

Business, Energy and Industrial Strategy

Oral evidence: Future World of Work, HC 929

Tuesday 28 March 2017

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Watch the meeting

Members present: Mr Iain Wright (Chair); Richard Fuller; Peter Kyle; Amanda Milling; Albert Owen; Antoinette Sandbach; Amanda Solloway; Michelle Thomson; Anna Turley; Chris White.

Questions 71 - 200

Witnesses

I: Lindsay Judge, Senior Research and Policy Analyst, The Resolution Foundation; Tim Thomas, Director of Employment and Skills Policy, EEF; Steve Turner, Assistant General Secretary, Unite the Union; David Camp, Chief Executive, Association of Labour Providers.

II: Ben Grover, External Policy Adviser, Association of Recruitment Consultancies; Jennifer Hardy, Finance Director, Transline; Adrian Gregory, Director, Extraman Ltd; Tim Roache, General Secretary, GMB.

Written evidence from witnesses:

Examination of witnesses

Witnesses: Lindsay Judge, Tim Thomas, Steve Turner and David Camp.

Q71 Chair: Good morning, everybody. Welcome to our Committee. For the purposes of the record, do you mind telling us who you are and which organisation you are representing?

Tim Thomas: I am Tim Thomas, director of employment and skills policy, EEF. We are the manufacturers' organisation.

Steve Turner: I am Steve Turner. I am assistant general secretary at Unite the Union.

Lindsay Judge: I am Lindsay Judge. I am a senior policy adviser at Resolution Foundation.

David Camp: Good morning. I am David Camp, chief executive of the Association of Labour Providers.

Q72 Chair: Thank you for attending. Today, we are looking at agency workers. Lindsay, may I start with you, although this will be open to all? Your evidence shows that there are increasing numbers of people working as agency workers, both in temporary work and permanent work. Could you give us an idea how prevalent this is, and are any particular sectors seeing a large rise in agency workers?

Lindsay Judge: To start, I want to point out that our evidence today is based on our analysis of the labour force survey last year, and there are a couple of constraints with that data source. First, not everybody in the workforce is asked the same question about being an agency worker, so we have to fundamentally construct our understanding from the data. Secondly, no one in the labour force survey is asked whether they are a worker; you are asked if you are an employee or if you are self-employed, so we already have something of a problem in terms of understanding agency workers, in that our questions do not map to the three legal categories of employment status.

In the research work we did, looking at the labour force survey, we could essentially identify three types of agency workers. The first are those who say that they are temporary and that they work for an agency, which is who we would broadly accept as being agency workers. The second group of people are those who, slightly perplexingly, tell us that they are permanently employed but they are also agency workers. There is a big question for us about who these people are, and that is quite a sizeable body of people. There are actually more people in the labour force survey who say that they are permanently employed and agency workers than are temporarily employed and agency workers.



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We have some constraints in our understanding of that group, because the question that informs us about their presence in the labour market only came online in 2011. It came online because it is linked to the fact that, of course, that was the point when the agency workers regulations were activated and the point at which it was possible for an agency worker to go on to a Swedish derogation contract, to be paid between assignments and to therefore have employment status. There is a presumption that this significant group of permanent agency workers in the workforce came through the process of Swedish derogation.

However, when we look at the data, it is quite clear that there is something else going on. We think that, while probably some of these people are unpaid between assignment contracts, there has not been a sufficient substitution effect in the data to allow us to think that that explains the whole of this group. That is definitely a significant group in the population; it is an expanding group in the labour force, but I do not have a full and complete answer as to who they are. You can speculate that they are people who are agency workers but are on long-term assignments, so that from their perspective it fundamentally looks like a permanent job. That is the second category that we noted.

The third category we noted, which is, again, not hugely significant and is static over time, but which is really important for the Committee to consider, is a group of people in the data who indicate that they are self-employed, and then go on to indicate that they are paid by an agency and they are not administering their own tax and national insurance. Legally, of course, that is something of a conundrum, because you cannot really be self-employed and be an agency worker, yet it is clear that there is a group of people who fall into that category. It is important to note that, after we published our research last year, we had quite a number of representations from members of the public approaching us and saying, "You have touched a nerve". Almost without exception, they were people who said they were self-employed and were agency workers.

Q73 Chair: Could you give us any sense of what proportion those three categories of agency workers would be? Would it be one-third, one-third, one-third, or something else?

Lindsay Judge: We have 340,000 people in temporary agency work, 440,000 permanent agency workers and 66,000 who believed they were self-employed and also agency workers, adding up to 865,000 agency workers at the end of 2016, which is the equivalent of about 3% of the labour force.

Q74 Chair: In terms of any particular sectors that are receptive to agency work, as I mentioned earlier, we have looked at logistics and warehousing. In terms of our online forum, I personally have been shocked by how many public sector care workers are facing agency work when they want permanent contracts. Could you give us an idea of which sectors tend to use agency work?



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Lindsay Judge: Four sectors stood out in having higher than average concentrations of agency workers. They were manufacturing; transport and warehousing; business activities, which incorporates all kinds of IT consultancy services and the like; and the public sector. It is interesting that they are not all low-end. One of the findings from our research was that agency workers are highly heterogeneous and are widely dispersed through the economy, although they cluster in those particular sectors.

Q75 **Chair:** I will bring Steve and David in on this. What are the drivers of the rise of agency workers? Why is manufacturing using more and more agency workers? Is it for the flexibility?

Tim Thomas: I am not sure we are necessarily using more and more. If you look at the growth in those employed in the UK generally—I will use the term “workers”, but do not pick me up on it, because I use it flexibly; I mean people who work in the UK—we are now just shy of 30 million. If you track that through those who are employed, the graph broadly shows a level track between total numbers of employed and those who are in work. I am not necessarily accepting that we have an increased number of agency workers; we have an increased number of people working in the UK and therefore agency workers might have increased in number. In terms of the manufacturing sector, it is not evenly spread: automotive, aerospace and defence are the sectors where we see agency workers being used more than others.

In terms of why our members use those agency workers, first of all, it is a source of recruitment. You may take an agency worker on and then, later on, they would become a permanent employee, so a source of recruitment is one major way forward. Another reason is for variations in demand, as demand is unfortunately not predictable. At the moment in manufacturing, demand and output are increasing quite substantially, which is good news, but it may well be that you want to take on workers for a period of time before you can see whether that demand is going to be permanent or not, so fluctuations in demand would be another reason. The third one I would highlight is specialist skills. Within the manufacturing sector, we have a crushing need for more skilled workers, for higher skills and for skills that the labour market cannot provide. Agencies provide access to those vital skills at various times.

Broadly in our sector, if you use an employment agency, you are paying a premium to do so; you are paying whatever the agency is charging for the worker, plus the agency fee on top. Two practical examples of that are: at the time of pensions auto-enrolment, some agencies passed those costs on to our members, so we have the cost of the worker, the agency cost and the auto-enrolment cost; and, with the advent of the apprenticeship levy, many of our members are now paying the levy cost for the agency as well. There is not really a financial incentive to use agency workers; it is more to do with the incentives I have just outlined.

Q76 **Chair:** That is not my perception. You give a tale there, Tim, of high value, a premium product. My sense, when we have looked at particular



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companies, is of downward pressure on terms and conditions, and virtual exploitation of the workforce. That is where agency work tends to be. You do not find that in manufacturing.

Tim Thomas: It is not in our sector, not least because in many cases—not all, but usually—it is individuals and workers who have a better bargaining position, because we are short of highly skilled workers.

David Camp: In the Association of Labour Providers, we predominantly have a membership of organisations that supply workers into the consumer goods supply chains, so into logistics and warehouse functions; into food manufacturing and consumer goods manufacturing; and into agriculture and horticulture. In the sectors of food manufacturing and agriculture, our members are required to be licensed by the Gangmasters Licensing Authority—soon to become the Gangmasters and Labour Abuse Authority—so there is an additional enforcement regime in that sector. In that sector, our members, labour providers, are the most compliant in any sector throughout the UK.

I would support Tim as to why businesses use labour providers and recruitment agencies. Predominantly, it is because they are labour sourcing experts; they enable flexibility; and they enable businesses to use only the exact amount of workers that they need each and every shift, which enables them to control their labour costs. That try-before-you-buy service, that route into permanent employment—temp-to-perm, as it is known in businesses—is now the most common way to recruit your workforce. There is assessment of how the individual performs in the role.

Q77 **Chair:** David, how do you reconcile what you have just said with Lindsay's opening comment that it is not temp-to-permanent? A lot of people are permanent agency workers these days.

David Camp: They are, and there are two predominant reasons for that. One is the Swedish derogation, which is a permanent contract of employment; that is what is required in the legislation. The second is the use of intermediary organisations, umbrella organisations, which are interposed in the relationship between recruitment businesses and the workers. They require the individuals to be on an employment contract to deliver the service. There are also a number of agencies that choose to have their workers on a contract of employment, rather than a contract for services.

I preamble into the point I wanted to make: the ALP supports responsible recruitment and good practice in recruitment. We rank agencies into four categories: criminal, being those that pay significantly below the minimum wage, where there are many indicators of forced labour in the way that they operate; dodgy, being those that seek to minimise their costs at all levels, by underpaying holiday, not paying SSP, opting out of personal accident insurance schemes and so on; compliant, being those businesses that seek to comply with the law; and leading, being those



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that comply with the law, have a respect for their workers and aim to introduce good practice throughout.

Q78 **Chair:** That is very helpful. How many companies, and in what ratio, are criminal and dodgy?

