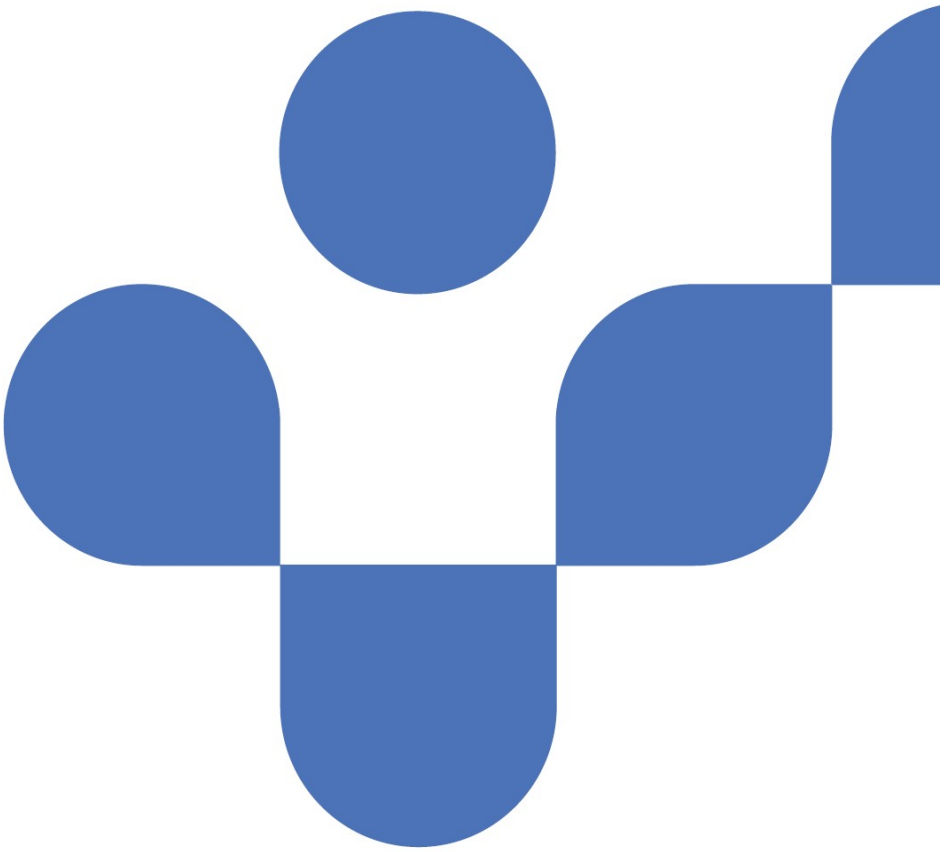
Equal Pay and pay discrimination consultation response

A response by the Recruitment & Employment Confederation

October 2026



About the Recruitment & Employment Confederation

The Recruitment & Employment Confederation (REC) is the professional body for the UK recruitment industry. We represent over 3,000 recruitment businesses and our sector places over half a million people into permanent jobs each year and ensures that a further 870,000 are working flexibly through temporary assignments on any given day.

The professional staffing sector is bigger in scale than either law or accountancy and contributed over £40 billion to UK GDP in 2025. Our members work as advisors, planners, and partners with business across all sectors on recruitment, retention and productivity, enabling growth of all businesses across the UK.

We are a trade body with uniquely deep touchpoints into the labour market, with insight into how people move into and through all sectors of the economy throughout the UK. Our expertise lies in the value and contribution of the UK's flexible labour market.

Executive summary

We share the government's ambition of ensuring that people are paid fairly for the work they do, and that there is zero tolerance for pay discrimination based on disability or race. A more robust framework has an important role to play in tackling pay inequality and improving fairness at work.

However, we do not support simply adding new obligations to an existing framework that is already complex and difficult to navigate. The government should use this reform to address the practical weaknesses in the current system, including the complexity of equal value claims, uncertainty around legitimate differences in pay, and the time and cost involved in resolving disputes. Making the existing framework clearer, more predictable and more effective will provide a stronger foundation for extending protections to other protected characteristics.

