

**Department for Business and Trade:
Make Work Pay: Consultation on Modernising the
Agency Work Regulatory Framework**

GENERAL COMMENTS

1. NASUWT welcomes the opportunity to respond to the Department for Business and Trade (DBT) consultation on modernising the agency work regulatory framework.
2. NASUWT – The Teachers' Union – represents teachers and headteachers across the United Kingdom.
3. NASUWT recognises that the questions in the consultation are significant and wide-ranging and warrant further discussion. The Union submission seeks to address these questions and issues associated with the experiences of supply teachers as agency workers engaged through employment businesses and umbrella companies.
4. Over recent years, changes in the UK labour market have had a significant impact upon pay, job security and conditions of employment, resulting in an increased disparity in the balance of power between employers and workers.
5. Figures published by the Trades Union Congress (TUC) show that 4.1 million people in the UK were employed in low-paid and insecure work in 2024. This included around one million workers on zero-hours contract,¹ which, it is

¹ [Over 8 in 10 zero-hours contract workers want regular hours – TUC poll reveals | TUC](#)

estimated, accounts for 3% of all employees,² whereas further analysis has put the number of temporary workers at 1.6 million, making up 5.5% of total employment.³

6. Data from the Labour Force Survey (LFS) (March 2025) suggests there are approximately 900,000 individuals involved in agency work in the UK,⁴ with roughly 140,000 stating that they were on a zero-hours contract.⁵
7. The *Taylor Review of Modern Working Practices* noted that there was a lack of robust data on the number of agency workers in the UK,⁶ with estimates ranging from approximately 790,000 from the TUC to 1 million temporary agency workers in the UK.⁷ The latter figure was referenced by The Recruitment and Employment Confederation (REC) in its 2023/24 UK recruitment industry status report.⁸
8. However, it is not easy to estimate the number of agency workers in the UK labour market, as surveys rely on people knowing and understanding exactly what their employment status is. As such, the level of agency working currently reported could be seen as just the tip of the iceberg.
9. Furthermore, figures suggest that there were approximately 40,000 agencies operating across different sectors of the labour market in the UK in 2018,⁹ with a 200% increase reported in 2019.¹⁰
10. Coupled with this has been the rapid expansion of the umbrella company market. For example, external analysis and HMRC data shows that the umbrella company market has grown substantially since 20 years ago,¹¹ with estimates suggesting that there were a least 500 umbrella companies in the UK in 2022.¹²

² [Consultation on the application of zero hours contracts measures to agency workers](#)

³ [EMP01 SA: Full-time, part-time and temporary workers \(seasonally adjusted\) - Office for National Statistics](#)

⁴ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

⁵ [Consultation on the application of zero hours contracts measures to agency workers](#)

⁶ [Good work: the Taylor review of modern working practices](#)

⁷ TUC analysis of LFS data

⁸ [UK recruitment industry status report 2023/24 :: The REC](#)

⁹ [Recruitment industry edges closer to 40,000-agency mark - TALiNT Partners Insights](#)

¹⁰ [200%+ increase in new recruitment agencies in 2019 | Recruiter](#)

¹¹ [Umbrella Company CfE_Final.pdf](#)

¹² [HM Treasury Call for Evidence on the Umbrella Company Market • FCSA](#)

11. Estimates suggest that there are between 15%¹³ and 50%¹⁴ of agency workers using umbrella companies, which, based on the LFS data above, could account for 135,000 to 450,000 agency workers.
12. Many of those working through an umbrella company will have little choice. For example, research undertaken by IPSE found that only 8% of freelancers reported that they had made the decision to operate through an umbrella company,¹⁵ whereas the Contractor Calculator survey found that 80% of respondents indicated that they had been forced into umbrella company contracts.¹⁶
13. Agency work is one of the most prevalent forms of insecure work. The precarious nature of agency work means that many workers risk insufficient hours, income insecurity and the inability to assert their rights without fear of negative impacts in the future (i.e. being denied access to work).
14. Many agency workers face a lack of guaranteed hours, whilst being 'on call' in anticipation of being notified of the possibility of work.
15. Indeed, the *Skills and Employment Survey* suggests that as many as two million people were 'very anxious' about their working hours changing unexpectedly, and that this was not limited to those on zero-hours contracts.¹⁷
16. In addition, agency workers often have to take on more than one job, including other precarious, intermittent and insecure work, thereby increasing the likelihood of in-work poverty.
17. For example, those on zero-hours contracts or agency work face higher costs associated with last-minute travel/childcare. This 'insecurity premium' can cost as much as £50 per month.¹⁸

¹³ [Agency Worker Survey \(2021\)](#)

¹⁴ [LITRG Labour Market Intermediaries Report 2021](#)

¹⁵ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

¹⁶ [Survey unveils worrying levels of non-compliance in the umbrella industry](#)

¹⁷ [Skills and Employment Survey 2017 – Wales Institute of Social and Economic Research and Data](#)

¹⁸ [Impact assessment zhcss right reasonable notice shifts payment shifts cancelled moved curtailed short notice.pdf](#)

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18. As a consequence, it is not surprising that some workers on such contracts face a ‘constrained choice’ with no job alternatives, limited access to part-time working that fits their caring responsibilities, or little or no additional financial support.¹⁹
19. This is compounded by the fact that a significant body of research shows a negative association between the mental and physical health of those workers on less permanent forms of employment (i.e. zero-hours contracts and agency work).²⁰
20. Those on zero-hours contracts, for instance, were more likely to report a long-term health condition, including being almost twice as likely to report mental ill health.²¹
21. Given the growing complexity of taxation and employment and equality law, coupled with the significant changes in the UK labour market over recent years which have impacted upon pay, job security and conditions of employment, it is essential that there is a strong legal and regulatory framework and a strong enforcement system that provides redress, while being fair, open, accessible and impartial.²²
22. It is right and proper that work should provide a baseline of security and predictability so that workers can plan their lives and their finances accordingly.
23. Indeed, there is a pressing need to rebalance the scales and address the ‘one sided flexibility’, as detailed in the *Taylor Review of Modern Working Practices*,²³ where employers in the UK are able to exert their monopsony power to push down terms and conditions.
24. It therefore comes as no surprise that material security/decent wage has been identified as one of the key indices of good work based on various organisations, including the TUC, the International Labour Organization (ILO), the Organisation

¹⁹ [Impact assessment: ZHCs - Right to Guaranteed Hours](#)

²⁰ [rewage_policy_brief_zero_hours_contracts.pdf](#)

²¹ Ibid.

²² <http://rtsa.ro/tras/index.php/tras/article/viewFile/27/23>

²³ [Good work: the Taylor review of modern working practices](#)

for Economic Co-operation and Development (OECD), Eurofound and the Chartered Institute of Personnel and Development (CIPD).²⁴

25. Not acting would enable poor working conditions and insecure, precarious and intermittent employment to continue unfettered, thereby increasing the numbers of those at the mercy of even more unscrupulous employer behaviour.

26. Evidence suggests that 68% of those polled ranked tackling insecure contracts as a top three priority when looking at delivering the *New Deal for Working People*.²⁵

27. It is therefore right that the Government seeks to ensure that employment rights and protections keep pace with the realities of the modern workplace and treat everybody fairly,²⁶ by amending the current regulatory framework to better protect agency workers.

28. The plan to Make Work Pay represents a once-in-a generation opportunity to strengthen the working conditions for the lowest paid and most vulnerable in the labour market, including agency workers, such as supply teachers.²⁷

29. NASUWT believes this represents an opportunity to transform the lives of workers who, over previous decades, have seen their wages decline, terms and conditions erode and contracts become ever less secure.

SPECIFIC COMMENTS

Indicate whether you are responding as:

- An individual
- An academic, or on behalf of an academic or research organisation
- An employer – employment business
- An employer – employment agency
- An employer – end hire of agency workers
- An employer – other

²⁴ [CBP-10307.pdf](#)

²⁵ <https://autonomy.work/portfolio/delivering-the-new-deal-for-working-people/>

²⁶ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

²⁷ [Delivering the new deal for working people - The Autonomy Institute](#)

- A legal representative
- A business representative organisation (please specify)
- A trade union or staff association (please specify) – The National Association of Schoolmasters Union of Women Teachers (NASUWT – The Teachers' Union).
- A charity or interest group
- Other, please specify
- Prefer not to say

Which region are you located in?

- North-East
- North-West
- Yorkshire and The Humber
- East Midlands
- West Midlands
- East of England
- London
- South-East
- South-West
- Wales
- Scotland
- Northern Ireland
- Prefer not to say

What sector are you based in?

- Accommodation and food service activities
- Activities of households as employers; undifferentiated goods and services-producing activities of households for own use
- Administrative and support service activities
- Arts, entertainment and recreation
- Agriculture, forestry and fishing
- Construction
- Education
- Electricity, gas, steam and air conditioning supply
- Financial & insurance activities
- Human health and social work activities
- Information and communication
- Manufacturing

- Mining and quarrying
- Production
- Professional, scientific and technical activities
- Public administration and defence; compulsory social security
- Real estate activities
- Services Sector
- Transportation and storage
- Water supply; sewerage, waste management and remediation activities
- Wholesale and retail trade; repair of motor vehicles and motorcycles
- Other service activities
- Prefer not to say
- Not applicable

The experiences of supply teachers as agency workers

30. One of the sectors the TUC has identified as having the fastest growth in insecure work is the education sector, which has risen by 42% since 2011.²⁸ Indeed, analysis by the LFS shows that agency work is prominent in a number of sectors, including education, with further DBT analysis demonstrating that the education sector (15%) was second only to the human health and social care sector (17%) in terms of having the largest share of agency workers.²⁹

31. Given this, NASUWT is concerned about the growing trend towards the casualisation of work, precarious employment and the use of zero-hours contracts, as well as the negative impact of these practices upon teaching standards, teacher morale and the entitlement of children and young people to a high-quality education.

32. Supply teachers are integral to the education system. Without supply teachers, many pupils would be denied the opportunity to be taught by qualified and dedicated teachers who ensure that schools can continue to provide the education to which children and young people are entitled.