David Camp: I do not actually have the figures.

Chair: Give us a flavour.

David Camp: No is the honest answer.

Chair: But you are ranking them, so you have an idea.

David Camp: The criminal ones work in the shadows; they work in sectors where it is very hard to uncover them. In the sector that it is in, the GLA uncovers individuals from time to time; once it has powers to move into other sectors, perhaps we will see more. There is no one enforcing it at the moment, so it is hard to give a number. In the GLA sector, the number of businesses that have had their licences revoked by the GLA has declined year on year, as standards have improved. Outside of the sector, there is no classification of it. At the moment, there is not really a way to define and to assess who is compliant and who is leading, because, in essence, there is very little enforcement.

Q79 **Chair:** Forgive me, David. I really do not understand, because you came up with a very clear rating system.

David Camp: Yes, I did.

Q80 **Chair:** I got the impression that you rated companies, but you are now saying that you cannot really tell us who is compliant and who is not, who is dodgy and who is not. Do you have any idea what proportion of companies providing agency workers are dodgy?

David Camp: None that would be correct for me to put on record.

Q81 **Chair:** Steve, presumably you do. Before I ask you to discuss this, I add that I received a financial donation from Unite the Union in respect of my 2015 general election campaign.

Steve Turner: Perhaps we only come into contact with the criminal and the dodgy; I do not know, but we tend to come across a number of agencies that work at the lower end of the market and are purely used for exploitative purposes. That is our experience of the use of agency, outside of some very competent and professional agencies that provide labour, as Tim has already identified, in core sectors of the economy. He identified aerospace, automotive and defence. The common denominator there is that these are heavily unionised sectors of the economy. These agencies are employed under collective agreements between the union and the client, which have a direct impact on the relationship that the agency may have with the client and, indeed, its workforce. There is not the same level of exploitation in those sectors of the economy that are highly unionised.



Chair: Do you recognise Tim's comments? They surprised me, frankly, because, in respect of aerospace and automotive, you might get agency for the specialist, one-off commissions, but you actually have permanent, full-time employees who are well trained, well remunerated and often members of the union.

Q82 **Chris White:** Can I come back on that before you answer? My question was going to be to Tim on this issue. You talked about unpredictability of manufacturing at the moment, but you also talked about specialist skills. You gave me a feeling that it was 50/50, but the specialist skills must be quite small as a segment. Are these people with specialist skills not also taken on on a self-employed basis rather than as agency workers?

Tim Thomas: To answer the two questions, yes to the first: there is a smaller number of specialist skills, and a greater number of craft technician skills and the like. In terms of how the person is taken on, that is not necessarily always known to the engaging company, i.e. the employer—I use the term vaguely—because you may well deal with a company that is an agency; you would not necessarily see beyond that, so you will see a company that you are contracting with. One of our larger members contracts with upwards of 30 agencies for different skills, and clearly it is a large multinational company. However, it would not necessarily know whether the person is employed, it is an umbrella company, they are self-employed or they are working through a service provision company.

The honest answer is that we do not always know. We may guess, to be honest about it, because it is likely that someone who is that highly skilled is probably self-employed, and it is probably likely at a lower skill level that they are employed by the agency, but the employer probably does not know in all cases.

Q83 **Chair:** Steve, we interrupted you, and I apologise, but we are trying to get a flavour of the rise of agency workers and to what extent agency workers are subject to being employed by dodgy companies. Could you give us a flavour of that?

Steve Turner: Yes. The group that we are talking about—the responsible agencies—are a very small proportion of agencies that operate in the sectors we are responsible for, and we are a very broad union that covers pretty much every sector of the economy. Our estimate of the use of agency workers is about 1.6 million, not the 900,000 that you see in the formal statistics. There is an underground economy that employs a lot of agency workers.

Q84 **Chair:** Where do you get that figure from?

Steve Turner: That is our own work, from working in the sectors in which we operate as a trade union, where we come across a whole series of different forms of exploitation, whether it is direct agency or casual; whether it is forced self-employment via an agency and they are not quite sure who employs them or even if they have an employer; or



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whether they are accountable to an algorithm in the gig economy, where a computer somewhere is telling them that they are not as productive as 80% of their work colleagues and therefore they are not going to get any work any more. They cannot negotiate that with a computer; they are just getting it on a smartphone. These are our experiences out there in relation to agency employment in particular, so we reckon there are about 1.6 million.

As you go further down the supply chain, that is where you see abject exploitation. We see that in every sector of the economy.

Q85 Richard Fuller: Sorry to interrupt you but, if I am an Uber driver, am I included in your estimate of 1.6 million?

Steve Turner: No. We say that Uber drivers are employees of Uber.

Q86 Richard Fuller: Let me try to find something that is less politically sensitive. If I go to an online platform as a casual worker, am I included in your 1.6 million?

Steve Turner: Yes.

Q87 Richard Fuller: Let us be quite clear. For the purpose of what we are looking at—agency—there is an intermediary, which is the agency, but are you equating a platform to an agency?

Steve Turner: Yes, the platform becomes the intermediary. The modern world of work is transforming itself rapidly, and we need to keep ourselves abreast of it. From our experiences in construction, false self-employment is rife. We see it in retail and in care, as you have already identified. We see it in hospitality and manufacturing; in communications; in warehousing and logistics; in distribution; in food and agriculture, as has already been identified; and, of course, in education, health and the professional services, in the public sector as well as the private sector.

This is now quite rife. It is a business model choice for many employers out there that want to reduce costs and their responsibilities for employees. They do not see the employee as being core to their business any longer; they often seen the employee as being a subsidiary on the periphery of their business, and therefore it is appropriate that a third-party logistics provider or an agency employs and directs that labour.

Q88 Antoinette Sandbach: Are you including the NHS in this? One of the big issues that there has been is around locum doctors, highly specialised, charging very high rates to the NHS. Are they included in your 1.6 million?

Steve Turner: They are probably self-employed, as opposed to coming in via an agency. If they are coming in via an agency, yes, they are agency employees. There are a variety of legitimate reasons as to why companies may want to use agency labour. We recognise peaks and



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troughs; we recognise seasonal work; we recognise specific skill requirements and temporary cover.

Q89 Antoinette Sandbach: The NHS trust would say to me that the reverse is true: that they are being exploited, that they are effectively being held to ransom, because they have to pay more to get the cover.

Steve Turner: They are not training enough of the professional, skilled staff that they need in order to operate an effective and efficient NHS. They are having to go outside, through personal choice.

Antoinette Sandbach: No, it is a choice, particularly of women.

Richard Fuller: It is very rich people ripping off the NHS.

Lindsay Judge: When we looked at the data on pay and compared a worker who was an employee and a similar worker who was an agency worker—so nothing was different except that one was an agency worker and one was not—we saw a pay penalty of 22p an hour. However, when we looked at that across the income distribution, we saw that those in lower-paid jobs were suffering a bigger pay penalty because of being an agency worker than those who were further up the income distribution. Even the data is speaking to the point that this is a highly heterogeneous group of people. There are certainly some agency workers who are doing quite well out of it, thank you very much, and others clearly are not.

Chair: That is very helpful.

Q90 Amanda Solloway: I have a couple of questions, just to follow on in the same vein. First of all, you were talking about your criminal, your dodgy and all the different kinds of agencies. How do employers choose those agencies? Do they actively choose somebody? Is there a brand that fits an employer?

David Camp: There were two other categories, compliant and leading, as well. Within the sector that we represent, there were two factors that businesses used to take into account. The key factors were price and ability to fulfil or to supply. Within the sector that we work in, compliance and the ability to demonstrate that you will not bring your customer's reputation into any damage has become a key part of the selection process. There are a number of due diligence processes that businesses in the sector that is regulated by the Gangmasters Licensing Authority will go through to make sure that businesses are compliant, the first of those being: does it have a gangmasters licence?

Q91 Amanda Solloway: Does that ultimately mean that the agencies you are talking about, the dodgy and the criminal, will by default go out of business?

David Camp: No, they are going to move into other sectors where there is no enforcement. Outside the GLA sector, there is almost an absence of enforcement in the UK.



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Steve Turner: That goes to the heart of the previous evidence we have given in relation to Sports Direct and, in particular, Transline, which had its licence revoked by the Gangmasters Licensing Authority, then appeared in a different sector of the economy and operated in exactly the same way. I understand that you are hearing evidence from them a little later.

This is a business model. It is a method of choice of employment for so many employers across all sectors of the economy now. This is quite rife, and I can see the benefit for the client in reduced costs, increased flexibility and the rest. I can see the benefit for the agency in terms of its own profitability and its ability to make a market out of what is not really a market. I struggle to see the benefit for ordinary working people working for agencies.

Richard Fuller: They get a job.

Steve Turner: Well, they could get direct employment.

Q92 **Richard Fuller:** They get a job with some flexibility; they get a job because they can manage through uncertainty—all the reasons that Mr Thomas just talked about. Were you not listening to his evidence? He gave a number of good, positive reasons for an employee and employer to benefit.

Steve Turner: I do not meet many employees who see the benefit of an exploitative employment model.

Richard Fuller: Well, maybe you should get out more.

Steve Turner: I do not see many such employees. I do not meet them; I do not talk to them, when I go out and about in all the sectors that my union represents workers in. I do not get non-exploited employees coming to talk to me about the way they are treated by an agency. Employees are often debarred from enforcing their employment rights because their employment with the agency is on short hours or zero hours. They have fear and very little protection, and no union agreements to cover them. They now have employment tribunal fees that are often more expensive than the claim that they are trying to submit to benefit from.