The REC supports the proposed requirement for parties across the labour supply chain to take "all reasonable steps" to prevent pay discrimination. We believe this can strengthen the role of recruitment businesses in helping employers make fair, evidence-based pay decisions. However, the duty must have a clear legal meaning, including what steps are expected, when they should be taken and how responsibility is allocated between the different parties involved in hiring. This is especially important to consider because in most cases the hirer rather than the agency will determine what someone's salary is. That means ultimate liability for inequality of pay should rest with the end hirer not the agency.

The government should set clear expectations for hirers, including obtaining and considering appropriate salary benchmarking and labour-market information when setting pay. Where a recruitment business is involved, its specialist knowledge of salaries and local, sectoral and occupational labour markets could form part of this process. Recruitment businesses already obtain pay information under the Agency Workers Regulations, benchmark salaries and advise clients where proposed rates are unlikely to attract the right candidates. Reforms should build on these existing processes and the increasingly strategic role recruitment businesses play in advising employers on salary benchmarking, job design and workforce planning.

Any liability should align with which party has control over the relevant decision. Where a hirer controls the pay decision and holds the relevant information, it should remain responsible for the final decision. Recruitment businesses should have a clear role in providing market evidence, raising concerns where appropriate and documenting the reasonable steps they have taken. This would make "all reasonable steps" a practical compliance framework, rather than simply extending liability across the supply chain.

To enable stronger and more proactive enforcement, we are opposed to the introduction of an equal pay regulatory and enforcement unit. The Fair Work Agency (FWA) was long awaited as a single enforcement body so it makes sense for them to have the enforcement powers that the equal pay unit includes. Any perceived benefits of introducing an additional unit are outweighed by the confusion it would likely cause because of competing enforcement powers and a fast-changing regulatory landscape. The FWA must however be resourced adequately to fulfil this work. The government must also consider whether the Employment Tribunal system has the capacity to resolve additional claims effectively. We know that currently capacity in the system is severely lacking and employers and workers involved in Tribunal cases are facing unduly long waits for cases to be resolved.

Where we remain concerned is regarding the cumulative impact of these reforms alongside wider changes to employment rights and agency work. The government is introducing significant new obligations across the employment system at the same time as reforming equal pay. These changes will interact in practice, particularly for businesses using agency workers, and should be considered together. New rights should be accompanied by clear guidance, sufficient implementation time and enforcement mechanisms with the capacity to resolve disputes effectively.

The REC's position is therefore straightforward: strengthen protection, but make the framework work in practice. The government has an opportunity to create a system that delivers fairer outcomes for workers whilst giving employers and recruitment businesses the clarity, evidence and practical tools they need to comply.

The REC therefore calls on the government to:

- **Fix the application of equal value before expanding its scope**, making the existing system simpler, clearer and quicker for workers and employers.
- **Ensure the framework distinguishes unlawful discrimination from legitimate differences in pay**, including those arising from genuine labour-market factors.
- **Define "all reasonable steps" clearly**, including the steps hirers should take to establish and evidence fair pay and the role recruitment businesses can play in providing specialist labour market and salary information.
- **Ensure liability follows control**, so that hirers remain responsible for pay decisions they control whilst recruitment businesses are able to fulfil a meaningful compliance role within their expertise and control.
- **Use pay transparency and labour-market intelligence to prevent pay inequality**, rather than relying on disputes and litigation after the event.
- **Ensure enforcement is clear, proportionate and adequately resourced**, including sufficient capacity within the Employment Tribunal system.
- **Assess the cumulative impact of equal pay reform alongside wider employment and agency-worker reforms**, particularly on the cost, availability and flexibility of labour.

Fix the existing framework before expanding it

The REC supports the government's intention to strengthen equal pay protection. However, extending the framework will only improve outcomes if the existing system is made simpler, clearer and more effective. Equal value claims are necessarily complex because they require comparisons between different roles and workplaces. The current process can nevertheless result in lengthy and costly disputes, creating uncertainty for employers whilst leaving workers waiting for an outcome for years, in some cases.

The government should use this reform process to address those practical difficulties that overtime erode trust in the system. Workers should have confidence that where they have a genuine claim, they can access timely and effective redress. Employers should have a clear understanding of their obligations and a proportionate route for resolving disputes.