²⁸ [the-gig-is-up.pdf](#)

²⁹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

33. As such, supply teachers make a vital contribution to securing high educational standards for all children and young people. Despite this, the experiences of many supply teachers suggest that developments such as deregulation have had a detrimental impact upon the deployment of supply teachers and their pay and working conditions, making it a deeply precarious and increasingly unattractive option, particularly when considered against teachers with a permanent contract of employment.
34. There has been a substantial increase in agency teachers working in schools in recent years. In the past, schools engaged supply teachers directly or accessed them from local authority supply pools. Private supply agencies existed at the margins, but not so much now.
35. The well-documented move away from permanent employees to a more complex and flexible labour market has resulted in the increased use of recruitment agencies and umbrella companies, including those wishing to exploit the fragile job security and unfair conditions of employment of agency workers, such as supply teachers.
36. Indeed, supply agencies have come to dominate the market place, up from 63% in 2014 to 81% in 2023/24. At the same time, the number of local authorities providing pooled supply arrangements dropped from 18% to just 1% respectively.³⁰
37. Given this, many supply teachers face the unenviable situation of having to obtain work via different supply agencies and umbrella companies, leaving them vulnerable to the vagaries of precarious, intermittent and insecure employment.
38. The well-documented move away from permanent employment to an outsourced labour market has resulted in increased costs to schools and worsened pay and terms and conditions of employment for supply teachers.
39. Research suggests that schools spent £1.4 billion in 2023/24 and that this was nearly double the amount compared to 2014/15.³¹

³⁰ [Evidence Submission to the STRB 36th Report October 2025 \(England\)](#)

³¹ [Supply teachers costing schools £1.4bn - as students say they are 'falling behind' | UK News | Sky News](#)

40. As a consequence, a number of supply agencies have reported record profits. This includes Tradewind Recruitment, which posted £11.3million, and Teaching Personnel, which posted a 26% increase in its turnover with a gross profit of £21.9 million. A loss of £2.6 million at Protocol Education for the year ending November 2020 rose to a £6 million profit in the year ending November 2021,³² whereas Just Teachers Ltd had a turnover of almost £30 million last year, with a gross profit of £8.9 million.³³
41. Smile Education offered a new regional recruitment consultant ‘uncapped commission’, with ‘top billers earning £100k+’. The advert also stated that employees have a paid-for holiday abroad together once a year.³⁴
42. An analysis of the annual accounts showed the country’s seven largest agencies recording £68.4 million in gross profit.
43. It has been estimated that approximately 93% of vacancies in publicly funded schools are filled by employment agencies.³⁵ More than 70% of secondary school headteachers have increased their spending on agency supply teaching, with a majority citing increased supply agency fees (54% of respondents) as a key factor in the increased expenditure.³⁶ However, whilst fees charged to schools have increased, supply teachers have not benefitted, and the pay of supply teachers has increasingly lagged behind the salaries of teachers employed by schools.
44. Crown Commercial Services (CCS) estimates that the average agency mark-up was 38%.³⁷ CCS estimated that this equates to an agency receiving £56 on a charge rate of £200 to the school, with the supply teacher receiving just £101.81.³⁸

³² [Teacher deregulation, by the back door - an investigation](#)

³³ [Revealed: Job agencies cashing in on £1BILLION demand for state school supply teachers - with booze-fuelled holidays in the sun | Daily Mail Online](#)

³⁴ [Supply teachers ‘second class citizens’ as pay stagnates](#)

³⁵ Ibid.

³⁶ [ASCL survey reveals soaring cost of supply teachers | Edexec](#)

³⁷ [Agency mark-up and the impact on temporary worker pay - GCA](#)

³⁸ Ibid.

45. In the financial year 2022/23, local authority maintained schools' gross expenditure included £698.07 million on supply staff costs. This comprised of £486 million on agency supply teachers, which represents a 17% increase on 2021/22.³⁹
46. Estimates suggest that the amount spent by local authority maintained schools on supply teachers for 2023/24 increased by 8.5% to in excess of £757 million.⁴⁰ Of this, £521.9 million was spent on agency supply teaching staff, an increase of 7.5% on that spent the previous academic year.⁴¹ Based on the commission figures quoted above, this represents in excess of £198.32 million of taxpayers' money being siphoned off into the pockets of supply agencies and/or umbrella companies.
47. For supply teachers, the impact of pay freezes and real-terms pay cuts, together with the lack of effective regulation of agencies, has resulted in even more acute cost-of-living pressures and the exodus of many supply teachers from the profession, including to non-professional occupations, such as retailing, where pay levels are rising.
48. For many supply teachers who are subject to the vagaries of intermittent and insecure employment, the cost-of-living crisis is ever more prescient, with a number of supply teachers placed in a precarious financial situation where they have had to make tough decisions about their expenditure, including cutting back on essential items, such as food and heating.
49. Of even greater concern is the fact that some supply teachers have been forced into mortgage/rent arrears, while having to rely on the generosity of family and friends to make ends meet.
50. The average daily pay rate for a classroom teacher employed by a school is £251.72 (equivalent to median teacher pay of £49,084).⁴² However, the majority of supply teachers report that they are paid between £100 and £149 per day.

³⁹ [Release home - LA and school expenditure - Explore education statistics - GOV.UK](#)

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² [Release home - School workforce in England - Explore education statistics - GOV.UK](#)

51. Just over half of supply teachers (52%) indicated that the rates of pay received during the academic year 2022/23 were the same as those they were able to earn in the previous academic year, whereas 14% reported that the rates of pay received were less than those they were able to earn in the previous academic year.
52. Just over a third (34%) said that the rates of pay received had increased, despite teachers getting a 5.5% pay rise for the academic year 2024/25 to all pay ranges and allowances.⁴³
53. It therefore comes as no surprise that supply teachers are stuck on ‘stagnating’ pay rates and ‘treated like second-class citizens’, fuelling a shortage amid booming demand.⁴⁴
54. When asked if the agency/agencies where they undertook work during the academic year 2023/24 operated a ceiling in respect of their remuneration, well in excess of half of supply teachers (55%) reported that the agency/agencies did.⁴⁵
55. The Union maintains that it is now time for the entitlement to national pay scales to be returned to teachers, including those undertaking supply, in England. This would ensure that schools in England have a competitive salary structure, something that is evidenced by the fact that just under a quarter (24%) of supply teachers were able to secure more money when working through a local authority or directly with a school in comparison to supply work through an agency.
56. Ending the ‘broken market’ in teacher supply would also deliver greater economy and efficiency for schools and a better deal for teachers and for pupils including addressing the detrimental impact of deregulation upon the pay and working conditions of supply teachers in comparison with teachers who have a permanent contract of employment with a school.

⁴³ [Written statements - Written questions, answers and statements - UK Parliament](#)

⁴⁴ [Supply teachers ‘second class citizens’ as pay stagnates](#)

⁴⁵ [Supply Teachers Annual Survey 2024 \(England\)](#)

57. Twelve per cent of supply teachers stated that they were paid between £51 and £119 per day for assignments, just over two-fifths (41%) stated that they were paid between £120 and £149 per day for assignments, and just over a third (34%) stated that they were paid at between £151 and £199 a day for assignments.
58. As such, well in excess of half (53%) of experienced supply teachers can expect to be paid at levels that equate to the daily rate a teacher on M1 can expect to receive.
59. This suggests that the majority of experienced supply teachers can expect to be paid at levels that equate to approximately £20 less than the daily rate a teacher on M1 can expect to receive when undertaking an assignment through an employment agency.⁴⁶
60. The daily rate of pay now received by a teacher undertaking supply work through an employment agency is lower than some of the rates of pay for an unqualified teacher.⁴⁷
61. NASUWT maintains that the increased reliance on agency working has led to a reduction in the pay and conditions of service of supply teachers. Rates of pay have remained stagnant for the overwhelming majority of supply teachers, and have been significantly eroded by inflation.
62. Without the application of the national pay framework, supply teachers have seen their pay plummet relative to other teachers, with no national entitlement to an annual pay award when employed via supply agencies.
63. When looking at the data in regards to comparisons between the journey taken by a supply teacher and a teacher working in school, the discrepancies in pay become ever starker. As referenced earlier, assuming a teacher working on a permanent contract receives an annual pay increment, by the time they reach M6, the difference between the pay of a supply teacher and that of a teacher on a permanent contract could be between £35,408 and £16,298.

⁴⁶ [NASUWT | Supply Teachers' Pay \(England\)](#)

⁴⁷ Ibid.

64. In England, a teacher on a permanent contract would be eligible to go through the threshold, enabling them to access higher rates of pay up to and including UPR3. As a consequence, the differences between the pay of a supply teacher and that of a teacher on a permanent contract are exacerbated, so that the difference could be between £41,104 and £21,994 per year.
65. Given the vagaries of insecure, intermittent and precarious work for vast swathes of supply teachers, it is extremely optimistic to think that they will be able to work for all 195 days of the 2024/25 academic year and therefore earn anything near the amounts referenced above. Many supply teachers are earning far less than their permanent counterparts in schools, in spite of their level of experience and expertise.
66. Recent research published by the Department for Education (DfE) reinforces many of the findings detailed above. *The Use of Supply Teachers in Schools* confirms what NASUWT has known and campaigned on for a number of years – namely that the supply market in England is broken and in desperate need of fixing.⁴⁸
67. Many schools and supply teachers would welcome greater parity and consistency, including through greater regulation of agencies, to address the inequalities in the system.⁴⁹
68. NASUWT advocates that a significant above-RPI inflation increase in salary values over a sustained period is necessary to restore supply teachers' salaries to a level commensurate with their skills and experience, as the evidence outlined above clearly demonstrates that supply teachers are a profoundly exploited and vulnerable group of teachers.
69. The Union maintains that the exploitation of supply teachers must be stopped, and, as such, NASUWT calls for all agency teachers to be guaranteed rates of pay commensurate with all other teachers across state-funded schools in England.

⁴⁸ [Use of supply teachers in schools: research reports](#)

⁴⁹ *Ibid.*

70. This could include recommending that the DfE works with local authorities and schools on the restoration of the organisation and administration of local authority pooled supply arrangements, as well as pools on a regional – and even an all-England – basis. At the very least it would include insisting that schools source supply teachers from such supply pools before resorting to an outsourced agency and/or umbrella company.
71. NASUWT maintains that the procurement and contract delivery of supply teachers should be insourced as part of the implementation of the '*biggest wave of insourcing of public services in a generation*',⁵⁰ to avoid poor remuneration and terms and conditions for hard-working and dedicated supply teachers.
72. For example, in Northern Ireland, supply teaching, or substitute teaching as it is known, is overseen by the Northern Ireland Substitute Teacher Register (NISTR) which is operated by the Department of Education (DE). The NISTR was designed specifically to tackle the practical issues involved in arranging suitable teaching cover identified in the Northern Ireland Audit Office report on *The Management of Substitution Cover for Teachers*, published in 2002.
73. All substitute teachers are registered through an online booking system that enables schools to book substitute teachers in real time through a regional centralised database of substitute teachers that they manage and update. They identify when they are available to work and then schools can book accordingly, with teachers being paid to scale and able to pay into the TPS.
74. In-house or insourcing has a significant number of benefits, not least of which is ensuring that those working in the public sector, such as supply teachers, are able to access better terms and conditions. These include the paid-to-scale rate and the Teachers' Pension Scheme (TPS), under the relevant provisions of the School Teachers' Pay and Conditions Document (STPCD) or the relevant provisions of their school's pay policy.