Q93 **Chris White:** Are you suggesting that employment agency equals exploitation?

Steve Turner: Not all, but a good majority of employment agencies are employed by clients to reduce the client's costs. If you take out the agency's profit margin and the reduced costs to the employer of direct employment, by default the cost saving comes on to the employee. It is the employee who suffers. They are often employed on very short-term contracts, completely flexible contracts, including zero-hour contracts and short-hours contracts. We have had experience, not solely within Sports Direct, of the 366-hour contract, which is the minimum legal contract: six



hours a week, a contract of employment that means they can assert their derogation under the Swedish derogation of the agency workers regulation.

Q94 **Amanda Solloway:** I am interested, because you are only going to be seeing a certain type of agency employee who comes to you. Would you acknowledge that that is not the full spectrum?

Steve Turner: We do meet agency employees who are members of our union working in finance, manufacturing, engineering and various different sectors of the economy, who are very highly skilled and are very sought after. They work for agencies, which is the point that Tim made earlier. We recognise that, and we recognise the demand for those skills.

David Camp: I have a slightly different perspective. We have in this country now, for the first time in my life, as close to full employment as I have ever seen. The issue we have is not one of workers having no choice; the biggest issue facing our sector is that we cannot find enough workers. There is choice. Workers are not bound to work for one particular agency; they are able to leave and work somewhere else. Nowadays, agencies know—and I agree that this is a response to supply and demand—that if they want to hold on to their workers, if they want to demonstrate to their clients that they have reliability of workers, they have to treat these workers well.

Yes, I agree this has been a learning experience, but that is what we are seeing in the market now. The situation is not, as seems to be being put forward, that all agencies are out to exploit their workers. They would not continue in business; their business would not be effective.

Q95 **Amanda Solloway:** I am going back to Iain's original point, which is about why people use agencies. I have heard you say it is the business model choice and cost, but what you are saying is that it is not actually less cost; it actually makes business sense.

David Camp: Absolutely. The money to pay workers—their basic pay, their national insurance, their holiday pay, their statutory sick pay, pension auto-enrolment and now the apprenticeship levy—can only be charged to the client; it does not magically come from anywhere else. That is a cost that has to be passed on to the client, plus an operating cost and sometimes, goodness forbid, a little bit of profit as well. Yes, that is a cost that needs to be passed on to the client. The client makes that decision to use an agency, to use a labour provider, because it brings them a business benefit; if it did not, they would not use it.

Tim Thomas: To state the blindingly obvious, we use agencies because we need the people. The people are doing something productive in the business. In my experience, there is no financial incentive; it actually costs more, because the on costs are paid by the end user—the client—plus a margin, plus a cost for the worker themselves. That is why we use agency workers; those are the costs involved. This is not a zero-sum



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game. The idea that somehow agency is all bad is quite clearly incorrect. I would not sit here for a moment and say that it is all fine; clearly there is malpractice. Steve has indicated what that is, but it is a bit like saying to a dentist, "Are all people's teeth rotten?" He only sees rotten teeth because he is a dentist, which is the point you made.

From my perspective and that of the businesses I speak to, agency costs are increasing, not decreasing. If we did not have agency workers, what would be the result? The result is not necessarily that we employ more people because, as David said, we are pretty much at full employment. In our sector, the result is that the business might go somewhere else where there are the workers to do it, which, currently, broadly means the European Union.

Lindsay Judge: I cannot speak from direct experience, but will just put another piece of research on the table—not our research, but research done by National Institute of Economic and Social Research, which looked at the presence of agency workers in the workplace. It points out the fact that, when you have agency workers in the workplace, you tend to have an unhappier employee population. I completely accept what others on the panel are saying about the reasons why firms are using agency workers—demand fluctuations, managing costs and possibly not having the hassle of dealing with part of your workforce—but in some cases there is clearly a disciplinary element to using agency workers. The NIESR research showed that having agency workers present was unsettling for agency workers, but was also unsettling for the employees, for whatever reason: maybe because they felt that that was the way their work was going.

Q96 **Amanda Solloway:** That is interesting. People felt unhappy working next to agency workers; that is what you are saying.

Lindsay Judge: Yes.

Q97 **Amanda Solloway:** An agency worker presumably chooses to be an agency worker.

Lindsay Judge: That is an interesting question. I take the point that others on the panel have made around choice. One thing our work showed is that we could not see a lot of regional variations in patterns of agency workers in the data, but that is because the constrictions of the data allow you to look only at the very highest level, so we could look at Wales or the north-east. One thing we know from talking to people and looking at other research is that you get very strong concentrations of agency work in particular local economies.

If you are in a local economy and you cannot move very far, for whatever reason, in order to get another job—maybe you have children or you have a particular set of constraints—your choice is quite restricted. If you have local economies that are quite mono-industry-focused, do you have a choice? I am not sure that you necessarily do.



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Q98 **Amanda Solloway:** Is there any evidence of agencies treating workers unfairly? I ask that to all of you, really.

Tim Thomas: Just to repeat what Steve said, many of our members are heavily unionised. It is a collective agreement; it is done with the agreement of the trade union. It is difficult to say that that is an example of where the agency worker is being exploited in any way. We are doing it in a social partner sense.

Q99 **Amanda Solloway:** Just for clarification, I guess there are two things. One is whether businesses are treating agency workers differently.

Tim Thomas: Are you talking about the employment agency?

Amanda Solloway: Are businesses treating agency employees differently? What you said was on that point, Lindsay. Do agency workers feel as though they are treated differently?

Tim Thomas: My experience is that they are not in our sector.

David Camp: There are some businesses that do not treat agency workers as they would their own. The agency workers regulations that came in in 2012 sought to rebalance that. I see no particular reason why an agency worker should be discriminated against solely on the basis that they are an agency worker, and I would ask the inquiry to look at that protection. There are certainly legal ways, with the Swedish derogation, whereby two workers working next to each other, doing equal work of equal value, can be paid a different rate for the same job.

Q100 **Chair:** We have had an online forum to encourage people to give their experiences—good and bad—and somebody called Sean wrote to us. He writes this: “I work at an agency, and have been trying to ascertain why we have not received the rights of parity in benefits and treatment due to agency workers after working in a particular role for more than 13 weeks. Agency workers have inadequate protection from mistreatment, and no defence against union-busting tactics. Many would rather not join a union so as not to risk losing their jobs. This prevents workers from pushing for fulfilment of their rights, or improvements in their terms and conditions of employment—arguably one of the reasons that agencies are used”. Is that something that you all recognise?

David Camp: There are many good points in that. First, we need to make workers’ rights more clearly understood, more simple, so that—let us bring Lord Denning up to date—the man in the Uber taxi knows what rights he is entitled to, and I use that just as an example, and so that they can get advice. How can they get advice? We have something called ACAS; people do not really know what that means. Let us turn it into the employment helpline and let us publish it. Do workers have access to remedy without going to tribunal? I do not see it at the moment, so how can workers get something corrected and whom can they go to? Are these rights enforced? No. These are all things within the realm of Government. These are not within the realm of business, but are within



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the realm of Government, and it is within the realm of this inquiry to make some great improvements in how we manage this issue in this country.

Steve Turner: I want to make a point in response to the point that you made, Amanda. We often see this as being a direct job replacement mechanism. That is the reality out on the ground for ordinary working people, who are often surrounded by agency workers, casual workers and others that the employer has brought in at worse terms and conditions than the direct workforce. They see themselves in a very fearful and vulnerable position as being the next group to be outsourced to an agency. It is a switch, really, between direct employment and indirect employment. It used to be the case that there would be some 90% to 95% direct employees, and then you would pick up the peaks and the troughs with a 5% to 10% fluctuation via agency or casual workers. That has completely switched in large sectors of our economy, so now some employers will employ 90% agency labour and have a 10% core.

There is a reason for that. Why do they do that? They do it because it is cheaper for them to do it. That is our argument; that is our experience. The agencies will employ directly under the agency workers regulations; they will assert the Swedish derogation under the agency workers regulations, which allows them to pay the minimum wage as opposed to the rate for the job of colleagues that they are working alongside. They pay the statutory minimum of holiday entitlement, they do not provide the same pension entitlements as for direct employees, and they exploit those on short-hours or zero-hour contracts. This means that absolute power and control is in the hands of the agency employer and often the supervisor on the ground, who does not have to go through some due process, disciplinary procedure, appeals process or union recognition agreement. They can simply not provide any further hours for the employee when they have exhausted their guaranteed annual hours, and therefore they are unemployed.

Q101 **Amanda Solloway:** In terms of cost, do you have a breakdown of the difference in cost when employing somebody through an agency? You are saying it is cheaper, and you keep on saying that. I just wonder what the reality is in terms of cost.

Steve Turner: We have experiences of in excess of £5 an hour pay differential between agency employees and direct employees.

Q102 **Amanda Solloway:** What I am interested in is cost to the business, not cost to the person.

Steve Turner: These are often confidential employer-client agreements, but we can ascertain a good guestimate as to the cost savings to the employer. In terms of employer's national insurance contribution, this is a very little spoken about con and scam in the employment market, where you employ people, even at a decent enough rate, for few enough hours to keep them under the national insurance threshold; or you pay



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them for a 38 or 48-hour week, but at such a low rate that they fall under the threshold over a period of time, so they are not paying national insurance as employees, which pushes them outside of certain benefits that are based on your contribution.