For the system to provide effective redress, it must also give employers clarity about when a difference in pay constitutes discrimination and when it reflects a legitimate business or labour market factor. Difference in pay is not, in itself, evidence of discrimination. Often, remuneration reflects legitimate factors including location, skills requirements, working conditions, experience, recruitment difficulties and the labour market in which a role is being recruited.

Without this clarity, cases such as the litigation involving Next Retail illustrate the practical difficulties that can arise when determining whether predominantly female roles and predominantly male roles are of equal value, and whether differences in pay between those roles can be objectively justified. The case demonstrates how questions about job evaluation, comparability and the reasons for differences in pay can become highly complex and protracted.

If there is a duty on all parties in the supply chain to take "all reasonable steps" and to show they have done so in the case of legal proceedings, it will be even more vital that the government are clear on what this means for businesses. The government should provide much clearer guidance on the material factor defence, including practical examples of legitimate factors that can explain differences in pay and how employers should evidence them. Employers need to know what good compliance looks like.

Reform in this area should therefore prioritise:

- clearer guidance on meaningful comparisons and the application of equal value;
- clearer guidance on legitimate differences in pay and how these should be evidenced; and
- proportionate mechanisms for resolving disputes before they become lengthy litigation.

There is little value in extending a system that workers and employers struggle to navigate. Making the existing framework more effective should be the foundation for extending its scope.

Extend protection without reproducing unnecessary complexity

The REC recognises the government's objective of extending stronger equal pay protections to race and disability. However, the existing equal pay framework is already complex, with significant challenges around equal value claims, comparators and the assessment of legitimate differences in pay. The REC is concerned that extending the framework without first addressing these challenges could introduce further complexity and place additional pressure on a system that already struggles to resolve cases efficiently.

The priority should therefore be to make the existing framework clearer, more predictable and effective. This would give workers greater confidence in accessing redress and give employers greater certainty about their obligations, whilst providing a stronger foundation for extending protections to other protected characteristics.

Government guidance should explain how comparisons should be made, what evidence employers should consider and how potential discrimination should be identified and addressed. This will be particularly important for small and medium-sized enterprises (SMEs) that may not have dedicated HR or legal functions.

The government should also recognise that race and disability are not homogenous categories. Pay inequality can have different causes and can intersect with other characteristics and circumstances. The solution should not be an increasingly complicated system of categories and processes that employers struggle to apply. Clear principles and practical guidance will be more effective, giving

employers, recruiters and workers the appropriate guardrails in which to assess their own individual circumstance.

Where an employer is required to undertake an equal pay audit or job evaluation, the requirements should be proportionate to the circumstances and supported by clear guidance on what is expected, what evidence should be considered and what constitutes satisfactory remediation. The purpose should be to identify the cause of an inequality and correct it.

Use pay transparency to prevent disputes before they arise

The REC supports the proposed pay transparency measures. Recruitment businesses see directly the inefficiency created when candidates and employers do not have a clear understanding of the salary on offer. Our member evidence indicates that candidates can interpret a lack of salary information, or wording such as "salary dependent on experience", as an indication that a role is likely to be paid at the lower end of the market.

This can deter suitable candidates whilst also resulting in employers spending time interviewing people who ultimately will not accept the role. Greater transparency can therefore improve recruitment efficiency as well as helping identify potential inequalities earlier.

For transparency to be meaningful, salary ranges must be realistic and genuinely achievable. A very wide range could technically comply with legislation whilst providing candidates with little useful information. The treatment of bonuses, commission and other elements of remuneration should also be clear. The REC's existing End Salary History guidance already encourages recruiters to obtain clear salary brackets from clients and ensure these reflect the skills and experience required for the role.

However, determining an appropriate salary range is context-specific, reflecting factors such as role responsibilities, sector, location and experience. As the trade association for the recruitment industry, REC has practical expertise in how salary information is established and communicated in the labour market. We would welcome the opportunity to work with the government to develop guidance that draws on this expertise, supports realistic and meaningful salary ranges, and is practical for recruitment businesses and employers to implement.

Any new requirements must also be considered alongside existing regulation. Under Regulation 27 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003, where an advertisement includes rates of pay, agencies and employment businesses must also provide information about the role, its location and the minimum experience, training or qualifications required to receive that rate.

Requiring salary information in every advertisement would therefore have implications for the information recruitment businesses must provide and the processes they follow. The government should consider how any new duties interact with existing obligations, avoiding unnecessary duplication and ensuring requirements are clear and proportionate.