⁵⁰ [LABOUR'S PLAN TO MAKE WORK PAY - Delivering A New Deal for Working People](#)

75. Over four-fifths (83%) of supply teachers believe that the Government should ensure that supply teachers are paid to scale in line with the STPCD and just over three-fifths (62%) believe that the Government should ensure that they can access the TPS.⁵¹
76. The situation for supply teachers as agency workers in England is compounded by the fact that employment by or through agencies is currently not pensionable under the TPS, leaving many supply teachers no alternative other than to make less favourable pension plans, including reliance on inferior auto-enrolment pension arrangements. There is a strong argument that supply teachers, working alongside other employed teachers, should be afforded the right to access the TPS.
77. For many supply teachers who are subject to the vagaries of intermittent and insecure employment, this situation has been worsened by the cost-of living crisis and consistently high levels of inflation which have had a detrimental impact on the cost of goods and services.
78. All teachers are in the throes of a cost-of-living crisis, but for supply teachers the situation is even more prescient.
79. Well over a quarter of supply teachers (28%) reported that they had sourced work elsewhere other than teaching during the academic year 2023/24. Of those, well in excess of four fifths (86%) stated that the work sourced elsewhere other than teaching failed to provide the same level of financial income they would have obtained had they been able to secure work teaching.⁵²
80. Well in excess of two fifths of supply teachers (44%) stated that they had experienced financial hardship as a supply teacher over the same period.
81. Taking the RPI as the inflation measure which most accurately measures increases in prices for supply teachers, it is clear that supply teachers working through an agency are significantly poorer in real terms than they were in 2010.

⁵¹ [Supply Teachers Annual Survey 2024 \(England\)](#)

⁵² Ibid.

82. In addition, the evidence presented by NASUWT throughout this consultation, specifically on the experiences of supply teachers as agency workers, demonstrates that the rise in insecure work is having a disproportionate impact upon groups who already suffer a labour market disadvantage, such as women and Black and minority ethnic workers.⁵³ The TUC estimates that Black workers are over a third more likely than white workers to be in temporary or zero-hours work.⁵⁴
83. This situation is compounded by the fact that the TUC estimates that agency workers, such as supply teachers, are suffering up to a 20% hourly pay penalty when compared to the pay of an 'average' employee.⁵⁵
84. The Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the 'Conduct Regulations') provide a set of legal minimum standards that govern the conduct of employment businesses and protect agency workers, such as supply teachers.
85. In addition, the Agency Workers Regulations (AWR) are supposed to provide further protections for agency workers, such as the right to be treated no less favourably than comparable permanent staff, including in regards to key elements of pay and annual leave after 12 weeks.
86. Research carried out by NASUWT showed that many agencies do not inform workers of their rights. Many supply teachers reported that they were unaware of the provisions available to them, and when they became aware, recognised that they had not been afforded them.
87. For example, 15% of supply teachers reported that work had been cancelled on specific longer term assignments at, or approaching, the 12 weeks' qualification period for the AWR.⁵⁶
88. The introduction of the Key Information Document (KID) from 6 April 2020 sought to address issues of transparency by making it a requirement of agencies

⁵³ [Secret-Agents.pdf](#)

⁵⁴ [the-gig-is-up.pdf](#)

⁵⁵ Ibid.

⁵⁶ [Supply Teachers Annual Survey 2024 \(England\)](#)

to provide agency workers, such as supply teachers, with key information prior to signing up for an assignment, including in relation to how they were paid if an intermediary or umbrella company were involved.⁵⁷

89. Provided that the KID is completed correctly, an agency worker, such as a supply teacher, should be in a position to better understand and track the situation in respect to their pay and any associated deductions.

90. However, it appears that there is still a lack of transparency over the deduction, fees and contractor pay/payments, with some agencies ignoring the legal requirement to provide all workers with a KID.⁵⁸ This is a particular problem when the only source of work is via recruitment agencies, which can often be the case for lower paid workers.

91. For example, only 36% of supply teachers who obtained work through a new supply agency reported that they had been provided with a KID detailing how they would be paid and associated deductions, as well as other key details.⁵⁹

92. In addition, NASUWT is concerned about the extent to which supply teachers, as agency workers, are provided with a KID by their respective agencies at the appropriate time.

NASUWT comments on the overarching consultation

93. Before answering the specific questions in the consultation, NASUWT is concerned that the positive impact of some of the proposals put forward could be undermined by the intent to '*cut the administrative burden of regulation on business by 25% by the end of the parliament.*'⁶⁰

94. The Union is concerned that there are numerous references to reducing the regulatory burden on recruitment businesses/agencies and that aspects of the consultation have been drafted against this backdrop, rather than seeking to put in place the best possible regulatory system.

⁵⁷ [Providing a 'Key information document' for agency workers: guidance for employment businesses - GOV.UK](#)

⁵⁸ [How-Contracting-Should-Work-Inquiry-Report-April-2021-min.pdf](#)

⁵⁹ [Supply Teachers Annual Survey 2024 \(England\)](#)

⁶⁰ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

95. NASUWT believes the proposals framed as cutting the regulatory burden on employment businesses/agencies, as well as hirers, run counter to the aims in the consultation to *'protect workers from unscrupulous practices'*.⁶¹ Indeed, it could result in agency workers receiving less information than they do now. This will create more confusion for workers and will do little to *'ensure fair treatment for agency workers, who often bear more risk in a less predictable form of work than conventional employees.'*⁶²

96. Furthermore, the focus should be on enforcing and strengthening existing rights rather than seeking to *'streamline and simplify the regulatory framework'*,⁶³ because there is compelling evidence⁶⁴ that employment businesses/agencies are failing to comply with their basic obligations and workers lack confidence in the current system and its ability to deter labour market exploitation.⁶⁵

Chapter 1: Security

Question 1a – Do you agree that the key objectives listed should underpin the regulations: ensuring fair remuneration; ensuring a wide-ranging coverage of protection; providing assurance for business?

- Yes
- No
- Don't know

Question 1b – Please explain your answer.

97. Whilst recognising that agency work can be inherently flexible for those involved, there is still a need for such work to be underpinned by regulations that ensure fair remuneration and protect agency workers, such as supply teachers. It should not come at the expense of *'having any security at all.'*⁶⁶

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ [Post Implementation Review of Regulation 13A- Key Information Documents](#)

⁶⁵ [Director of Labour Market Enforcement \(DLME\) concluding statement](#)

⁶⁶ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

98. In order to effectively achieve this and improve the security of agency workers, NASUWT believes that any objectives should reference the rights that agency workers are entitled to, along with detailing how these can be enforced, as well as areas where the regulations need to be strengthened further.
99. For example, when looking at the key objective of ensuring fair remuneration, it should make it clear that an agency workers should receive prompt and full payment for *'all work undertaken, taking into account all relevant legislation.'* By amending this objective to include reference to all relevant legislation, it would ensure that the AWR are captured, which is critical given that the AWR covers equal treatment on pay.⁶⁷
100. Furthermore, the Union believes that the reference to 'fair remuneration' is too vague and open to interpretation. It would be better if the phrasing of the objective was amended to: *'ensuring that an agency worker receives the full pay they are legally entitled to in line with that of a comparable worker with a similar level of experience and expertise.'*
101. As detailed above in the experiences of supply teachers, many of them do not receive pay in line with comparable permanent teachers working in schools, even after 12 weeks under the relevant provisions of the AWR. NASUWT believes this needs to be addressed as a matter of urgency, especially if work that is 'inherently temporary'⁶⁸ is not captured by extending the new right to guaranteed hours to agency workers.
102. Receiving equal pay in line with comparable employees for all agency workers from Day 1 would address some of the issues with job security, specifically for supply teachers who can often find themselves being paid different daily rates for undertaking the same work in the same school on different days.

⁶⁷ [Your rights as an agency worker: Equal treatment - GOV.UK](#)

⁶⁸ [Consultation on the application of zero hours contracts measures to agency workers](#)

103. The Union contends that this would be consistent with current advice and guidance on the AWR and the use of comparators where an employer has pay scales or pay structures.⁶⁹
104. The Government would also need to give consideration to ensuring that agency workers, such as supply teachers, are captured in measures of ‘reasonable notice’ of shifts and payments for shifts cancelled or curtailed at short notice⁷⁰ if it is to address the ‘*clear lack of security in the agency worker market*’⁷¹ that saw less than half of agency workers state that they were satisfied with their level of job security.⁷²
105. In doing so, supply teachers would receive fair remuneration when work is cancelled at very short notice on the day of the assignment and they are unable to secure alternative work.
106. In addition, the Union maintains that fair remuneration should be addressed by the removal of an employment business/umbrella company’s ability to include in contracts reference to the fact that an agency worker can expect to be paid no less than the National Minimum Wage (NMW), especially when the daily rate for the overwhelming majority of supply teachers exceeds this, so payment of the NMW would not represent fair remuneration.
107. In respect to ‘robust mechanisms’ for non-payment, NASUWT believes this requires further discussion and would work with the Government to ensure that any robust mechanisms are fit for purpose.
108. The Union is concerned over the reference in the key objective: ‘*employment businesses and agencies should have the autonomy to negotiate agreements with hirers that ensure fair compensation for their services*’.⁷³ This suggests that the market should have wide discretion to determine contractual terms, which,

⁶⁹ [Agency Workers Regulations 2010: guidance - GOV.UK](#)

⁷⁰ https://assets.publishing.service.gov.uk/media/671787dbd29a0f082ac9c14f/Consultation_application_zero_hours_contracts_measures_agency_workers.pdf

⁷¹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

⁷² [Agency Worker Survey \(2021\)](#)

⁷³ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

as demonstrated above, has resulted in many supply teachers not accessing fair remuneration that reflects their experience and expertise.

109. Furthermore, the inclusion of this reference could result in employment businesses seeing this as a 'green light' to charge exorbitant commission rates, which, as detailed above, has resulted in vast sums of taxpayers' money leeching out of the education system and into the hands of private companies profiteering off schools and colleges.

110. This is compounded by later proposals in the consultation that consider relaxing restrictions around the use of transfer fees and the suggestion that employment businesses could be given unfettered discretion over the level of such fees, especially as prohibitive costs often act as a barrier for agency workers, such as supply teachers, accessing permanent employment.

111. In regards to the second key objective in the consultation around ensuring wide-ranging coverage of protection, NASUWT maintains that this should be amended so that it is clear and unambiguous that all agency workers should benefit from the safeguards, rather than the current wording that references a '*wide range of agency workers should benefit from the safeguards*'.⁷⁴

112. The Union contends that there cannot be any scenario in which certain groups of agency workers are excluded and there is a perceived hierarchy of those agency workers who are or are not in scope of the legislation.