More importantly in this argument, simply by shifting its business model, the employer is not paying the employer's national insurance contribution, which at about 13.8% is a sizeable cost reduction to the employer. That is an unfair competitive advantage that those businesses find themselves with against responsible employers in that sector of the economy that do want to directly employ, that want to train young people in proper apprenticeships, that want to employ on decent terms and conditions of employment, that recognise unions and consult, negotiate and reach agreements. They are completely undercut through some scam by a fly-by-night employer somewhere else that wants to employ the worker at the least possible cost, at the biggest cost to the employee.

Q103 Anna Turley: I was really interested in exactly what you have just said, Steve, because my experience of people in my constituency is that this is not a choice for them in the employment market; this is all that is available, and they are forced to take these contracts, which are less well paid, insecure, with no control over the hours. This is increasingly the nature of it. I do not recognise the comment that we are nearly at full employment, because in an area like mine there is hugely high unemployment. People are desperately trying to get work and we are seeing a race to the bottom.

The question I wanted to ask, which we have not really talked about on this panel, is about the impact on people who are working in agency work. It has been discussed as though it is a choice for people to undertake this kind of work. How do people get out of it? I want to ask you, Steve. What is the route out for people? What is the impact of being in agency work on financial and social inclusion? What is the impact on your skills and your career development? Could you say something about that and what it means for people to be in agency work?

Steve Turner: This has a huge impact on a person's social and family life, as well as their financial wellbeing. The amount of hours that you work and the rate of pay that you receive for those hours have a direct impact on your ability to live within wider society: to pay your bills, to pay your rent or your phone bill, to put clothes on the backs of your children or food on the table. We meet example after example after example of those suffering from in-work poverty—not those who are doing 30 hours or 20 hours a week, who could do more and could work harder, as the state would like you to believe, at the threat of sanction, because they are not working hard enough. The reality is they cannot find the work. This is not a choice for individuals; this is often the only choice. The only access into work is a vulnerable, insecure, low-paid, often minimum-wage job, with complete power and control in the hands of the employer, very often on zero hours. You do not know whether you are working tomorrow very often, let alone next week.



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We have numerous examples of people working to a smartphone and being advised, "There is a placement for 50 workers tomorrow: the first 50 to respond at 11 pm at night may very well get the job". Then 25 will turn up and be told, "We only really needed 25. On your bike, come back tomorrow. Keep an eye on your smartphone for opportunities that may arise". They are not paid for their travel time; they are not paid for their inconvenience; and they have no work for the day. That is our example of modern-day employment practices at that end of the market, and that end of the market is a growing segment of the market and it covers all sectors of our economy.

Q104 **Anna Turley:** Can I ask other people on the panel what the benefits of this are?

David Camp: We work at that end of the market, and I can honestly say that, around the country, it is probably about 90% to 95% migrant workers who fill these roles. This picture of high unemployment levels and local workers coming into agencies is not something that I recognise.

Anna Turley: You need to come to Teesside, to the construction industry in particular.

David Camp: My focus is horticulture and food manufacturing, so it may be different, and I cannot claim to know other sectors. Business is hugely competitive, and businesses being on the figures we are hearing of 90% temporary workers is not something that I see. Businesses make decisions about how they can run their businesses as efficiently as possible; how they can run as effectively as possible; how they can improve productivity. That requires having a core workforce that you can invest in, build on and rely on, and using a proportion of agency workers to meet the flexible requirements that you need to manage your business costs.

Q105 **Anna Turley:** Have you ever met anyone whose aspiration in life is to be an agency worker?

David Camp: I have met many people for whom it is a ready and accessible route into work. You can come into this country, go into an agency and be working in two days' time. You are earning money; you are accruing holidays from day one; you are being paid properly, and that gives you the initial core stability to make the next transition in your life. Market forces are such that we have a labour shortage, and I can accept that in certain areas of the country that is not yet the situation; I can understand about Teesside. We are seeing certain businesses wanting to secure their workforces for the future in these changing times and to make sure that they absolutely have a workforce to see them through the next year or two years. That is how the market adapts to changing circumstances.

Q106 **Anna Turley:** Can I ask Tim particularly about manufacturing?



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Tim Thomas: The real question is what we can do about this. That was the first question, and my answer to that is to train. In the north-east, our members are as short of engineering skills as any part of the UK. I know our members in the north-east train. We have one member that has just opened a new apprentice training school there.

Q107 **Anna Turley:** Are they agencies?

Tim Thomas: No, they are our members; they are employers. What do we do about that cohort? I entirely accept what you say. There is a route into a different form of work: 75% of our members offer apprenticeships. It costs one of our members about £100,000 to train an apprentice, but it is a route to career, not just a job; it is a career. In terms of what we can do, my answer to you is: train; skills—higher skills, better paid job.

Q108 **Anna Turley:** Surely agency working is almost the antithesis of that, because there is not the level of investment in skills, there is not that longevity, there is not that security, all those things that build towards people having a good and fulfilling career. Agency working is working against that.

Tim Thomas: There are two points there. One is the point that David made, and our members bear that experience out as well, that you will see someone arrive in the UK; you will do a right-to-work check; the person has been here days, and they will be working within days. I accept the point that you made, but it depends on what your work is. If our members take on someone at an employment agency, they will often recruit them and, if they want to do an apprenticeship, they will pay for it, so there is a route into better-paid, higher-skilled work through employment agencies. It will depend on the work you are doing. I think the point behind your question is: if you do some work via an employment agency, you are sort of stuck in a tumble-dryer, going round and round; if you do other work via an employment agency, it is a route into permanent employment and skilled work.

Q109 **Anna Turley:** Something that is very close to my heart is the point that has already been raised about umbrella companies. I wondered if those on the panel would like to say something else about umbrella companies: how they are being used, what the impact on the Exchequer is, as well as the impact on individuals who are losing money through bogus self-employment.

Tim Thomas: It is difficult for our members to have good visibility of the use of umbrella companies because, fair enough, you use an agency—a company—and what is behind it is not always obvious. It may well be that there is an umbrella company there; it may well be that they are working through a service provision company or some other arrangement, but you would not always see it as an employer.

Q110 **Anna Turley:** Do you think this lack of clarity creates an environment where countries are flourishing by creaming money out of people's pockets? I have certainly had constituents come to my surgery who have



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lost £30 or £40 a week that they cannot explain.

Tim Thomas: They cannot explain where it has gone.

Anna Turley: Yes.

Tim Thomas: I am familiar with what you describe. I am familiar with a situation where there will be a deduction from an invoice and it will be entirely opaque. The clear need there is for transparency about the terms on which you are engaged. I know we are not talking about it today, but I am going to say it anyway. Before coming here today, I had a quick look at the difference in statuses, and I found 83 metrics where there is a difference in status between “employee” and “worker”, which is a not dissimilar point to the one you are making. It is about clarity and transparency.

Steve Turner: We have a lot of experience of umbrella companies. Umbrella companies should be prohibited, should be banned, a bit like zero-hour contracts. There is no place for them in 21st-century Britain. This is another method of exploitative employment, where workers are forced into setting up and establishing their own business, and then being paid through dividends from their business, as opposed to being paid a wage by their employer. There is no call for that at all. They are often double charged, so they have administrative charges placed against them for the management company that holds the business that does not exist. They are the sole employee in the business, they are the director of the business and they are the beneficiary of the dividend, which is a wage.

This is perverse; this is 21st-century Britain. I can understand it completely in Teesside, but elsewhere across the economy, in construction, this is widespread. It should be clamped down on, and it is the role of Government to clamp down on it. It is also the role of clients: clients have a responsibility for chasing the supply chain and understanding the employment models that are being used within it. It is no good just saying, “I employ A, B and C to do this particular form of work, and I am not really interested in who the second-tier, third-tier or fourth-tier employee might be, or what method of employment they might be under”. That should be challenged and tackled. They should report in their annual accounts the sort of employment models that they use in their supply chain, as well as directly as an employer, so that there is proper transparency there. It should be banned; there is no place for these employment models in 21st-century Britain.

- Q111 **Chair:** I talked about our online forum, and I would encourage you to go on to our website to have a look at this. Mark wrote and said, “We are now forced onto umbrella company pay schemes...The wage from one week to the next varies wildly. If you inquire about the discrepancy, you are met with reasons Stephen Hawking would not be able to comprehend”. This is par for the course for many people. He goes on to say, “We now also have to pay employer and employee’s national insurance and £23 a week just to receive a wage. What other job do you



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have to pay a £1,000 a year just to get paid?" Again, David, is this par for the course and, if it is, how do we regulate against unscrupulous umbrella companies?

David Camp: Umbrella companies do not tend to operate in the sector licensed by the Gangmasters Licensing Authority, because there is enforcement. The Association of Labour Providers has no relationship with any umbrella companies. It is interesting to note that, in German legislation, there is a ban on what is known as chain leasing, in that there should be no more than one supplier between the worker and the end hirer, so it might be worth the inquiry looking at the legislation in that country.

I believe there are some individuals who choose to work through that route. I was given the example of HGV drivers, for whom there is always work available, and they choose to work through that route because of the tax advantages that it provides them personally over other methods of being employed directly through PAYE. As I say, we have no relationship with umbrella companies in our sector.

Q112 **Amanda Milling:** I have a couple of questions for Steve. The last time you gave evidence to us was in the context of Sports Direct. From your perspective, how have working conditions of the agency workers changed since you last gave evidence? Could you give us a bit of an update?

