are in place. This challenge is particularly acute in agency work, where assignment availability is determined by fluctuating client demand and other factors outside the control of employment businesses. Any guaranteed-hours framework will therefore need sufficient implementation time to accommodate these operational realities and avoid creating obligations that cannot be met in practice.

**Sector-specific guidance will be essential**

6. The Government should work closely with industry stakeholders to develop guidance tailored to the realities of the agency work model. This guidance should provide detailed clarification on the allocation of responsibilities between parties, the calculation of guaranteed-hours entitlements, the administration of offers, record-keeping requirements, compliance expectations and dispute resolution processes.

7. Given the complexity of labour supply chains, generic employment guidance will not be sufficient. Without detailed sector-specific guidance, there is a significant risk of inconsistent interpretation and application of the regulations, creating confusion for workers, employment businesses and hirers alike. This could lead to increased disputes, enforcement challenges and unnecessary administrative burdens across the labour market.

**Businesses and organisations need time to prepare**

8. The operational changes required to implement the guaranteed-hours framework within the agency sector will be substantial.

9. Employment businesses and hirers will need sufficient time to review and renegotiate contractual arrangements, redesign systems and processes, update payroll and workforce management systems, train staff, communicate changes to workers, and establish new compliance and monitoring procedures.

10. Many organisations will also need to assess the commercial viability of different assignment models and make significant adjustments to workforce planning arrangements. These changes are complex and cannot be implemented effectively within a short timeframe.

11. This is particularly important in the public sector, where employers rely heavily on a flexible workforce to maintain service delivery. The challenges associated with implementing these reforms are illustrated by NHS Employers' call for ministers to pause implementation and undertake a comprehensive impact assessment covering financial costs, productivity implications and equality considerations across health and social care. NHS Employers has argued that further engagement with NHS employers and workforce representatives is essential to ensure that any new regulatory framework strikes the right balance between strengthening employment protections and preserving the flexibility needed to deliver safe and effective patient care.

12. Given the scale of the changes involved, it would be unreasonable for the time available for implementation to be compressed as a result of delays in finalising government policy. Any delay in establishing key policy details should not be offset by reducing the period available for businesses, hirers and public sector organisations to prepare. Adequate lead-in time will be essential to ensure compliance, minimise disruption and maintain continuity of service provision.

**A phased approach would minimise labour market disruption**

13. Agency work plays a vital role in supporting sectors that depend on flexible access to labour, including health and social care, logistics, manufacturing, education, hospitality and construction.

14. Many of these sectors rely on agency workers to respond quickly to fluctuations in demand and address workforce shortages. The abrupt implementation of a complex and untested framework risks disrupting labour supply, reducing access to temporary work opportunities and increasing costs for organisations that are already operating under significant financial pressure.

15. A phased implementation period would enable businesses, workers and hirers to adapt gradually to the new requirements while maintaining continuity of labour supply and minimising disruption.

**Additional time is needed to resolve outstanding issues**

16. A number of significant practical, operational and legal questions remain unresolved. These include the allocation of responsibilities between parties in the labour supply chain, the administration of guaranteed-hours offers, the treatment of workers who move between

assignments, and the interaction of the proposed regime with existing agency work arrangements.

17. The Government has yet to provide sufficient clarity on many of these issues. Proceeding before they are resolved would create uncertainty for all involved and increase the risk of inconsistent implementation and legal challenge.

18. In addition, as stated in section 3 above, no final decisions on the application of guaranteed-hours provisions to agency workers should be made until the Government has fully considered the outcome of the ongoing consultation on agency worker regulations.

19. A longer implementation period would allow the Government to consider these issues in the round, undertake further engagement with the sector and ensure that any final framework is coherent, proportionate and capable of operating effectively within the realities of the agency labour market.

**Implementation should be supported through guidance, engagement and proportionate enforcement**

20. Given the complexity of the proposed framework, implementation should be based on a support-first approach that helps employers, employment businesses and hirers understand and comply with their obligations.