Government must be more coordinated with its approach to regulation and enforcement

The REC's concerns about enforcement capacity are particularly important given the wider programme of reform affecting agency work. The government is simultaneously developing new rights for agency workers, including guaranteed hours, reasonable notice of shifts and compensation for shifts cancelled, curtailed or moved at short notice. These reforms will create new obligations across the agency supply chain and will interact with existing protections under the Agency Workers Regulations.

The government should therefore consider the cumulative impact of these reforms alongside the proposed equal pay changes. New rights can create uncertainty in the early stages of implementation, particularly where there is limited case law establishing how the new requirements should operate in practice. Businesses may be reluctant to become test cases because of the legal costs, management time and reputational risks involved. This can leave important questions unresolved and increase pressure on the tribunal system.

That pressure is already significant. In 2025/26, employment tribunals received 50,000 single claims, up 39% on the previous year, but disposed of only 26,000, down 12%, according to the government's own data. The open single-claim caseload reached 64,000 in March 2026, a 55% increase in 12 months.

The government should therefore assess the interaction between equal pay reform, Agency Worker Regulations and the wider employment rights programme before introducing further obligations.

Make responsibility follow control in labour supply chains

Equal pay reform should be considered alongside the wider programme of reform affecting agency work. The REC has already highlighted the importance of considering changes to agency work together rather than as a series of separate measures. By their nature, recruitment businesses are enmeshed with hirers and workers. Adding obligations to one part of the recruitment supply chain can create costs, administrative requirements and liabilities elsewhere.

The scale of the sector makes this important to the wider economy. The REC's Recruitment Industry Status Report (RISR) estimates that the recruitment industry contributed £40.6 billion in direct Gross Value Added (GVA) in 2024, equivalent to 1.6% of UK GVA. Temporary and contract placements accounted for 76.7% of recruitment industry GVA, and an estimated 872,000 temporary and contract workers were on assignment on any given day.

The current labour market also makes it important that policy supports access to work and does not unintentionally reduce flexibility. The REC JobsOutlook data shows that temporary employment increased by 3.6%, or 56,000 people, to 1.6 million in May to July 2026. Meanwhile, ONS data, cited in the REC JobsOutlook data, shows that vacancies fell by 4.9% year on year in June to August.

Agency work is therefore an important part of how employers respond to changing demand and how people access employment. The government should assess whether increasing the cost or complexity of agency work would achieve the employment needed to create growth and provide opportunity. Employers have alternatives to agency work. If it becomes materially less attractive, they may reduce recruitment, restructure roles or use less secure forms of labour supply.

This is particularly important for smaller recruitment businesses. Our data shows that 48% of agencies reported that their financial health had deteriorated over the previous 12 months, with smaller firms disproportionately affected. The point is not that agency work should be exempt from stronger equal pay protection. It is that the consequences of reform should be assessed against how the labour market actually operates.

For the recruitment sector, the proposals concerning outsourcing and labour supply chains are particularly significant. The proposals would extend equal pay responsibilities across labour supply chains, including by requiring businesses and other parties involved in supplying labour to take reasonable steps to prevent pay discrimination. Agency workers already benefit from specific equal pay protections under the Agency Workers Regulations (AWR). Recruitment businesses have

established processes for obtaining comparative information from clients and ensuring that agency workers receive the appropriate treatment.

The proposed duty to take “all reasonable steps” should build on this existing practice. The starting point should be simple: the party that controls the pay decision should remain responsible for that decision. The end hirer (client) determines the role, its requirements and the pay attached to it. The client also holds some of the information needed to determine whether roles are comparable under the relevant legal tests. A recruitment business should therefore not be required to independently determine whether a client's employees are undertaking work of equal value where they don't have the necessary information and decision-making authority.

However, this does not mean recruitment businesses are passive participants in the process. Recruiters work directly with employers and candidates and have current knowledge of salaries, candidate expectations and labour-market conditions. This can be particularly valuable where national or sector-level data does not capture local conditions. Recruiters can identify differences in pay and candidate availability between locations, sectors and types of employers, including where job titles do not neatly correspond to standard occupations.