Steve Turner: Yes. It is a bit of a mixed picture at Sports Direct really. After the evidence session that we had, there were a number of constructive changes for employees of Sports Direct, but of course Sports Direct employs 90% of the warehouse as agency workers, not as direct employees. The agency workers there are still employed on 366-hour contracts of employment, which are effectively zero-hours contracts. By the end of February, you have exhausted your guaranteed hours for the year, and at that point you are a zero-hours contract employee and you are exploited in every fashion that zero-hours employment brings about. We have already documented that, so I will not go through it again.

They did of course remove zero-hours contracts for the direct employees in their retail operation, which was a welcome move. About 18,000 employees were offered guaranteed hours, which demonstrates, of course, the ability for employers to offer guaranteed hours and not to exploit on zero-hour contracts or fall down the drain as a business if they were forced to do so.

Sports Direct did remove the "six strikes and you're out" policy, which explains how it exerts its authority over the contracts as a client company. That goes to heart of the evidence that we gave last time: that this is a business model used by the client, and the terms and conditions are imposed by the client on the agencies.

In terms of agency workers, there has been no change at all. In fact, I know you are going to receive evidence from Transline. We got a



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£1 million back payment for non-payment of national minimum wage in an agreement between the parties and HMRC. Transline has refused to pay the back payment for the non-payment of national minimum wage for the period of employment that employees had before Transline took over the contract, so they are refusing to honour the transfer of undertakings regulations. This is a huge issue; this is hundreds and hundreds of pounds for thousands of workers. Best Connection, the other agency, has honoured the agreement and paid in full the back-pay commitment that it had; Sports Direct has paid to its employees in full the back payment commitment that it had, but one agency, Transline, has decided it is not going to do that. It views itself as not responsible for the employment period of Blue Arrow, before it assumed the contract. Under the transfer regulations, it is absolutely responsible for that period of the contract, should pay and should be forced to pay by HMRC. That is a question you might want to ask Transline during the course of their evidence.

Q113 Michelle Thomson: This is an area of interest for me. As you point out, we have Transline coming in, who may give a different view. You must have had discussions with them; it is a chance here to get on the record what you anticipate they will say to rebut your comments here and how you will counter that. It is slightly the wrong way round, so what do you anticipate they are going to say when they appear later, and how you are rebutting? Specifically, what evidence do you have to support a rebuttal?

Steve Turner: I am not sure what they will say their rationale is other than that they are not responsible for payments that were endured before they became the employer directly. That is what they have said to their employees: they are not responsible. That is all they have said to their employees. We disagree with that, and that needs to be enforced. Unfortunately, this an HMRC enforcement action, and like the Gangmasters Licensing Authority it is hugely under-resourced, which is another issue that needs to be addressed: proper enforcement of statutory rights, proper funding and resources for the enforcement bodies that are out there trying to do a job of work.

Q114 Michelle Thomson: The point you were making was that the linkage between Sports Direct and the agency, affecting agency workers, was clearly established because they were able to remove the "six strikes and you're out" policy. Therefore, regardless of whether it was Transline or Blue Arrow, they were still overseeing and had accountability for that; that is the point you are making.

Steve Turner: Absolutely. The client should have forced them to do that, and they have chosen not to do that.

Q115 Amanda Milling: I want to come back to Transline in a second, but while we are here, what are the key things in the working practices at Shirebrook that they still need to address?



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Steve Turner: We put forward proposals to Mike Ashley directly, as the CEO of Sports Direct, for a transition of agency workers to direct employment, but that has gone nowhere, absolutely nowhere. Sports Direct are currently working on the basis that they will transition 10 workers a month, so in 27 years the last agency worker will transfer over to Sports Direct. Perhaps I will be outside to welcome it, if I am still here. There has been no movement on collective bargaining arrangements. We also put forward proposals to Sports Direct for access to the agencies, because previous correspondence we had had from the agencies was that they were willing to meet us but only with the agreement of Sports Direct—again, an explanation of the power the client has over the agency.

We have put forward proposals for open-access agreement to the agency workers as a trade union, and that has gone absolutely nowhere. We are getting no support from Sports Direct in terms of access to its premises for agency workers. There is no transition period; there is no movement on what are effectively zero-hours contracts; there is no movement on the intimidation.

Q116 **Chris White:** Do you want to share those proposals with the Committee and submit them to the report?

Steve Turner: I can forward those on to you, I am more than happy to do that. There is a mixed message: where Sports Direct were directly responsible and where it was in the public glare, they have taken action; where it is not in the public glare, where they are not responsible—although we claim they are responsible as the client—no action has taken place.

Q117 **Amanda Milling:** You have pre-empted my second question. We have Transline in giving evidence after you, and obviously you have given me one area of questioning. Are there any other things you think we should be exploring with them, on agency workers at Shirebrook and the agency workers that they have more generally?

Steve Turner: Transline is the agency responsible for agency workers at Argos distribution, where workers were paid significantly less, under exploitative use of the Swedish derogation, than direct employees. I understand that they are losing contracts in various sectors of the economy where trade unions are organised and are saying, “We are not going to allow you, as a client, to employ these sorts of businesses in your operation”.

We are trying to deal with this; we are trying to deal with exploitative employment wherever we find it. We are on the lookout for all those employers that engage in it, and we will hold them to account. That is not just about organising their employees and trying to get decent terms and conditions for all employees, although it is workers who often fall through the net. As others are looking after their own pitch, it is the worker who often gets neglected and pays the price for all this.



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We will also expose it publicly and see if we can make zero-hours employment toxic to the extent that it is banned in the UK, as it has been in New Zealand recently. It is not impossible to do this; in fact it is very straightforward, and all those companies that said, "We would collapse and fall into the abyss if we could not employ people on zero hours and in the most exploitative way possible" are still operating in Auckland, Wellington and everywhere else very profitably. The workers are now on guaranteed hours and have access to a trade union, and trade unions have access to workers in New Zealand as well by statutory right, whether they are recognised in that workplace or not. That is another proposal that we would put forward; we have put it forward in our evidence, but I would raise it here as well: that trade unions should have access.

Trade unions are a huge resource in terms of enforcement as well. We have offered our shop stewards and health and safety reps to the Health and Safety Executive and the enforcement bodies, to no avail. We have thousands of accredited shop stewards who could be the eyes and the ears of the employment enforcement bodies, entering these workplaces and talking in confidence to workers, to enable us to expose and bring actions against those that exploit.

Chair: That syncs quite nicely into Peter's line of questioning on the future of trade unions in this.

Q118 Peter Kyle: It does. Steve, when we visited the Sports Direct facility, we visited the Unite facilities on the way up and spoke about the frustrations that your local and regional staff have had in having access to the workers, but also having access to the management, just to talk about what was going on there and the rights of people who were agency staff. You said earlier on in your testimony that the world of modern work is evolving rapidly. Is the world of union representation evolving rapidly enough to keep up, or is it a question of trying to make work more like it has been in the past, in order that you can represent it in the way you always have done?

Steve Turner: No, work is changing rapidly, and trade unions are adapting to that as best as we can and as quickly as we can. We are trying to go digital, to catch up with the digital economy, and we are trying to find ways in which we can engage with workers who are employed on an algorithm as opposed to in a workplace, of whom there are many, many tens of thousands.

Q119 Peter Kyle: Union representation is falling, particularly in the private sector, and has been for a long time. You have not managed to stem the flow. Why is that? Why are people not drawn to the union movement? Are you not able to attract them? What is behind this trend in the long term? We will come back to agency staff, which is a specific problem, but in general terms people do not seem to be turning to unions in the way that they once did.



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Steve Turner: The trade union movement has a job to do in making itself relevant to new groups of workers that, at the moment, do not see trade unionism being as relevant as traditional groups of workers in organised workplaces may very well have done. We are trying to do that. We have established an agency and precarious work unit, an exploitative work unit, which draws in, as you are, testimony from workers and seeks to represent them and find ways of collectively organising them.

The reality is that the state has become increasingly hostile towards trade unionism. It would be helpful if ACAS had the promotion of industrial relations, collective bargaining and other forms of collective representation reconstituted into its own role and function. That was removed a long time ago now, and perhaps the state should look at it again. We have put forward proposals for sectoral collective bargaining, to ensure that there is a baseline of common terms and conditions that you cannot fall below, beyond the national living wage or the national minimum wage, across core sectors of the economy. We would like to see a return to that, which is a role for the state. Collective bargaining gives us the single biggest ability to address growing workplace inequality and in-work poverty in our country.

Q120 **Peter Kyle:** To return to agency staff, agency staff are probably one of the most disempowered groups of workers that we have in our country, in terms of statutory rights and the fact that a high percentage of them are migrant workers. Lots of factors make them disempowered. How do you represent them when many of them are working on one, two or three-week contracts? You cannot be a member of Unite for three weeks, can you?

Steve Turner: You can, actually.

Peter Kyle: You can?

Steve Turner: Absolutely you can, and many of our members will go in and out of work. This is an issue that the state will have to address: people going in and out of work in a modern economy, particularly as automation and artificial intelligence kicks in more and more, and you see more rapid changes in automation and the way in which it impacts on work. People will go in and out of work; people will need reskilling during the course of their lifetime at work. We will have to be discussing issues like the guaranteed minimum income, how we do that, how we redistribute wealth.