113. In relation to the final key objective aimed at providing assurance for business, whilst on the face of it this seems sensible, there are concerns that this principle is undermined by paragraph 46 and the suggestion that '*essential information that must be given to hirers under the regulations, before work commences, could be streamlined and consolidated*',⁷⁵ especially if this is implying that some of the key information an employment business should provide to a hirer is going to be stripped back/streamlined.

⁷⁴ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

⁷⁵ Ibid.

114. NASUWT would have serious reservations if this were to result in a situation where an unqualified agency worker is placed in a role which could endanger both themselves and the hirer's business (e.g. unqualified agency workers being placed in manufacturing plants which have then caused operations to be detrimentally impacted).
115. The current wording of Regulation 19 of the Conduct Regs places an expectation on employment businesses to provide that the work-seeker has *'the experience, training, qualifications and any authorisation that the hirer considers necessary or that the worker needs to have by law or by the requirements of any professional body, to carry out the work.'*⁷⁶
116. Given this, there would be concerns that some of this information would no longer be required in the proposal set out in paragraph 46, and, as such, this represents a significant proposed watering down of the legislation without any justification or rationale.
117. Furthermore, the Union contends that greater assurance for business would be provided for if the Conduct Regs were amended so that employment businesses are required to inform hirers when they use umbrella companies in their supply chain, something that has become more prescient given recent changes to tax legislation that means hirers could become liable for tax infringements of others in the supply chain.⁷⁷
118. The Union maintains that another important objective underpinning agency work should relate to ensuring that any relevant and applicable legislation does not become a barrier to securing permanent employment, and should be assessed against such criteria, including being removed or amended as appropriate.

Question 2a – In your view, do the current regulations meet these objectives?

- Yes
- No
- Don't know

⁷⁶ [The Conduct of Employment Agencies and Employment Businesses Regulations 2003](#)

⁷⁷ [PAYE rules for labour supply chains that include umbrella companies from 6 April 2026 - GOV.UK](#)

Question 2b – How could the current regulations be adapted to better meet these objectives?

119. As detailed throughout this consultation, NASUWT does not believe that the current regulations adequately address the numerous issues faced by agency workers, such as supply teachers, and, even when they do, there is very little recourse to justice through the enforcement system.
120. For example, in regards to benefitting from day-one rights of equal access to collective facilities and amenities,⁷⁸ 28% of supply teachers stated that they do not always have access to staff rooms where they were available, well in excess of half (55%) stated that they do not always have access to staff food and drink facilities, and 16% said that they do not always have access to toilet/washroom facilities. Just under half of supply teachers (48%) reported that they do not always have access to car parking.⁷⁹ This is in addition to issues associated with the provision of a KID and the application of the AWR in regards to equal pay documented earlier.
121. On the issue of fair remuneration, despite the Conduct Regs being clear that agency workers should be paid for the work they undertake, just under one in ten supply teachers (8%) stated that they had been asked to undertake a 'free trial' by an agency at a school prior to undertaking paid work.⁸⁰
122. In addition, the Union is aware of issues raised by supply teachers in relation to the non-payment of accrued holiday pay and the way in which this is paid to them if they have not accessed this, especially in situations where they have not taken all of the leave they are entitled to and have left the employment business.
123. Furthermore, there are concerns over the transparency in the way umbrella companies operate with some agency workers, such as supply teachers raising issues associated with umbrella companies taking extra amounts from their assignment rates before arriving at their gross pay ('skimming'), or umbrella

⁷⁸ [NASUWT | Agency Workers Regulations](#)

⁷⁹ [Supply Teachers Annual Survey 2024 \(England\)](#)

⁸⁰ Ibid.

companies calculating and taking deductions from their pay and either not paying them over to Her Majesty's Revenue and Customs (HMRC) at all or paying over reduced amounts (payroll fraud).

124. Given this, there is a clear case for stronger regulation, including bringing forward as soon as possible the regulation of umbrella companies, as well as looking to address the farcical situation that means the Employment Agency Standards (EAS) Inspectorate does not enforce the provisions of the AWR.

Question 3a – Do you have views on how the government can ensure that the distinction between the activities of employment agencies and employment businesses are clearly defined? For example, changes to regulation 8, or publishing specific guidance.

- Yes
- No
- Don't know

Question 3b – If yes, please explain your answer.

125. NASUWT believes that there can be confusion amongst agency workers as to how they are engaged and the distinction between the activities of employment agencies and employment businesses. As such, the Union maintains that there is merit in giving further consideration to how best to address this, including amending Regulation 8, as well as publishing specific guidance.

Question 4a – Do you think the government should relax restrictions on how and when employment businesses can charge end hirers?

- Yes
- No
- Don't know

Question 4b – Please explain your answer.

126. NASUWT has significant reservations over the suggestion that the Government should relax the restrictions on how and when employment businesses can charge end hirers.
127. The Union contends that the use of transfer fees, irrespective of whether they relate to ‘temp-to-perm’ or ‘temp-to-temp’, sometimes in excess of £10,000 for a supply teacher or even more for a senior leader in a school, often restrict or even remove the right to work for many agency workers, especially for women, Black and disabled workers who are disproportionately represented as agency workers.
128. As such, NASUWT believes that the consultation represents an opportune time to outlaw the practice of applying transfer fees, as the Union believes it acts as a significant barrier to the ability of agency workers to secure permanent employment, as hirers are often unwilling/unable to afford the contractual fee.
129. The suggestion of relaxing the restrictions on the use of transfer fees could create an additional barrier for agency workers when looking to transition into permanent employment; something that would appear to run counter to the intention to Make Work Pay.
130. It could also create an incentive for end users/hirers to use more short-term agency placements that last fewer than 12 weeks in order to avoid paying a transfer fee.
131. It cannot go unnoticed that the original Department for Trade and Industry (DTI) advice accompanying the legislation states that: *‘The purpose of regulation 10 is to ensure that employment businesses do not use transfer fees unreasonably as a means of discouraging or deterring hirers from offering permanent work to temporary workers, having those workers supplied through a different employment business, or introducing them to a third party to be employed by that party. Nevertheless, this regulation should allow employment businesses to protect their legitimate business interests.’*⁸¹

⁸¹ [ConductRegulationsGuidance14Jan .doc](#)

132. Given this, at the very least the original intent of the legislation should be acknowledged, reinforced and upheld.

Question 5a – Do you agree that the principle that employment businesses cannot withhold, or threaten to withhold, payment for work done should be maintained?

- Yes
- No
- Don't know

Question 5b – Please explain your answer.

133. NASUWT maintains that the provisions around Regulation 12 and the withholding of payment are critical and must be retained as they ensure agency workers are paid and can expect to be paid according to their contract and, as such, have more financial stability in being able to budget accordingly.

134. The Union believes that agency workers, such as supply teachers, should not face any financial detriment in circumstances when the employment business has yet to receive payment.

135. In addition, Regulation 12 provides an agency worker with an alternative route to recovering unpaid wages, as it enables them to ask that the EAS recovers any wages owed as unfair deductions (wage theft). The removal of Regulation 12 could result in an agency worker having to pursue the recovery of wages owed through an employment tribunal, which can be both expensive and time consuming.

136. Given this, NASUWT agrees with the Government's assessment that this is '*one of the key protections that the Conduct Regulations should cover.*'⁸²

Question 6a – Do you agree that regulation 12 should place an obligation on umbrella companies to pay workers for all work done, including in situations where they have not received payment from an employment business?

⁸² [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

- Yes
- No
- Don't know

Question 6b – Please explain your answer.

137. Given the importance of Regulation 12 as detailed above, NASUWT believes that the Government is right to close an existing loophole by amending Regulation 12 so that it includes situations where agency workers are paid via an umbrella company, including scenarios where the umbrella company may not have received payment from an employment business.

Question 7a – Is there additional information beyond requirements or authorisations required by law, and requirements or authorisations required by a relevant professional body or regulator, that should be obtained and provided to hirers under these regulations, rather than agreed to through contractual arrangements?

- Yes
- No
- Don't know

Question 7b – Please explain your answer.

138. NASUWT believes the current provisions around information that is required under Regulations 19, 20 and 21 should be maintained.

139. Given this, the Union is concerned at the aforementioned reference to '*streamline and simplify the regulatory framework*⁸³ and the suggestion that this is seen as an opportune time by the Government to remove vital pieces of information that must be provided by an employment business worker to a hirer, particularly if this could result in unqualified agency workers being placed in roles which could create health and safety risks for themselves, other workers

⁸³ Ibid.

and the wider public. However, this should not just be assumed and come at the expense of 'speed' in providing work-seekers to the market.

140. Regulations 19, 20 and 21 of the Conduct Regs are still essential across the temporary labour market where a work-seeker should be expected to demonstrate that they have the experience, training and qualifications to undertake the assignment.

141. Furthermore, any such proposals run counter to the key objective of providing assurance for businesses as set out in the consultation,⁸⁴ as hirers should have confidence that they have all the necessary information about all work-seekers supplied to them.

Question 8a – Where an umbrella company is involved, should the umbrella company be obliged to pass on any information they are aware of, relating to the two areas outlined above, to the relevant employment business (or to the end hirer when there is no employment business in the supply chain)?

- Yes
- No
- Don't know

Question 8b – Please explain your answer.

142. NASUWT can see no rationale for excluding umbrella companies from the same requirements in relation to Regulations 19, 20 and 21 as detailed above, particularly given the fact that umbrella companies will often be the legal employer of the agency worker.

Question 9a – Do you agree that additional obligations and safeguards should remain in place where the work-seeker will be required to work with vulnerable persons?

- Yes
- No
- Don't know

⁸⁴ Ibid.

Question 9b – Please explain your answer.

143. In education, it is of critical importance that the hirer (i.e. school/college) has evidence of an agency worker's experience, training and qualifications in order to have the confidence in those supplied to them, as well as evidence of any other additional obligations and safeguards required to work with vulnerable persons.

144. As such, the intent to retain Regulation 22 is welcomed and the impact this has on regulated professions, such as teaching. Indeed, any attempt to vary this risks putting the Conduct Regs at odds with other statutory obligations, such as Keeping Children Safe in Education (KCSIE).⁸⁵

Question 10a – Do you have views on how the processes relating to information gathering and sharing should be streamlined in order to facilitate workers taking up positions quickly and to reduce the administrative costs involved?

- Yes
- **No**
- Don't know

Question 10b – Please explain your answer.