21. REC members have consistently argued that reforms of this scale require a genuine partnership approach between Government, business and worker representatives. The Government must therefore place business at the heart of implementation. Given the scale and complexity of the Employment Rights Act reform programme, meaningful engagement with employers, employment businesses and their representative bodies should be a core principle of the process, not an afterthought. Those responsible for delivering these changes in practice are best placed to identify operational challenges, assess cumulative impacts and help develop workable solutions. The detail of secondary legislation, guidance and enforcement arrangements should be developed in collaboration with those who will be responsible for implementing them on the ground.

22. In the early stages of implementation, Government and enforcement bodies should prioritise guidance, education and practical support rather than relying primarily on punitive enforcement measures. This is particularly important in agency work, where compliance will depend on coordination between multiple parties and where many operational questions remain unresolved.

23. Clear guidance will be required on what constitutes reasonable compliance, how responsibilities should be allocated across labour supply chains, and what employers, hirers and employment businesses will be expected to do in practice. Organisations should not be exposed to disproportionate penalties where genuine efforts have been made to comply within a new and highly complex regulatory environment.

24. A collaborative and proportionate approach to implementation and enforcement will be essential if the Government is to avoid unintended consequences and ensure reforms are practical, proportionate and workable in the real economy. Sustained engagement with those responsible for creating jobs, managing workforce flexibility and supporting labour market participation will improve compliance outcomes, reduce unnecessary disputes, and help ensure the reforms support growth, investment and job creation.

# Appendix

**Legal analysis and technical detail**

This appendix sets out a number of legal and operational issues that require further consideration to ensure that the Regulations can be implemented effectively in the agency work sector.

**Defining Thresholds**

The method for calculating the hours threshold will need to be clearly defined and should reflect both the practical operation of the agency work model and the existing legal framework under the Conduct of Employment Agencies and Employment Businesses Regulations.

Agency workers are typically engaged under an overarching contract with an employment business, with the specific details of each assignment set out separately in an Assignment Details Form (ADF). In practice, the overarching contract rarely specifies the hours that will be worked, as these are determined on an assignment-by-assignment basis and reflected in the ADF.

It is therefore important to clarify whether the assessment of the hours threshold will be based on the overarching contract or on the terms of the relevant assignment. If the overarching contract is used, it is likely that very few, if any, agency workers would fall outside the Guaranteed Hours (GH) offer regime because those contracts generally do not contain defined working hour commitments. Such an outcome would appear inconsistent with the underlying policy intention and could result in the framework operating differently for agency workers than intended.

For this reason, consideration should be given to using the assignment documentation, rather than the overarching contract, as the basis for assessing the applicable hours threshold.

**Retaining the existing carve-out for agency workers**

The carve-out for agency workers in Schedule 1 of the Employment Rights Act 2025 should be retained. The agency work model is distinct from direct employment and the legislation has historically recognised this by limiting the application of certain rights relating to access to permanent employment opportunities.

While the proposal to extend the existing Day 1 right to information about internal vacancies which already exists under the Agency Worker Regulations 2010 (AWR) may appear relatively modest, allowing agency workers to apply directly for such roles would fundamentally alter the purpose and operation of temporary agency work and create significant practical challenges.

Agency workers provide organisations with access to a flexible workforce and are engaged through a tripartite relationship involving the worker, the employment business and the hirer. Requiring hirers to facilitate direct applications from agency workers, or creating an expectation that temporary assignments should convert into permanent positions where an ongoing requirement exists, would blur the distinction between temporary agency work and permanent recruitment.

Such a change could undermine established contractual arrangements between agencies and hirers and may ultimately reduce employers' willingness to engage agency workers. This would diminish the flexibility that agency work provides to both workers and businesses. Although agency work can and often does provide a route into permanent employment, decisions regarding whether a role should become permanent and how that role should be recruited remain matters for the hirer's workforce planning and recruitment processes. Any measure that goes beyond providing information about vacancies risks creating legal uncertainty, increasing administrative burdens and disrupting a labour market model that delivers significant value to employers and workers alike.

**Defining key terms**

Several terms used throughout the Regulations require further clarification to reduce ambiguity and minimise the risk of disputes arising in practice. In particular, guidance is needed on how a "week" should be defined when calculating the relevant reference period. It is unclear whether this should be based on calendar weeks, business days, a five-day working week or a seven-day period. Clarification is also required on how weeks should be treated where a worker is contracted to work fewer than five days. For example, if a worker is engaged to work three days per week, it should be made clear whether that constitutes a full week for the purposes of the reference period.