Q121 **Peter Kyle:** I understand all that, but I am inviting you to talk about the union perspective, because clearly there are two aspects of this. There is the statutory side, which involves passing laws that grant access and the rights for people to be represented in the workplace, but there is also the fact that you will have to adapt to the modern workplace where people are going to be working in several different workplaces in the course of one month. If you are an agency worker, you could be working in three or four different workplaces in the course of a week. How are you as a



union going to adapt to representing people who are flitting between different workplaces in the space of a week?

Steve Turner: We already do that. We are quite adept at dealing with the issues that our members raise with us, whether that is with their employer or whether it is with a client, in the example that you give. They still have an employer if they are employed via an agency; they are employed by the agency and the issue would be raised with agency. It may be a client issue, and we will respond to that. We find ways in which we can best represent people with the resources that we have, given the demands that they have on us, in a changing economy. Of course, we are going to have to adapt as a trade union movement to meet the changes that we are facing right now. We are up for that; we are investing quite heavily in dealing with the digital economy and other ways in which we can engage with working people, to ensure that they see the benefit of trade unionism.

What we need the state to do is to open access to workers. We are now not even approaching employers for a recognition agreement with collective bargaining; we are approaching employers for access. Where we can access workers, I do not find many workers hostile to trade unionism. I find them very fearful of an approach by a trade union when they are working for an employer that is openly hostile to trade unionism and any form of collective organisation or representation. There is a lot of that out there, of course, particularly in the agency field, where they see any collective organisation as being an interference in their ability to exploit. If that is interfering with exploitation, I am incredibly proud to get up every morning and interfere in their ability to exploit.

Q122 **Peter Kyle:** We have Mike Ashley, who flat refused to meet with you for quite a period of time and made it quite difficult to do so. Considering the volume of people working in the Shirebrook facility, there is a lack of demand to get you in there, but there are pockets of people who were seeking your representation. How do you turn that relationship around? What is it going to take to get union representation within a place like Shirebrook?

Steve Turner: I am still hopeful that, at some point, I will be able to appear before this Committee with Mike Ashley sitting alongside me talking about what an exemplary employer he has become. That seems to be a long way off right now, but I do not see it as being an impossible dream.

Q123 **Peter Kyle:** What are you doing to make that happen?

Steve Turner: We are in dialogue with Mike Ashley personally, and we are in dialogue with the company at Sports Direct. The reality is that we have had to find new ways of organising workers, mainly migrant workers, predominantly from eastern Europe where English is a second if not third language. We are organising them in their communities because we do not have access to the workplace itself for them. People are very



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fearful about approaching us even outside the workplace, because they may be picked up on a security camera and identified as being pro-union or somebody who wants to do something about conditions inside the workplace, meaning they simply will not find any work any more.

We are organising in communities; we are organising in their front rooms; we are organising in church halls; we are organising in villages. We are organising wherever we can. We meet them on the bus to and from work. We talk to them where we can, and we engage and find people who will develop a collective organisation inside Sports Direct itself. We have been quite successful with that, as successful as we would like to have been as trade unionists looking to grow our union. This was not just about growing our trade union movement; this was about dealing with obscene injustice in the workplace. That is a bigger responsibility that we have as a trade union movement, and you have as parliamentarians as well, to address gross injustice, unfairness and abuse at work.

Q124 Peter Kyle: David, I have one follow-up question for you. Do you acknowledge that there is an imbalance between the rights of agency workers and the needs of employers? To all the questions that have been put to you until now regarding the challenges that individuals face in the workplace in terms of having rights, most of the answers have come back saying, "Well, there is a demand for it from employers". We would accept that employers need flexibility. Do you accept that increasing flexibility requires a different way of empowering the worker?

David Camp: I would agree with that. If you were to ask most people, the vast majority of people, what the difference between the rights of an employee and the rights of a worker are, they would be pretty hard pressed to bring out these 83 points. One point I would make is that we have an ACAS code of practice on disciplinary and grievance procedures, which applies to employees only. That is a three-strike process—written warning, final written warning, dismissal. Not a six-strike process, a three-strike process. Yet there is no code of practice that covers the rights of workers and agency workers, and we have a number of gaps like that throughout our legislation.

It is correct to say that union recognition among agency workers is low. I have worked with trade unions all my career, and people make a decision to join a trade union often based on, "What will it bring me? How will it help me?" That is the message that I am not sure is getting to that group of workers. With this inquiry and with Matthew Taylor's review, we have a unique opportunity in my lifetime to redress and equalise some of these rights, to look at the gaps. There are huge areas of employment law that are not clear with regard to agency workers and with regard to workers.

That is why I so much welcome this review, and I hope that we can all work together to readjust this balance. If we look back at 2008, the huge unemployment and how far we have come over the last few years in getting people back into work, that is something that we should pay high



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regard to as a nation, but there is now a time to look at how we can protect those most vulnerable in our society. This is not just agency workers. I know we are talking about agency workers today, but I work in many of the lowest-paid supply chains in the country, and I promise you the exploitation I see is much worse in other sectors than in the agency worker section.

There is a lot of work to do to ensure that workers know their rights, have access to knowing what they are and have access to remedying where they are not getting those rights. We have a unique opportunity to address that.

Q125 Antoinette Sandbach: You spoke about licensing earlier. Do you think it would be appropriate to license these agencies and effectively extend the remit of the Gangmasters Licensing Authority? Would that also help with enforcement?

David Camp: I was on the board of the Gangmasters Licensing Authority from 2005 through to 2015, and I am a strong advocate of the work that they have done, in partnership with business, to improve the rights of workers. I am a strong advocate for proportionate regulation, and in reality it comes down to enforcement, and enforcement with teeth, as a deterrent and as regulation by reputation. The challenge with a licensing model is that it does not come cheaply, but I would certainly advocate exploration of some kind of regulation in certain supply chains that we see in the UK.

Q126 Antoinette Sandbach: Which ones?

David Camp: Car washes is the obvious example that has been given. There are areas where we have seen higher levels of modern slavery than we would expect in other supply chains; nail bars have been mentioned. It is about agencies to some degree, particularly where they are supplying workers. The challenge is how you define sectors, and I have never come up with an answer: how do you define this vulnerability? I think some clever minds put to it can advocate that. I strongly support the position of Sir David Metcalf as the director of labour market enforcement and how he is taking a wider perspective on enforcement through our economy. There is a lot of work that can be done in shifting the national minimum wage enforcement team's focus from being complaints-driven to intelligence-driven.

Q127 Chair: That leads on to the final question, and I would appreciate a single sentence, if you can. If you could provide one recommendation to us, in respect of our inquiry, on the balance—the needs of firms to respond to market conditions but also ensure that workers have dignity and as much security in their terms and conditions as possible—what would you suggest to us?

David Camp: That is a very tricky question. I have already used my sentence up, and I have not said anything yet. I will start with a simple one: a defined status of agency worker.



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Lindsay Judge: It would be increased investment in the advice centre sector, so people are able to enforce their rights.

Steve Turner: It would be employment rights for all workers, irrespective of what your definition of work may be.

Q128 **Chair:** Category-blind?

Steve Turner: Category blind, absolutely. As well as a definition of “worker” and employment rights, it would be restrictions on agency work to what is really agency work—temporary work, not permanent.

Tim Thomas: It would be clarity, so people know what their status is.

Chair: That has been very helpful and very stimulating. Thank you very much for your time. We appreciate it.

Examination of witnesses

Witnesses: Ben Grover, Jennifer Hardy, Adrian Gregory and Tim Roache.

Q129 **Chair:** Thank you for coming to give evidence; we are very grateful. Can I ask you to start by giving us your name and the organisation you represent?

Ben Grover: Good morning. My name is Ben Grover and I am external policy adviser for the Association of Recruitment Consultancies.

Adrian Gregory: I am Adrian Gregory, director of a local recruitment agency based in Earl’s Court, which supplies generally lower-paid staff to the logistics, distribution, events and exhibitions industries predominantly.

Jennifer Hardy: I am Jennifer Hardy, finance director, Transline Group.

Tim Roache: Good morning. I am Tim Roache. I am the general secretary of the GMB union. I have worked with the GMB for 37 years. I have organised in the private and public sectors for most of those years and worked extensively with agency workers, those who are trade union members and those who are not.

Q130 **Chair:** Adrian, I will start with you, but this will be open to all. Your written evidence to us was quite extraordinary, which is one of the reasons why I wanted to invite you to give oral evidence. Let me just quote from some of your evidence, if I may. “Having spent 30 years in the business, I would go further” than what you had said earlier. “My particular part of the recruitment industry—that dealing with unskilled industrial staff—currently operates with little regard for the law, and none whatever for any ethical considerations. A pernicious cocktail of inadequate, impractical and muddled legislation, combined with a



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complete disregard for the rights and welfare of the very people, the temporary staff, who earn agencies their money, has led to mass exploitation coupled with huge tax avoidance". That is an astonishing statement. Let us try to dissect some of that. Inadequate: what do you mean by that?

Adrian Gregory: By "inadequate legislation"?

Chair: It says "inadequate, impractical and muddled legislation". I want to go through each one.

Adrian Gregory: Can I give one example? There are many, but I will give one, because otherwise we could be here for a very long time. The Swedish derogation has been bandied around, but I do not think many people really understand what it means, so, if I can explain that, that is just one of my examples. When the agency workers regulations were introduced in 2011, the aim was to give temporary agency workers who have worked at the same client for 12, 13 or more weeks the same pay and basic conditions as if they were a permanent member of staff. That was an EU directive.