145. As stated previously, NASUWT has significant concerns over any proposals to streamline the processes of information gathering and sharing information, especially when no credible case has been made for removing the current requirements as set out in Regulations 19, 20 and 21, including in relation to unsubstantiated 'administrative costs' involved.⁸⁶

⁸⁵ [Keeping children safe in education - GOV.UK](#)

⁸⁶ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

146. Indeed, in its discussions and engagement with supply teachers, the Union is unaware of these processes proving an impediment to them taking up positions quickly.

147. Furthermore, guidance from the EAS states that information provided by an employment business to a hirer under Regulation 21 can be provided verbally if needed: *‘This can be provided verbally but must be confirmed in writing within three business days and should include the work-seeker’s name (and company name if a limited company), the experience, training, qualifications and authorisations that they have to undertake the role and a statement that the work-seeker is willing to do the work in question.’*⁸⁷

148. As such, if an employment business has to move at speed to ‘facilitate workers taking up positions’ quickly then it is within their remit to pick up the phone to the hirer and give them the information prior to subsequently providing it in writing.

Question 11a – In your view, are there any alternatives to these obligations which would give hirers and clients the necessary security and confidence?

- Yes
- No
- Don’t know

Question 11b – Please explain your answer.

149. NASUWT believes that the requirements under Regulations 19, 20 and 21, as well as those under Regulation 22 in respect to the provision of information, should be maintained.

Question 12a – In your view, should the government make changes to the length of the qualifying period (12 weeks) after which agency workers are entitled to equal basic working and employment conditions, including equal pay?

- Yes

⁸⁷ [Employment Agency Standards Inspectorate: a brief guide for agencies](#)

- No
- Don't know

Question 12b – Please explain your answer.

150. As detailed earlier in the experiences of supply teachers, it is clear that the arbitrary figure of 12 weeks, agreed at the time by social partners the Confederation of British Industry (CBI) and the TUC to remedy an impasse to introducing the European Union's *Agency Workers Directive*, is now no longer fit for purpose and should be addressed as a matter of priority.
151. The Union believes that one such protection which could address this and 'exploitative' zero-hours contracts involves amending Regulation 5 of the AWR so that an agency worker is entitled to the same basic conditions of pay as if directly employed from day one of employment, as opposed to after 12 weeks.
152. Too often, supply teachers inform us that work is cancelled at, or approaching, the 12-week qualifying period for the AWR, meaning that they are losing out on access to wages that better reflect the work undertaking when on an assignment in a school or college.
153. If supply teachers working through an agency were able to achieve equal treatment in regards to pay as a day-one right then this would equate to a difference in pay of between £19.80 to £117.80 per day, and an increase of between £3,861 and £22,971 if employed for all 195 days of the 2025/26 academic year.⁸⁸
154. Given this, if employed for all 195 days of the 2025/26 academic year, well in excess of half of supply teachers (53%) could expect to earn between £9,945 and £29,055 less for the academic year 2025/26 in comparison to a teacher employed at a school on the minimum of the MPR (M1).

⁸⁸ Based on an the average daily rate reported as being between £51-£149 in the NASUWT Annual Supply Survey in comparison to the current M1 daily rate for 2025/26 of £168.80.

155. Furthermore, the AWR could be amended to include more than just an entitlement to 'basic' conditions for the purposes of pay after day one, including access to occupational pensions, such as the TPS.

156. Such a change would clearly address a key pillar of the Government's agenda to make work pay by ending the 'exploitative' nature of zero-hours contracts, as the payment would reflect the daily rate of a comparable employee.

157. As stated above, broadening the scope of the AWR to include occupational benefits, such as the TPS, would go even further in addressing the commitment to make work pay.

158. In addition, removing the qualifying period would also make the legislation easier to understand for both employers and workers, as well as removing the administrative burdens associated with keeping records related to the 12-week qualifying periods.

159. NASUWT maintains that supply teachers have been crying out for change in regards to this provision of the AWR, so the Government has the opportunity to address this and bring about greater security for those agency workers whose work is seen as 'inherently temporary.'⁸⁹

160. The failure to address this following its inclusion in the consultation will be seen as tokenistic and will only further reinforce the view that supply teachers and other agency workers are 'second class citizens'.

Question 13a – In your view, should the government consider any other changes to the Agency Workers Regulations 2010 to reduce administrative burden for businesses?

- Yes
- No
- Don't know

Question 13b – Please explain your answer.

⁸⁹https://assets.publishing.service.gov.uk/media/671787dbd29a0f082ac9c14f/Consultation_application_zero_hours_contracts_measures_agency_workers.pdf

161. NASUWT believes that Regulation 12 of the AWR regarding equal access to collective facilities and amenities from the first day of assignment should be amended in order to avoid situations where a hirer can refuse supply teachers access to facilities if they can justify objectively the refusal.
162. The Union can see no rationale for when access to the facilities provided to all other comparable permanent members of staff should be refused to a supply teacher when undertaking an assignment.
163. Furthermore, the Union contends that Regulation 13 of the AWR should be amended to ensure that an agency worker, such as a supply teacher, working in a school or college has the opportunity not only to be informed of any relevant vacancies, but actually have the right to apply for one of those vacancies.
164. Currently, following *Kocur v Angard Staffing Solutions Ltd and anor*⁹⁰ the Court of Appeal held that the right under Regulation 13 is limited to the right to be *informed* of relevant vacancies. It does not give an agency worker the right to apply or be considered for vacancies on the same terms as the hirer's directly recruited employees.
165. It cannot go unnoticed that Article 6 of the EU Directive⁹¹ on temporary agency work states that: '*Temporary agency workers shall be informed of any vacant posts in the user undertaking to give them the same opportunity as other workers in that undertaking to find permanent employment. Such information may be provided by a general announcement in a suitable place in the undertaking for which, and under whose supervision, temporary agency workers are engaged.*'
166. Giving an agency worker a right to not apply for any job vacancies could help them transition into permanent employment, thereby providing them with greater financial security and stability.

⁹⁰ [The Agency Worker Regulations - the right to apply for internal vacancies](#)

⁹¹ DIRECTIVE 2008/104/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 19 November 2008

167. Nevertheless, there might need to be situations where the right to apply for vacancies may not apply, such as in a redundancy situation, though this should be clarified in any amendment to Regulation 13.

Question 14a – Do you have any views on how the regulations listed above operate in practice, and whether there are any changes that the government should consider?

- Yes
- No
- Don't know

Question 14b – Please explain your answer.

168. As stated previously, NASUWT has significant concerns over any proposals to streamline the Conduct Regs, including Regulations 28, 29, 30 and 31, especially as no credible case has been made for how 'streamlining' these would 'support the market.'⁹²

169. Furthermore, these regulations provide important protections for agency workers, such as supply teachers, including the requirement for employment businesses to maintain accurate records.

170. Retaining accurate records is fundamental to both parties and will prove ever more prescient with the creation of the Fair Work Agency (FWA) and its enforcement powers, including in relation to holiday pay.⁹³

171. Any attempts to water down the obligation on employment businesses to retain such records would appear to make it harder for the newly formed FWA to undertake its role and remit effectively.

172. In regards to Regulation 30, NASUWT believes that this should be amended so that an agency worker, such as a supply teacher, can bring claims related to

⁹² [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

⁹³ [Fair Work Agency Enforcement Policy Statement](#)

breaches of the Conduct Regs to employment tribunals, as currently an agency worker can only enforce their rights via civil court or the FWA.

173. Unfortunately, civil courts are considered to be a costly route for agency workers, whereas the EAS (now part of the FWA) has been subject to criticism for being under-resourced and ineffective.⁹⁴

Question 15a – Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

- Yes
- **No**
- Don't know

Question 15b – Please explain your answer.

Chapter 2: Transparency

Question 16a – Do you agree that the key objectives listed should underpin the regulations: clarity for workers; pay transparency; proportionality?

- **Yes**
- No
- Don't know

Question 16b – Please explain your answer.

174. NASUWT is supportive of any measures aimed at improving transparency and clarity for agency workers, such as supply teachers, particularly given that the evidence suggests that issues associated with transparency are widespread in the agency worker market, specifically those relating to payment rates and terms.

⁹⁴ [The Wild West of Employment Agencies in the UK - Good Jobs First](#)

175. For example, the 2021 Agency Worker Survey Report found that 14% of agency workers said it was not made clear to them who was paying, 15% did not receive payslips for their most recent assignment, and 15% of agency workers who experienced salary deductions (for example, DBS checks, training and uniform costs) had not been notified in advance. In addition, nearly a third (32%) of agency workers reported that they did not receive a written statement detailing key information about their assignment.⁹⁵
176. The same survey identified that issues and concerns around transparency were particularly significant for those working through umbrella companies, with 22% of those paid by an umbrella company stating that they were not clear about who was paying them (as opposed to 9% of agency workers paid directly by their employment business), and that 23% of those paid by an umbrella company had not received a contract.⁹⁶
177. The Contractor Calculator Survey confirms the fact that umbrella company workers are confused about their pay, with only 40% of respondents indicating that they understood whether their payslip was accurate.⁹⁷
178. This is compounded by the fact that 61% of respondents to the 2025/26 Director of Labour Market Enforcement (DLME) Strategy Call for Evidence agreed that the failure to provide detailed, timely and accessible payslips leaves workers vulnerable to exploitation.⁹⁸
179. Given this, the Union welcomes the fact that the objective relating to clarity for workers includes a reference to the importance of a worker knowing who their employer is, as improving clarity and making it easier for agency workers to contact their employer is essential, especially if they need to resolve a workplace issue.
180. Furthermore, the objective on pay transparency is welcomed, particularly the fact that *'agency workers should have the opportunity to agree an actual (gross)*

⁹⁵ [Agency Worker Survey \(2021\)](#)

⁹⁶ Ibid.

⁹⁷ [Survey unveils worrying levels of non-compliance in the umbrella industry](#)

⁹⁸ [Director of Labour Market Enforcement \(DLME\) concluding statement](#)

*rate of pay with the employment business before they accept an assignment, and should be informed of deductions that are likely to be made from their pay.*⁹⁹

181. One of the most common problem for supply teachers as agency workers is not having transparency over the rate of pay and any associated deductions. Despite an expectation that this is provided as part of a KID, 31% of supply teachers indicated that the KID did not provide details of any fees to be deducted for services, and how they are calculated, and 43% reported that the KID did not include a draft payslip with associated deductions.¹⁰⁰

182. In addition, some supply teachers report receiving wages below the rate that they have agreed with the employment business as a result of deductions made by umbrella companies.

183. However, NASUWT has concerns over the suggestion that regulation should be *'targeted to those areas where lack of transparency causes the most harm, and should be simple to comply with so that those businesses who operate in the temporary labour market are able to focus on getting people into work, rather than on excessive paperwork,*¹⁰¹ particularly given the lack of qualification regarding what is meant by both 'most' and 'excessive' and the fact that it is open to interpretation.