Many of our members use the REC's labour market data to complement their local and sector-specific expertise when advising hirers. Used together, these sources can give employers a stronger evidence base when determining whether a proposed rate is realistic and appropriate for a role within current market conditions.

The REC therefore recommends that the government sets out clear expectations for the steps hirers should take to demonstrate that they have prevented pay discrimination. This should include obtaining and considering appropriate labour-market and salary information when setting pay, including advice from recruitment businesses where they are involved in the hiring process.

In practice, hirers should be expected to:

- provide recruitment businesses with sufficient information about the role, responsibilities and proposed terms to enable meaningful benchmarking;
- obtain and consider relevant salary benchmarking and labour-market information;
- consider local, sectoral and occupational differences when determining appropriate pay;
- consider and respond to concerns raised by recruitment businesses where proposed pay appears inconsistent with the role or prevailing market rates; and
- retain evidence of the steps taken and the basis for the final pay decision.

This would give recruitment businesses a clear and meaningful role in the compliance process. Members already report using their labour market expertise to challenge proposed rates and advise clients where pay is unlikely to attract the right candidates. Where a recruitment business is involved, the government should make clear that using appropriate recruitment expertise and market evidence can form part of a hirer's adherence to a "taking all reasonable steps" approach. The final pay decision should remain with the hirer where the hirer controls that decision.

This would give the government a practical compliance model that builds on processes already operating in the recruitment sector. It would also recognise the value of professional recruitment services. Employers often use recruitment businesses not just to fill vacancies, but to access specialist knowledge of candidate availability, salary expectations and labour market conditions. The proposed framework should advise the use of this expertise where appropriate rather than treating recruitment businesses solely as an additional compliance risk.

What it should not require is for a recruitment business to guarantee information supplied by a client or assume legal responsibility for a pay decision that the client controls. A recruitment business should

be able to demonstrate that it obtained relevant information, provided appropriate advice and raised concerns where necessary. This approach would encourage intervention before pay inequality becomes embedded whilst keeping accountability with the organisation making the underlying decision. Where the recruitment sector would need clarity from government is guidelines on what sufficient record keeping could look like to not cause unnecessary uncertainty for businesses. It is also important that record keeping is proportionate to the appointment. The government should work with the sector on developing these guidelines to not fall into a "one size fits all" approach.

The same principle should apply to any proposed equal pay questionnaire process. A standard questionnaire could help focus equal pay complaints on relevant issues, but its use should be proportionate and avoid duplicating existing information rights under the AWR. Again, agencies may not hold all the relevant information, as most pay decisions and much of the supporting data sit with the end hirer. Clear limits on information requirements are therefore needed to avoid unnecessary administrative burden.

Prevent inequality throughout the employment lifecycle

Equal pay starts well before the appointment of a candidate. Pay inequality can be shaped before an individual is even employed, through how roles are designed, advertised and benchmarked, and can develop later through progression, promotion, occupational segregation and access to reasonable adjustments.

The government should therefore consider how the reforms can support preventative approaches alongside individual rights and enforcement. Fair recruitment practices, transparent progression routes and objective approaches to job evaluation can all contribute to reducing inequalities before they become embedded.

Recruitment businesses can influence the point at which people enter employment, and shape better outcomes for all. Salary transparency, accurate benchmarking and fair recruitment practices can help employers identify and address potential inequalities at the point of hiring rather than relying on workers to identify discrimination and pursue it through the legal system.