Further detail is also required in relation to cancellation and short-notice provisions, including the meaning of terms such as "specified amount" and "specified notice period". Without clear definitions, there is a risk of inconsistent interpretation and application across different sectors and working arrangements.

**Avoiding unintended consequences**

In addition to the issues outlined above, careful consideration should be given to a number of wider consequences that may arise from the proposed framework. The Regulations should avoid creating outcomes that are inconsistent with the policy intention or that place agency workers at a disadvantage compared with directly engaged workers.

**Employment status**

The obligation for agency workers to be offered a guaranteed hours contract raises concerns regarding employment status and the potential unintended legal consequences that could arise from that.

Usually, agency workers supplied to hirers are engaged under contracts for services rather than contracts of employment. A key distinction between these arrangements is the absence of mutuality of obligation. While an agency may offer assignments to a worker, there is generally no ongoing obligation on the agency to provide work between assignments, nor is there an obligation on the worker to accept future assignments. This flexibility is fundamental to the agency work model and reflects the reality of how the sector operates.

While the ERA will require the hirer to offer an agency worker a guaranteed hours contract which is a 'worker' contract, the obligation to guarantee hours is at odds with a worker contract. Although the legislation envisages individuals remaining engaged under a "worker" contract, the label attached to a contractual relationship is not determinative of status. Tribunals will look beyond the wording of the contract and instead consider the reality of the relationship in practice.

The guaranteed hours contract introduces a degree of mutuality of obligation that is more commonly associated with employment status. A guaranteed hours commitment could be interpreted as creating an ongoing obligation on the agency to provide work and a corresponding expectation that the individual will perform that work. These are key indicators traditionally associated with an employment relationship rather than a worker relationship.

This appears to be an unintended consequence of the proposal. The policy objective of a guaranteed hours offer is to provide greater certainty of income and working patterns for individuals who regularly work predictable hours. There is no indication that the intention is to reclassify agency workers as employees or to fundamentally alter their legal status. However, the practical effect of the proposal may be to blur the distinction between worker and employee status, creating uncertainty for businesses and workers alike.

If the introduction of guaranteed hours leads to workers successfully arguing that they are in fact employees, hirers or agencies could find themselves subject to a range of additional obligations and liabilities that the legislation did not intend to create. These may include obligations relating to continuity of employment, redundancy, unfair dismissal rights, notice periods, and the provision of work during periods where no client assignments are available.

Given the existing pressures on the employment tribunal system, there is a real risk that the proposal could generate substantial additional litigation on employment status disputes.

**Umbrella Companies**

The position of umbrella company workers requires particular consideration. The definition of an agency worker in the Employment Rights Act 2025 refers to an individual who has a work-finding contract with a work-finding agency. However, the legislation does not appear to provide for this definition to be expanded or modified through secondary legislation.

This creates uncertainty as to whether workers engaged through umbrella companies fall within the intended scope of Schedule 1. Unlike employment businesses, umbrella companies do not generally find or seek to find work for individuals. Their role is typically limited to employing workers and administering payroll once an assignment has been secured through an agency.

As currently drafted, this could leave umbrella company workers outside the scope of Schedule 1 and subject instead to the provisions of section 27. Such an outcome would be difficult to justify given that workers performing the same assignment could be afforded different rights purely because of the structure of the supply chain through which they are engaged.

To avoid inconsistency and unintended disparities in treatment, the Regulations should clearly address the status of umbrella company workers and ensure that agency workers are not subject to different rights solely because of the contractual arrangements used to engage them.

**Demand on the Employment Tribunal System**

It is well recognised that the Employment Tribunal system is under considerable strain, with a significant backlog of cases. Introducing new employment provisions that blur the employment status of workers is likely to lead to a further increase in tribunal claims.

In 2025/26, employment tribunals received 50,000 single claims, an increase of 39% on the previous year. Over the same period, they disposed of just 26,000 claims, a fall of 12%. As a result, the open single-claim caseload stood at 64,000 in March 2026, representing a 55% increase in just 12 months.

Lengthy tribunal delays impose substantial costs on employers through legal spend, management time and weakening evidence. They also increase pressure to settle claims before a hearing, meaning many disputes are never reflected in tribunal statistics.