184. Indeed, the Union contends that the removal of 'excessive' paperwork could have a detrimental impact on any attempts to improve transparency for agency workers.

185. This then runs into concerns that NASUWT has over the third objective regarding proportionality and the suggestion that this might be used to undermine and weaken existing protections if they are seen as *'creating unnecessary administrative burdens for businesses.*¹⁰²

186. As such, the Union believes that this warrants further consideration and would welcome the opportunity to engage further before this objective is applied.

⁹⁹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

¹⁰⁰ [Supply Teachers Annual Survey 2024 \(England\)](#)

¹⁰¹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

¹⁰² Ibid.

Question 17a – In your view, do the current regulations meet these objectives?

- Yes
- No
- Don't know

Question 17b – Please explain your answer.

187. As detailed earlier, the introduction of the Key Information Document (KID) from 6 April 2020 sought to address issues of transparency by making it a requirement of agencies to provide agency workers, such as supply teachers, with key information prior to signing up for an assignment, including in relation to how they were paid if an intermediary or umbrella company is involved.¹⁰³

188. The KID is supposed to be one of the first things that an agency provides to a worker in order for them to make an informed choice, yet the evidence suggests that this is not the case. For example, the 2022 IPSE survey found that 24% of umbrella workers reported that they had not received a KID, and 19% reported that they were not sure.¹⁰⁴

189. In addition, the Contractor Calculator Survey found that 38% of respondents stated that they were not provided with a KID, and 17% reported that they did not know what a KID was.¹⁰⁵

190. Furthermore, JobsAware found that 20% had received a KID and 43% were unsure or unable to answer the question. Yet, the evidence suggests that when a KID is provided it can help agency workers understand payment details.¹⁰⁶

191. As such, it is not surprising that the post-implementation review (PIR) of the introduction of the KID concluded that it had failed to achieve its policy objective: *'when put into practice, the effectiveness of this measure in meeting its*

¹⁰³ [Providing a 'Key information document' for agency workers: guidance for employment businesses - GOV.UK](#)

¹⁰⁴ [Post Implementation Review of Regulation 13A- Key Information Documents](#)

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

*objectives has been limited, suggesting that further action and amendments may be needed to improve information provision for agency workers. The introduction of the requirement for a KID has not therefore fully addressed the objective of improving transparency for agency workers, and the aim to improve working conditions and workplace satisfaction for agency workers does not appear to have been met. The evidence that a significant proportion of workers are not receiving a KID highlights that lack of compliance has been a major issue with this policy, hindering the ability of this provision to meet its objectives.*¹⁰⁷

192. Given this, the current regulation, designed to give agency workers greater transparency and understanding, is failing workers and not meeting the objective set out in the consultation document.

193. The PIR also noted that many workers still find themselves in the bizarre situation of not being aware of who their employer is, particularly when umbrella companies are involved: *'The evidence gathered indicates that many workers still find themselves in complex tax and employment relationships, or do not know who their employers are or who to go to for work-related issues.'*¹⁰⁸

194. As such, NASUWT believes that many agency workers are left in a situation where they face misleading payslips that lack transparency and are often confusing.

195. The Union maintains that at the root of some of the issues associated with non-compliance with the KID is the lack of adequate enforcement and the fact that issues of non-compliance will not be addressed without a concerted drive to target enforcement of the KID.

196. Despite the failure to provide a KID being a criminal offence, NASUWT believes that additional sanctions should be considered, including being subject to a financial sanction that is payable to the worker.

197. In addition, the Conduct Regs should be amended to make it a requirement for employment businesses to provide agency workers with a clear, succinct

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

payslip based on a template that has been developed in conjunction with trade unions, and has been assessed by organisations like the Plain English Campaign,¹⁰⁹ before being piloted and reviewed with agency workers.

198. It should be noted that in Ireland there is a requirement to hold a licence to operate an employment business, yet in the UK there are no such provisions. Consideration of a licensing scheme for the UK could include assessments in relation to the provision of a fit for purpose KID.

Question 18a – Do you agree that those listed above represent the key pieces of information required to ensure transparency for work-seekers regarding how they will be engaged, how they will be paid and what type of work they will be doing?

- Yes
- No
- Don't know

Question 18b – Please explain your answer.

199. NASUWT believes that the proposed information requirements as set out in paragraphs 70 and 72 of the consultation are concerning as they represent a significant watering down of the current information provisions requirements as stipulated in Regulation 21 of the Conduct Regs.¹¹⁰

200. The Union contends that it is simply unacceptable that an agency worker is not told the hours they are expected to work or how much they are expected to earn before undertaking an assignment.

201. It should be noted that the proposals detailed above have the potential to run counter to the key objective of relating to improving clarity for workers and pay transparency.

¹⁰⁹ [Plain English Campaign](#)

¹¹⁰ [Employment Agency Standards Inspectorate: a brief guide for agencies](#)

Question 19a – Do you have any views on when or how this information should be provided to work-seekers?

- Yes
- No
- Don't know

Question 19b – Please explain your answer.

202. NASUWT believes that the case has not been made to amending or watering down Regulation 21, which establishes when and how information should be provided to an agency worker by an employment business, particularly given that Regulation 21 gives an employment business the flexibility to provide an agency worker with any information verbally in the first instance prior to it being followed up with written confirmation.

Question 20a – Do you agree that where an umbrella company is offered to a worker as a means of providing payment, there should be an obligation on the umbrella company to provide a representative breakdown of how much they will charge for their services, and how deductions will be calculated?

- Yes
- No
- Don't know

Question 20b – Please explain your answer.

203. Given the evidence presented above, NASUWT can see no reason why umbrella companies should not be obliged to provide a representative breakdown of how much they will charge for their services, and how deductions will be calculated.

204. This will prevent any confusion and anger when a worker receives significantly less than agreed and expected, and will assist in enabling an agency worker to make an informed decision about whether to use an umbrella company.

205. In addition, this would ensure there is a level playing field in the way in which both employment businesses and umbrella companies operate when engaging with agency workers.

206. However, it is important to note that there must be an option for an agency worker to reject the umbrella payment/employment model if they do not believe they are better off using this payment option, and there should be protections against suffering a detriment for any agency worker asserting this option.

Question 21a – Do you agree that the government should regulate to restrict the use of ‘kickbacks’ in the umbrella company market?

- Yes
- No
- Don’t know

Question 21b – Please explain your answer.

207. NASUWT agrees with the proposal to regulate to restrict the use ‘kickbacks’ in the umbrella company market, particularly when the use of ‘kickbacks’ can have a detrimental impact on the take-home pay for agency workers, such as supply teachers.

208. The Government is right to assert that *‘workers should not be forced to pay a premium to have their pay processed by an umbrella company’*,¹¹¹ and that *‘It should not be permissible to pass the payment of such ‘kickbacks’ onto workers.’*¹¹²

209. Ultimately, if an umbrella company is offering a legitimate payroll function that an employment business wants to use, then the employment business should pay for it, not the agency worker.

Question 22a – Which of the two options would be, in your view, most effective at restricting the use of ‘kickbacks’ in the umbrella company market?

¹¹¹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

¹¹² Ibid.

- Option 1 – regulating to prevent umbrella companies from passing on these charges to a worker
- Option 2 – regulating to restrict employment businesses from charging fees to umbrella companies
- Other
- Don't know

Question 22b – Please explain your answer.

210. Whilst NASUWT welcomes the intent of the Government to look to restrict the use of kickbacks in the umbrella sector, the Union believes that this requires further consideration in order to establish the most effective mechanism for restricting the use of kickbacks.

211. This is because option 1 may still result in a situation where an umbrella company seeks to recoup their kickback costs from an agency worker's pay by relabelling it as something else, whereas option 2 may not capture extreme examples such as covert/backhand payments (e.g. holidays for recruitment agency directors).¹¹³

Question 23a – Do you have any views on how the regulations listed above operate in practice, and whether there are any changes that the government should consider?

- Yes
- No
- Don't know

Question 23b – Please explain your answer.

212. NASUWT believes that the regulations should remain as they are.

¹¹³ [PRESS RELEASE - Loan Charge & Taxpayer Fairness APPG](#)

Question 24a – Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

- Yes
- No
- Don't know

Question 24b – Please explain your answer.

213. NASUWT believes that the case has not been made for any of the regulations discussed in this chapter to be streamlined to reduce administrative burdens for businesses.

Chapter 3: Choice

Question 25a – Do you agree that the key objectives listed should underpin the regulations?

- Yes
- No
- Don't know

Question 25b – Please explain your answer.

214. NASUWT welcomes the acceptance in the consultation that choice should be at the heart of a well-functioning labour market and that workers should have genuine choice about the work they do and be free to shop around for the offer that is best for them.¹¹⁴

215. However, the Government is right to note that workers often do not have a choice in whether or not they work through an umbrella company or not. For example, the Call for Evidence on the use of umbrella companies found that

¹¹⁴ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

95% of those who work through an umbrella company did not have a choice, and 50% had no option on which umbrella company to work through.¹¹⁵

216. As such, the Union supports the objectives aimed at providing choice in engagement and choice in work, provided that they provide agency workers with genuine choice and not illusory choice that sees agency workers denied work for asserting their right to choose.

217. Given this, NASUWT believes that the language could be amended to ensure that reference is made to the fact that agency workers should not be forced to be 'employed, engaged and paid via an umbrella company'.

218. In addition, the objective should be amended to stipulate that agency workers should not suffer a detriment for choosing not to use an umbrella company, including having an assignment withdrawn or finding they are no longer being supplied for assignments.

219. There must therefore be an agreed mechanism for establishing how a detriment is suffered, coupled with an effective enforcement mechanism that is fit for purpose.

Question 26a – In your view, do the current regulations meet these objectives?

- Yes
- No
- Don't know

Question 26b – How could the current regulations be adapted to better meet these objectives?

220. Regulation 5 of the Conduct Regs makes it clear that an employment business '*may not make your work-finding services conditional upon the work-seeker using other goods or services provided by you or someone else*'.¹¹⁶ As such, this should potentially stop workers being forced to use umbrella companies.

¹¹⁵ [M4027_Call_for_Evidence_SoR_UCs_0103.pdf](#)

¹¹⁶ [Employment Agency Standards Inspectorate: a brief guide for agencies](#)

221. NASUWT is disappointed that the EAS has not used its suite of enforcement powers to both proactively and reactively tackle non-compliant umbrella companies, especially when the evidence suggests that it is common practice for agency workers to be offered assignments that are conditional upon them signing up with an umbrella company.