However, the Government of the day in this country allowed something called the Swedish derogation, or the pay between assignments model, to be included. David would know more than I would, but I think its original aim was to satisfy people higher up the salary scale, such as IT contractors and so on. The aim was that you could opt out, as an individual, of the equal pay part of the regulations, but in return you had to be paid when you were out of work for a minimum of four weeks, but basically indefinitely, until your contract was ended.

Before the regulations were introduced, I remember going to a whole-day seminar about the implementation of the Swedish derogation; my life can be quite exciting at times. During the course of that whole-day seminar, there were huge legal arguments about how you would implement it; the HR support you would need in order to see it through; the agreement you would have to have with your client for a pool of money to be set aside so that, when people were out of work, they could be paid, and so forth. I remember coming out of that meeting thinking, "Well, no one is ever going to use this model; it simply does not work", but even after many years in the industry, I had completely underestimated the deviousness of my own industry. What happens, across a widespread area, particularly in the big warehouses that employ hundreds or possibly thousands of workers, is that effectively everyone is working on a Swedish derogation contract; they have given up their rights to equal pay, but they do not get paid when they are between work.

If I could give a brief example, I was part of a delegation to see Chuka Umunna about three years ago. Various Liverpool MPs and city councillors were looking into practices at a large, well known food company in Liverpool, and they had a couple of individuals who had been working there. The spokesman of the two had been there for six or seven



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years working on minimum wage. There were all sorts of other things going on there, but it was particularly about the Swedish derogation. When the meeting took place, he had been out of work for six or seven weeks. Two, three or four times a day, he would get a text from his agency and the agency would say, "Work available, contact us now". Every time he responded, they said, "Sorry, the work has gone", and this had been going on. Sometimes he responded, sometimes he did not.

What was the point of all that, you may ask. I point out that he was one of about 500 workers there and, at this particular time, the factory was quiet, so there were only 100 working there. The whole point of this was that, in order to qualify for pay between assignments under the Swedish derogation, you have to be available for work at all times. The agency had a system whereby you could get a text at 2 in the morning saying, "We have work available" and you would be expected to get up and say, "Yes, I am available" and, in theory, go to work. It was evident that there was no work actually available, but they had to keep giving these invitations to work just so that they could say to the temporary worker, "We did not pay you between assignments because you did not respond to our texts at 2 o'clock on Saturday morning offering you work. Therefore, you are in breach of contract".

They even had a belt-and-braces clause whereby, if you did reply to every single text you got during the course of the week, they would offer you six hours' cleaning in Blackpool, which was 50 miles away and would take two buses and two trains to get to, and therefore you would spend more money than you would earn. That is how it was worked there, and that is how the Swedish derogation is widely practised. I have never come across an example of any temp being paid anything when between assignments, so that is poor legislation, in my view.

Q131 Chair: Tim, do you recognise this: a pernicious cocktail; inadequate, impractical, muddled legislation; complete disregard for the rights and welfare of the very people who earn agencies their money; mass exploitation; huge tax avoidance? Is this what agency work is like?

Tim Roache: That is the world of not just agency workers but of casual employees, and we have to look at this in a far rounder sense. I know the Committee wants to focus on the use of agency workers, but I was listening when you talked earlier about the changing world of work and the direction of travel. The direction of travel for employees, for workers, is one of casualisation. It is bogus self-employment. Yes, it is agency work; it is zero-hour contracts; it is gig economy employment—all casualised, all with no guarantees. It is either very flexible or utterly inflexible.

What I mean by that is that, for the employer, it is utterly flexible. Our members get a text on the bus on their way to work to say, "We don't need you for another two hours". What do you do then? Get off the bus, go home and come back again? Of course you do not. You go to work; you sit around in the canteen. Maybe you will end up starting work early;



that is in the employer's interests. Alternatively, you will get a text saying, "We don't need you today". How do you plan? How do you live with that? What do you say to the gas or electricity person? "I cannot pay my bills this week, because my employer has not given me any work"?

That is absolutely my experience. There are good experiences. The problem is that there is a notion out there among members of the public that agency workers are used by employers at times of peak business. That is a good example, and there are examples of that. In the Lincolnshire fields, when it comes to the summer picking season, you need to employ more people to meet that demand. In the lead-up to Christmas you need to employ more people to meet that demand. That is not what is happening here. This is a systematic employment model of employers that are highly profitable, using agency staff to hire and fire them in this revolving door that I operate in.

Q132 **Chair:** I should have mentioned, and I apologise to the Committee for this, that I am a member of the GMB. I just wanted to highlight that. Ben, is this a good reflection of what the recruitment industry is like with regard to agencies?

Ben Grover: It is not a reflection of our membership. Our members are very much about compliance with the law. I would agree that the law is sometimes difficult to understand, and certainly matters of worker status are quite difficult to grasp at times. We think that it would be very helpful to have a single definition of agency worker, or even one that applied to tripartite arrangements generally. That could encompass the gig economy, as it has been referred to. In terms of tax avoidance or avoidance of worker rights, it is certainly not something I have experienced with our membership. Generally, we are out there to help them comply with the law.

The conduct regulations that were introduced in 2003 set out the rights, or rather how agencies must treat their workers, and indeed their clients. A lot of that is about making clear to the worker what their status is, when they will be paid, what their rate of pay will be. One of the key principles of the conduct regulations is that the agency worker or workers should not be subject to a detriment. There are already regulations in place, which can be enforced. It is possibly just the fact that they are not being enforced sufficiently.

Q133 **Chair:** Jennifer, welcome back. Is the situation that has been described in Adrian's written evidence something you would recognise, as somebody who is a practitioner in agency work?

Jennifer Hardy: I would agree with Adrian on a number of points in his evidence. I believe there are many areas within our sector that are anti-competitive and non-compliant. You alluded earlier to the use of umbrella companies and alternative pay models. This can be quite rife. It is not something that we as a business condone or enter into. We find that our competitors are able to undercut our prices on the basis that



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they are receiving income from other places. That is something we need to focus on within the sector. It is not a level playing field. We do not promote that to our clients. We are trying to educate our clients, so that, if they are using alternative agencies, they can identify the schemes that are in place. That is the most important thing.

Q134 **Chair:** Forgive my ignorance. You said it is not a level playing field because others are getting income from elsewhere. What do you mean by that?

Jennifer Hardy: I am not an expert on how these models are put together, but in the earlier session you were talking about packaging people up into different companies. I have seen models where there is someone out in the Philippines as a director of that business, and they are offshore-onshore type models. That allows the agency to generate greater profits, other than the margin that we generate from billing our end user client, and that effectively undercuts PAYE and national insurance that should be due on those workers. That is an area that it is important to eradicate.

Q135 **Chair:** In the earlier session, David Camp said there are four categories of recruitment agency workers: criminal, dodgy, compliant and leading. Which category is Transline?

Jennifer Hardy: I would say we are compliant, and we are aiming to be leading.

Q136 **Chair:** What are you going to do to make sure that you are leading?

Jennifer Hardy: Since my last appearance, we have worked very, very hard, not only within the particular area that I was asked to comment on, but across our entire business. We have engaged with a number of third-party, independent auditors to come in and look at our business. One of those is recommended by the ALP. We have been audited to ALP and GLA standards, and we have implemented any recommendations that they have made within our business across the board. We are still continuing with that process, and we welcome any independent auditors to come in and look at us. Across our entire business, we have made sure that we are moving forward and progressing, and we are totally transparent and compliant within the sector.

Q137 **Chair:** Is reputation important for your business?

Jennifer Hardy: Reputation is very, very important. We have made it through what has been a very difficult time for us. We feel now that we are totally compliant and transparent, and we want to make sure that our clients, and the entire sector, are educated as to what compliance actually looks like, and what is good compliance and what is bad compliance. It is not necessarily easy to see.

Q138 **Chair:** I have looked at your accounts, and you are operating on wafer-thin margins. You have a large turnover, but very small operating



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profits.

Jennifer Hardy: Yes.

Chair: This is the reason I ask about reputation. Is it the case that you have to try to suppress costs downwards as much as possible, in order to increase your margins? Cost would be more important than reputation, would it not?

Jennifer Hardy: The reason why we operate on a wafer-thin margin, compared to our competitors, is because we are operating on a compliant model. We are not operating a scheme that uses the worker to gain more profits in some cases. That is the reason for that.

Q139 **Antoinette Sandbach:** Ben, you talked about being the reputable end of the industry. How many of your members apply the Swedish derogation?

Ben Grover: To my knowledge, not many.

Q140 **Antoinette Sandbach:** Are you able to provide further information?

Ben Grover: I could certainly try to establish that, but I do not know numbers now.

Antoinette Sandbach: It would be very useful.

Ben Grover: It is not something we generally have to advise on very regularly.

Q141 **Antoinette Sandbach:** Do you apply it, Jennifer?

Jennifer Hardy: Sorry, I missed the question.

Antoinette Sandbach: Does Transline still apply the Swedish derogation?

Jennifer Hardy: We have a very minimal number of workers on the Swedish derogation, PBA contracts. It is less than 5%, and that would be only on the request of our clients. It is not something we promote. We promote pay parity, which means that the agency workers get the benefits and pay that the permanent workers get.

Q142 **Antoinette Sandbach:** Are you able to provide evidence to the Committee about the amount of payment that you have made to agency staff who have been out of work for four weeks or more?

Jennifer Hardy: I could certainly look into that.

Antoinette Sandbach: I am grateful.

Adrian Gregory: Sorry, could I correct that? It is not out of work for more than four weeks; it is one week or more, but they are entitled to at least four weeks' pay.