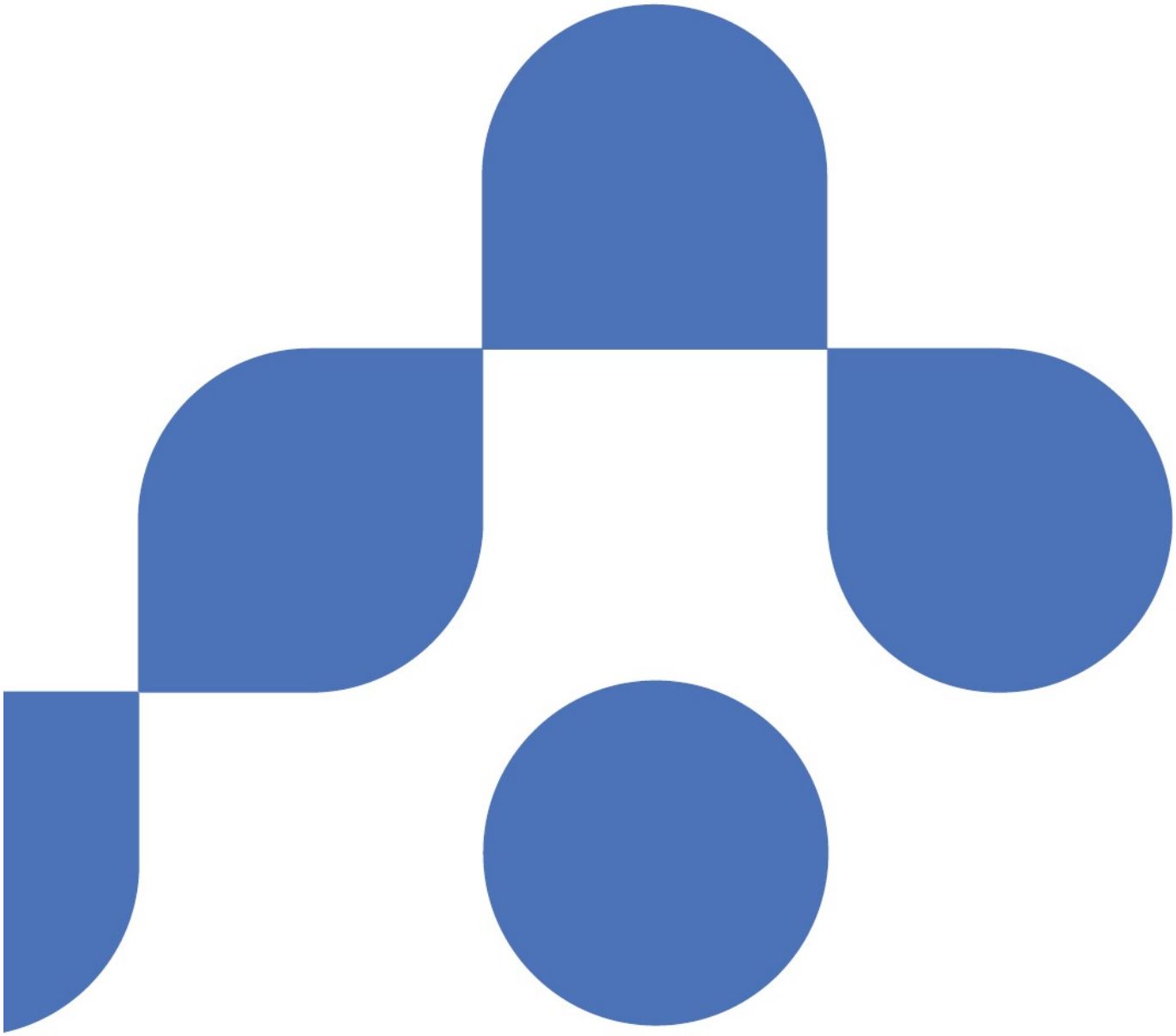
Whilst we understand this could form part of the proposed Equal Pay Unit, we are concerned that the introduction of another unit could cause confusion for members. We do not support the introduction of a separate Equal Pay Unit. Responsibility for equal pay enforcement should sit with the Fair Work Agency (FWA), which already has a broad enforcement remit and will take on responsibility for enforcing holiday pay from 2027. A separate unit risks duplicating existing functions and creating uncertainty over responsibilities.

This is a particular concern for recruitment businesses, which must already navigate regulation across multiple government departments, including health, education, work and pensions, science and technology, and the Home Office. Our legal helpline receives queries from members who are uncertain about which government body to approach for guidance. Adding another unit risks increasing this confusion, making businesses unnecessarily cautious and creating additional administrative burdens. We recommend incorporating equal pay enforcement into the FWA's existing remit, supported by clear, consolidated guidance for employers.

For more information on this submission, please contact:

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The REC is the voice of the recruitment industry, speaking up for great recruiters. We drive standards and empower recruitment businesses to build better futures for their candidates and themselves. We are champions of an industry which is fundamental to the strength of the UK economy. Find out more about the Recruitment & Employment Confederation at www.rec.uk.com.



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