222. Indeed, it appears that the EAS took a more lenient approach in its interpretation of Regulation 5, stating that: *'You should be mindful that work-seekers cannot be forced to work through or be paid by umbrella companies, however if this is the only route that you use to pay work-seekers you must inform them of this before engaging with them and they can choose whether or not to engage with you.'*¹¹⁷

223. The proposals set out in paragraphs 89 and 90, therefore, represent an opportunity to address this and strengthen Regulation 5 so that employment businesses cannot make work-finding services conditional upon an agency worker working through an umbrella company.

224. This is ever more prescient, given the fact that many workers are unaware of their employment rights and are unsure how to report unfair practices, particularly as there is currently no specific regulatory framework for umbrella companies in the same way as there is for employment businesses and agencies.¹¹⁸

Question 27a – Do you agree that the government should regulate to ensure that workers cannot be forced to work through, or be paid via, an umbrella company?

- Yes
- No
- Don't know

Question 27b – Please explain your answer.

¹¹⁷ Ibid.

¹¹⁸ [Umbrella Company CfE_Final.pdf](#)

225. NASUWT believes that agency workers, such as supply teachers, should be free to choose whether or not they would like to work through an umbrella company.

226. As stated previously, this should be complemented by the fact that agency workers should not suffer a detriment for choosing not to use an umbrella company, including having an assignment withdrawn or finding they are no longer being supplied for assignments.

Question 28a – Do you agree that the government proposal – regulating to restrict employment businesses from making work-finding services conditional upon workers using an umbrella company – is the most effective way of achieving this?

- Yes
- No
- Don't know

Question 28b – Please explain your answer.

227. NASUWT supports the proposals set out in paragraphs 89 and 90 to strengthen Regulation 5 so that an employment businesses cannot make work-finding services conditional upon workers working through an umbrella company, on the proviso that any strengthened regulation will be enforced effectively.

Question 29a – Do you have any views on when a work-seeker should choose whether they would like to be engaged and paid through an umbrella

- Yes
- No
- Don't know

Question 29b – If yes, please explain your answer.

228. NASUWT maintains that a work-seeker should choose whether they would like to be engaged and paid through an umbrella after they have been offered the assignment.

229. This avoids the possibility that if an agency worker opts not to use an umbrella company from the outset, the employment business will deliberately not offer them work.

Question 30a – Do you agree that the government should amend the exception for individuals working under a contract of service or apprenticeship to ensure those working through an umbrella company are protected against detriment?

- Yes
- No
- Don't know

Question 30b – Please explain your answer.

230. NASUWT believes that individuals working through an umbrella company should be brought within scope of Regulation 6 and the associated protections against detriment.

Question 31a – Do you have any views on whether the exception for individuals working under a contract of service or apprenticeship more generally remains appropriate? i.e. where the individual is working directly through an employment business.

- Yes
- No
- Don't know

Question 31b – If yes, please explain your answer.

231. NASUWT believes that the regulations should apply to all agency workers irrespective of employment status.

Question 32a – Do you agree that the government should regulate to prevent umbrella companies from opting out of the Conduct Regulations on behalf of workers?

- Yes

- No
- Don't know

Question 32b – Please explain your answer.

232. NASUWT supports the proposal of the Government to regulate to prevent umbrella companies from opting out of the Conduct Regs on behalf of workers, as the Union believes that all umbrella agency workers should be covered by the same protections as all other agency workers.

233. This is particularly prescient given that the evidence presented suggests that agency workers operating through an umbrella company are more at risk from unfair deductions from pay and confusing payslips.

Question 33a – In your view, which of the two options would be most effective at ensuring that the opt-out is not abused by businesses who seek to engage workers?

- Option 1 – restricting the opt-out to personal service companies only
- Option 2 – removing the option to opt out entirely
- Other
- Don't know

Question 33b – Please explain your answer.

234. NASUWT does not believe that it should be permissible for workers to opt out of key safeguards, including those operating through personal service companies (PSC), as this would avoid a situation where employment businesses funnel workers into a PSC to avoid any employment rights obligations.

235. Furthermore, agency workers working through a PSC should be entitled to the same basic protections provided for under the Conduct Regs.

Question 34a – Do you think the definition above accurately captures how a personal service company operates?

- Yes
- No
- Don't know

Question 34b – Is there an alternative definition which better defines a personal service company?

- Yes
- No
- Don't know

Question 34c – Please explain your answer. For example, do you think there are any other characteristics of a PSC that the definition should cover?

Question 35a - Do you have any views, not already captured, on how the regulations discussed in this chapter should be streamlined to reduce administrative burden for businesses?

- Yes
- No
- Don't know

Question 35b – If yes, please explain your answer.

236. NASUWT believes that the case has not been made for any of the regulations discussed in this chapter to be streamlined to reduce administrative burden for businesses.

Question 36a - For the purposes of drafting the regulations specific to umbrella companies, the government intends to use the payment limb of the definition of “employment business” in the Employment Rights Act 2025 (Clause 36, subsection 3B(b) “paying for, or receiving or forwarding payment for, the services of those persons, in consideration of directly or indirectly receiving a fee from those persons”) as a basis for applying obligations or any other provision specifically to umbrella companies. Do you see any issues with this approach?

- Yes
- No
- Don't know

Question 36b – If yes, please explain your answer.

Chapter 4: Further opportunities for modernisation

Question 37a – Do you have views on how the regulations listed above should be amended to account for modern working practices and business models, including the use of umbrella companies?

- Yes
- No
- Don't know

Question 37b – If yes, please explain your answer.

237. NASUWT believes that concerns remain about the way in which Regulation 7 of the Conduct Regs and provisions around restrictions on providing work-seekers in industrial disputes are effectively enforced.

238. Furthermore, the Union believes that the Conduct Regs should be amended so that it is clear that compensation is payable to an agency worker at an enhanced daily rate when assignments are cancelled at the last minute by either the employment business or the hirer.

239. The amount of any cancellation payment must serve a two-fold purpose: ensuring that workers receive an appropriate level of recompense so that they are not out of pocket, and acting as an appropriate deterrent to unscrupulous employers.

240. Supply teachers are particularly vulnerable to such practice as they often receive notification that an assignment has been cancelled whilst en route to a school or once they have arrived, which leaves them out of pocket and with little option of sourcing other work.

241. Agency workers, such as supply teachers, would be less subjected to the vagaries of precarious and insecure work if they are paid in full if an assignment is cancelled, particularly as they have often lost out on an assignment elsewhere.
242. In addition to this, any compensation should factor in other costs incurred, such as childcare and travel costs. This would force employers to think carefully and moderate their practice, whilst ensuring the worker is not out of pocket as a consequence of something that was not their fault.
243. Such a move would mirror the system which operates in New Zealand that requires employment agreements to set out the notice periods for cancellations and the appropriate compensations if this notice period is breached. In circumstances where terms are not in place or no notice is given, workers are entitled to what they would have earned had the shift taken place.¹¹⁹
244. In addition, the Union believes that the Conduct Regs should be amended to address the growing concern about the increased use of non-traditional means of work-seeking and the potential impact this has on workers, such as supply teachers, including in relation to the employment relationship and the assertion of employment rights.
245. For example, some platforms claim that supply teachers will be directly employed by the school that has hired the worker, whereas others expect supply teachers to be classed as self-employed.
246. In addition, NASUWT is concerned about potential equalities issues regarding online platforms which may require a photo to be uploaded as part of the profile of the candidate, since this could result in discriminatory decisions by schools when selecting a supply teacher, thereby furthering the detriment suffered by some groups of workers.

¹¹⁹ legislation.govt.nz/act/public/2000/0024/latest/DLM6803008.html

247. Furthermore, a number of online platforms that we have been sighted on employ a rating system for the teacher which schools can access and use. The Union is concerned about this, particularly around the criteria that might be used and who has access to it. References to subjective judgements that could negatively impact upon a supply teacher's ability to get work are unacceptable, especially if a supply teacher is unable to challenge these if they do not agree with them.

248. Coupled with this is the rise in the use of artificial intelligence (AI) and whether such technologies are being designed, developed, procured and implemented in ways that secure and protect the lawful rights and interests of teachers, school leaders and learners.

249. Concerns centre on their educational and human rights, as well as their rights in relation to privacy and data protection, equality, employment and decent working conditions.

250. The Union is concerned that some digital technologies may be used to monitor and judge the practice of teachers without any recourse. This is even more significant for supply teachers as agency workers who are in intermittent, insecure and precarious employment where high-stakes, punitive purposes can have serious impacts on future employment.

251. As such, NASUWT would want to see the FWA acknowledge the *DLME Labour Market Enforcement Strategy 2024/45* and the fact that due consideration should be given to AI by the three enforcement bodies which will merge to form the FWA.¹²⁰

Question 38a – Do you have any views on how the regulations listed above should be streamlined to reduce administrative burden for businesses?

- Yes
- No
- Don't know

Question 38b – If yes, please explain your answer.

¹²⁰ [United Kingdom Labour Market Enforcement Strategy 2023/24](#)

252. NASUWT believes that the case has not been made for any of the regulations discussed in this chapter to be streamlined to reduce administrative burden for businesses.

ADDITIONAL COMMENTS

Effective enforcement

253. Any changes made as a result of this consultation must be supported with an effective and fit-for-purpose enforcement mechanism that acts as a deterrent for unscrupulous employers whilst not penalising the worker.

254. Indeed, improving enforcement of all agency worker legislation should be a priority for the FWA, including bringing enforcement of the AWR within the remit of the FWA.

255. As such, the Union contends that it is a major omission that the consultation references 'improving enforcement' without providing details as to how this will be achieved,¹²¹ especially as the evidence suggests that there are a number of workers who do not have the confidence that their cases are being dealt with proactively.

256. In part, this is a consequence of the fact that the chances of being investigated for non-compliant employers is too low,¹²² together with the woefully inadequate levels of funding and resources available to regulatory and enforcement bodies to deliver their remits.

257. It should be noted that, compared to European countries, UK enforcement agencies are under-resourced and underfunded. For example, in France, there are nearly 19 inspectors for every 100,000 people, whereas in the UK there is just one inspector per 100,000 workers.

¹²¹ [Make Work Pay: Modernising the Agency Work Regulatory Framework](#)

¹²² [UK Labour Market Enforcement Strategy 2018 to 2019](#)

258. Furthermore, the ILO, Article 10, Labour Inspection Convention No. 81, recommends adequate resourcing for labour market inspectorates.¹²³
259. Despite successive calls for evidence, it cannot go unnoticed that the Government is still failing many workers. For many employers, including employment businesses and umbrella companies, the threat of detection and having a sanction applied represents a good risk.¹²⁴ For example, estimates suggest that an employer could expect a visit every 320 years from a NMW Inspectorate, or every 39 years by the EAS.¹²⁵
260. In addition, the GLAA was identified as an enforcement body that was impacted by serious budgetary cuts, whilst having an extended remit.¹²⁶
261. Furthermore, despite recent funding increases in the EAS, up to £1.525 million for the year 2020/21,¹²⁷ this still represents approximately 29 staff covering around 40,000 agencies operating in the UK. As such, they *'lack the resources and the statutory tools to protect workers and ensure a level playing field across the agencies sector.'*¹²⁸
262. This is compounded by the lack of due diligence which exists for those seeking to enter the market and establish their own agency.
263. The FWA must therefore be resourced at the level deemed appropriate by the ILO; otherwise, there is a real danger that a key metric of its success will not be fit for purpose.
264. Given this, NASUWT believes that there is still more that needs to be done to ensure workers have confidence that their cases are being tackled proactively.
265. We are clear that enforcement penalties must ensure that there is a level playing field, and that employers who break the law can expect significant repercussions

¹²³ https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C081

¹²⁴ https://www.mdx.ac.uk/_data/assets/pdf_file/0017/440531/Final-Unpaid-Britain-report.pdf?bustCache=35242825

¹²⁵ Ibid.

¹²⁶ [UK Labour Market Enforcement Strategy 2024/25](#)

¹²⁷ [United Kingdom Labour Market Enforcement Strategy 2020/21](#)

¹²⁸ [UK Labour Market Enforcement Strategy 2024/25](#)

for their actions, whilst providing workers and the wider public with confidence in the system.

266. Unfortunately, the Union believes that the current enforcement penalties are failing to do this, and at times appear as if they are not fit for purpose. For example, as referenced above, it cannot be the case that for many employers, including agencies and umbrella companies, the threat of detection and having a sanction applied represents a good risk.¹²⁹ For example, estimates suggest that an employer could expect a visit every 320 years by a NMW Inspectorate, or every 39 years by the EAS.¹³⁰

267. Furthermore, the previous DLME, Professor Sir David Metcalf, noted that an employer in the UK was likely to be inspected by one of its three enforcement bodies on average only once every 500 years.¹³¹

268. Sir David Metcalf then went on to note that, *'If you... have not got the resources... then you need heavier penalties.'*¹³²

Introducing a licensing scheme

269. The NASUWT reiterates previous calls for serious consideration to be given to a licensing scheme which monitors and reviews compliance of employment businesses and umbrella companies operating in education.¹³³

270. Employment businesses and umbrella companies operating in the state-funded education sector would be an ideal area to extend licensing schemes, particularly given the growing concern over the way they operate and the levels of fees they charge, which is, in essence, money being diverted away from the public purse and the education of children and young people.

271. Licensing would be the most effective way to tackle non-compliance in education when there is evidence of repeated breaches of employment rights,

¹²⁹ https://www.mdx.ac.uk/_data/assets/pdf_file/0017/440531/Final-Unpaid-Britain-report.pdf?bustCache=35242825

¹³⁰ Ibid.

¹³¹ [Client](#)

¹³² <https://www.ft.com/content/50afb91e-ea4a-11e7-bd17-521324c81e23>

¹³³ [Consultation Response - HMRC - Tougher Consequences for Promoters of Tax Avoidance](#)

as it requires the licence holder to demonstrate compliance before they are legally permitted to operate in the sector. They are also subject to continuing checks.

272. In order to secure public confidence, any licensing scheme should be backed up by an independent regulator that has the ability to hold employers to account and apply appropriate sanctions for those who do not comply with the provisions of any such scheme.

273. NASUWT believes that this should be comprised of relevant stakeholders, including trade unions, in order to ensure that there is a requisite level of veracity about the scheme, as there is currently very little to dissuade an employment business if they want to push workers into arrangements with unscrupulous or non-compliant umbrella companies.

Amending public procurement

274. Public procurement rules should be strengthened to ensure that public sector bodies are prohibited from using those employment businesses and umbrella companies which fail to adhere to minimum standards.

275. The Union maintains that key to the awarding of public contracts is the need to ensure that any increased spend ensures that the pay and conditions of services of workers, such as supply teachers working through employment businesses, are front and centre of the procurement process.

276. As such, NASUWT believes there is a need for more publicly available information regarding public spending and the awarding of public contracts, which could be achieved through the establishment of a centrally held and managed record of public service contracts.

277. The House of Lords Economic Affairs Finance Bill Sub-Committee reinforced this notion by recommending that the Government: *'ensure that no government or public sector body contracts with an intermediary operating a disguised*

*remuneration scheme, and to publicise this requirement along with the protocols that public bodies are expected to follow.*¹³⁴

278. In the case of schools and colleges, as public bodies, they have a great deal of purchasing power and, as a consequence, leverage over their suppliers. This provides them with the opportunity to bring about change in the behaviour of those employed in the supply chain. Suppliers wishing to enter a contract with such public bodies should be expected to evidence a robust approach to both employment and tax law obligations.

279. For example, in Norway, public authorities are obliged to advance contract clauses on wages and decent working conditions in relation to the procurement of construction, facility management and cleaning services.¹³⁵

The vital role of trade unions

280. Trade unions have a vital role to play in ensuring that workers are better informed and empowered in respect of their employment rights. The right to representation is a key concern for NASUWT when dealing with supply teachers as agency workers.

281. NASUWT believes that measures should be introduced to promote and support collective bargaining/collective agreements and the right of trade unions to access workplaces and represent agency workers, such as supply teachers.

282. Evidence suggests that the involvement of trade unions is crucial in negotiating improved terms and conditions and putting in place mechanisms to remedy breaches of these terms and conditions.

Single employment status of ‘worker’

283. The establishment of the employment status of an individual is fundamental to determining their eligibility for certain statutory rights. Currently, within the UK,

¹³⁴ [New powers for HMRC: fair and proportionate?](#)

¹³⁵ <https://www.hrprocurementlab.org/lander>

there are considered to be three main employment statuses: employee, worker and self-employed.¹³⁶

284. The Union is concerned that the current system is therefore too open to manipulation by unscrupulous employers, specifically in regards to the use of agency workers and zero-hours contracts, when it would be more appropriate to appoint permanent staff.

285. In such situations, there is a concern that individuals are unsure of their rights and lack the confidence to assert them, especially where the balance of power is slanted in favour of the employer.

286. This is a view confirmed by the Low Incomes Tax Reform Group that the nature of the rules and the complexity involved results in many individuals often being unaware of their employment status.¹³⁷

287. NASUWT believes that many businesses are using the complexity around employment status as a means to deny individuals their core rights, either through sham contracts or by designing them in such a way as to make it difficult for individuals to understand and enforce their rights.

288. This is particularly true for atypical working arrangements (e.g. supply teachers as agency workers) where the Union believes it can be challenging for individuals to determine 'continuous employment', which means they may not be able to be sure that they qualify for the rights they wish to assert.

289. Furthermore, the ability of the employer to restrict work opportunities for atypical workers (i.e. agency workers or those on zero-hours contracts) who challenge the employer means that individuals are unable to assert their rights for fear of retribution and loss of earnings. This is in addition to the insecurity of income that atypical working brings.

¹³⁶ <http://researchbriefings.files.parliament.uk/documents/CBP-8045/CBP-8045.pdf>

¹³⁷ <https://www.litr.org.uk/sites/default/files/files/170517-LITRG-response-Independent-review-employment-practices-modern-economy-FINAL.pdf>

290. It was right that the *Taylor Review of Modern Working Practices*, conducted by Matthew Taylor, investigated and made recommendations about employment status, including that the burden of proof should be reversed so that it falls on the employer to prove that someone is not entitled to employment rights.¹³⁸ The *Taylor Review* went so far as to state: *‘Ultimately, if it looks and feels like employment, it should have the status and protection of employment.’*¹³⁹
291. Indeed, the *Taylor Review* recommended that clearer tests for employment status should be developed by the Government to replace the minimalistic approach to legislation.¹⁴⁰ This would provide clarity and greater certainty to individuals.
292. Given the complexities around employment status, it can be difficult for workers to understand which rights attach to which employment status.
293. NASUWT believes that the current definitions used in respect of employment status are far from clear and promote a system which is weighted in favour of the employer and open to manipulation and abuse by unscrupulous employers.
294. Given the evidence presented above, the Union is clear that all those employed, irrespective of their employment status, should be able to access the same basic rights, entitlements and protections as those currently accessed by employees.
295. There should therefore be a single ‘worker’ status to determine access to all statutory employment rights.
296. In doing so, this will provide the transparency which individuals desire regarding their employment status, as they will all benefit from the same level of statutory protections.
297. A single coherent definition of ‘worker’, which is understood by both worker and employer, will overcome the confusing, and often conflicting, definitions which have created inconsistencies and uncertainties.

¹³⁸ [Good work: the Taylor review of modern working practices](#)

¹³⁹ Ibid.

¹⁴⁰ Ibid.

298. It is therefore disappointing that the Government's plan to consolidate various employment contracts into a 'single status' has been delayed, as it remains a key pillar of its plans to Make Work Pay.

A fair pay agreement for supply teachers

299. It cannot go unnoticed that supply teachers were specifically referenced in the *United Kingdom Labour Market Enforcement Strategy 2019/20*, published in July 2019:¹⁴¹

'Other sectors I anticipate requiring further enforcement attention in the coming year are care and supply teachers. Both sectors were raised during discussion with stakeholders in my Call for Evidence. The care sector has received a substantial amount of attention since my last Strategy, particularly in relation to pay for sleep-in carers. There has been a significant increase in the volume of intelligence received directly from work-seekers in the supply teaching sector regarding issues ranging from non-payment of wages to serious contractual concerns.'

300. As such, and given the detailed evidence provided throughout this consultation, NASUWT believes that the Government should give serious consideration to something akin to the Adult Social Care Negotiating Body which will look to establish a fair pay agreement for adult social care as proposed in the Employment Rights Act.¹⁴²

301. The Union maintains that this should consider and address the detrimental impact of deregulation upon the pay and working conditions of supply teachers in comparison with teachers who have a permanent contract of employment with a school, and seek to ensure that supply teachers are entitled to national pay scales, including those undertaking work through an employment agency.

¹⁴¹ [United Kingdom Labour Market Enforcement Strategy 2019/20](#)

¹⁴² [Fair pay agreement process in adult social care - consultation document - GOV.UK](#)

302. It is right that action is taken by the Government to upgrade workers' rights to ensure that they are fit for modern life and the UK's modern economy, irrespective of any additional burdens on businesses.

303. NASUWT appreciates that any changes, such as those put forward in this consultation, will have a cost implication. However, given the current situation and the ambition to address the state of the UK labour market, the Union believes it is a question of whether the Government can afford *not* to make these changes, including for supply teachers as agency workers.

Matt Wrack

General Secretary

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