Q143 **Antoinette Sandbach:** Let us say that loophole, if I can put it that way,



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is plugged in some way, or changed so that it is enforced properly, as opposed to not being enforced. Apart from that, what other recommendations would you make for changes to the agency workers regulations? Might I put that to the whole panel?

Adrian Gregory: If that was removed, the regulations would be fairly watertight.

Q144 **Antoinette Sandbach:** Really, it is just that derogation that needs changing, then.

Adrian Gregory: Within the regulations, yes. There are all sorts of other things going on.

Q145 **Antoinette Sandbach:** I want to come on to that. I know that there have been scams, as it were, around holiday pay and personal accident insurance. I wondered, Adrian, if you could expand a bit more on how that works.

Adrian Gregory: To start with, the personal accident insurance schemes are what I would call scams. How they work is that an agency will take out a personal accident insurance policy, which will cover its whole workforce, so you will pay a premium. I got a quote a while ago, and it equated to 11p per person per week. You then sell them to your workforce. Your whole workforce is then covered; anyone who has an accident is covered. However, you sell them to your workforce on the basis that they need to subscribe.

The benefits are very poor: for every example I have seen, you get very little. The ones I have seen do not cover back injuries or repetitive strain injuries. Of course, the client and the agency will both have employer's liability insurance in place in any case. Their benefits are very, very limited, which is why they retail at 11p per week. We are a small agency; I have heard that larger agencies can get cover for 3p per week. You then charge your temps; £2.50 to £3 per week seems to be the normal amount.

On an annual subscription, it may be £125 per year that you are charging the temp, for a policy that might cost the agency £1.50 to a fiver per annum. Agencies always defend it by saying, "It is optional," but optional is a very interesting question. We have heard that on large sites, where there are huge cost pressures, agency managers are targeted to get at least 70% to 80% of people signed up to these schemes. They have the fall-back that, if you do not sign up, you are not offered work; if you do sign up, you are offered work.

To me, it is a scam. It is a way to increase profits. I do not know the situation at Shirebrook, but I know that there are reputed to be 4,000 temps working there. If they all signed up, that would be £10,000 or £12,000 per week of profit between the agencies for doing nothing. You do not need to do anything.



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Q146 **Antoinette Sandbach:** Does Transline apply this?

Jennifer Hardy: We do not, no.

Q147 **Antoinette Sandbach:** That puts that straight. Is that something you recognise, Mr Grover?

Ben Grover: The personal accident insurance is not something I am particularly familiar with in the context of our agency members. With regards to the holiday pay, that could in part be down to the wording of the working time regulations, inasmuch as you are not meant as an employer or an engager to pay out holiday pay unless someone requests holiday—their leave—on an accrued basis. Rolled-up holiday pay, i.e. holiday pay paid as and when you receive your weekly or monthly pay packet, is essentially frowned upon. The Government website, for example, does not support it.

There was a European Court of Justice case called Robinson-Steele, which said it could be paid on that basis provided it was transparent. If that were acknowledged—transparency would be key; it would have to be listed separately on a payslip—that might be a way of addressing the issue, by ensuring that people receive the holiday pay and that it is not just held on to by the engaging organisation.

Q148 **Antoinette Sandbach:** What does your organisation do to promote that among the membership you represent?

Ben Grover: A lot of our work is ensuring that our membership knows how to be compliant with the conduct regulations, the agency workers regulations and the relevant tax legislation, all of which use similar terminology, but sometimes not quite in the same way. That again leads to some of the confusion.

Q149 **Antoinette Sandbach:** I am not asking about the confusion. I am asking what you do.

Ben Grover: We try to break it down and explain it in a way that our members can understand and then apply to their workers.

Q150 **Antoinette Sandbach:** Do you have a quality mark or a badge, as it were, that says, "These are the gold standard agencies, which we know are applying the spirit and the letter of the law, and have processes in place in order to ensure that they are compliant or leading", those being the categories?

Ben Grover: Just being a member of our organisation is essentially reaching that standard, because that is what we are advocating.

Q151 **Antoinette Sandbach:** Is that right, Mr Gregory?

Adrian Gregory: I use Ben's company and it is very good, but he is not on the ground, so to speak. He is setting out what should happen, and he does it very well. But it does not happen, no, not at all. There are three things that we do that we think should be best practice. I have never



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heard of another agency that does them. We put a column for holiday pay on payslips, so every single week individuals can see how their amount is accruing. If you do not do that, they are in the dark. Secondly, we allow them to accrue holiday pay at the end of a holiday year. So many temps may have £500 or £1,000-worth of holiday. They ask for it and the agencies say, "Oh no, the leave year ended last week. You are starting again".

We allow them to accrue it indefinitely, and when they leave, if they have not taken it all, we pay it with their P45. Those are three very simple steps. I have never met anyone else who fulfils those.

Tim Roache: The question must be: why would agency employers, as employers, not do that? Those are the things that ordinary workers in this country, a developed, 21st-century country, should come to expect: that they accrue holiday or the right to holiday; that it is fully identified, open and transparent; and that, if at the end of their employment relationship they have not taken it, they are paid this. I cannot overstate the dark shadow of working for an agency. Some of the stuff I have heard I get and I understand—Adrian talks about the very best practice—but that is not the world that people in the GMB experience at all.

Q152 **Antoinette Sandbach:** My question was, looking around, whether or not it would be possible to develop a kind of quality mark that could distinguish those agencies that are compliant or leading. Has the GMB, or have other unions, worked together with the industry to see whether that sort of badge could be developed? It would let employers know that this is a trusted agency and an agency that is compliant. It would be like a trust mark or a British standard in safety.

Adrian Gregory: David's organisation, the ALP, takes a step towards that. They come up each year, when the national living wage or minimum wage changes, with what they call minimum charge rate guidance. This is meant to go out to all end users of labour. They say that, if you are paying £7.20 an hour and including on top of it employer's national insurance, holiday pay, SSP, auto-enrolment pension and one or two other things, and what they call the "unavoidable costs of observing the law on employment issues", they come out with a figure of £9.38 per hour. They say that that is basically cost. £9.38 is 0% profit margin. If you are engaging a labour provider, I think the wording is that they should be charging that, plus what they call "a sustainable profit margin". Generally, in the agency world, that is between 10% and 20%.

On a £7.20 employee you would expect, from David's advice, to be charging somewhere between £10.30 and £11.30, depending on the circumstances. If you came in at £9.38, i.e. 0%, you would not get very many big contracts. You need to come in well below that. I rang one of our clients yesterday and said "What is the cheapest price you have been quoted recently?" He said, "It is £8.73, although I have been told for the first month I can have as many temps as I want for £7.50". It does not make mathematical sense. Most of the large agencies, and some of the



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smaller ones, operate at prices that mean they cannot be observing their obligations.

Q153 **Antoinette Sandbach:** Do you think licensing is the answer?

Adrian Gregory: I think it is, but the industry is so opposed to it. As David said, if the GLA remit was increased with stronger standards, it would need many multiples of its budget to be effective. A licence without being effective is pointless.

Q154 **Antoinette Sandbach:** Could you put a position in place where you said, "Okay, if you are not licensed, you cannot be a recruitment agency"?

Adrian Gregory: That is in place within the GLA sector now, but I do not share David's rosy view of the agencies within the GLA sector. There is certainly more compliance within the GLA sector than outside it. I know the chairman of the GLA, Paul Broadbent, has spoken of his frustration that he knows of agencies that are compliant within the GLA sector, but getting up to every trick in the book outside it.

Antoinette Sandbach: That is why I talked about expanding the remit.

Q155 **Chair:** Jennifer, we have just been talking about the accrual of holiday pay and the various treatments. What does Transline do?

Jennifer Hardy: At Transline, for every hour that you work, you would accrue the standard holiday pay—at 12.07%, to be technically correct—and you would be paid that upon request.

Q156 **Michelle Thomson:** I want to pick up on a couple of things. First, Jennifer, you said earlier that Transline no longer offers insurance services to agency workers. Is that correct?

Jennifer Hardy: To clarify, we have never offered insurance. That was my counterpart in the last inquiry.

Michelle Thomson: It was Best Connection.

Jennifer Hardy: Yes.

Michelle Thomson: You have never, ever offered that.

Jennifer Hardy: No.

Q157 **Michelle Thomson:** Following the theme of licensing and the questions Antoinette asked, given what you have described about the margins being so low, do you think that the effect of licensing would start to change this race to the bottom that we are seeing, in terms of margins being cut, including for your business?

Jennifer Hardy: I am in agreement. We could widen the scope of the Employment Agency Standards Inspectorate, because the agency world is regulated by the Employment Agency Standards Inspectorate, and they have been to see me post our last inquiry and done their work. I believe



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there are not many people in that department, and I agree that a level of licensing is a requirement in this sector. It is not something we would push against having in place.

Q158 Michelle Thomson: If that were the case, what specifically would you like to see, from your side of the fence, that you think could start to change the shape and nature of the industry? Do you have any ideas about that?

Jennifer Hardy: It is about the contractual terms that workers are under—I have come under fire for that previously—what “good” looks like, the pay models that are in use, and making it clear to our end user clients, particularly, what they need to look out for. That is a big education piece across the entire logistics sector. I agree 100%: how does somebody know whether the agency is compliant or not? That is what we need to get to, and that is something we are working hard on anyway, outside of this.

Q159 Michelle Thomson: You mentioned this, and I know you have taken a full review since you wrote to the Committee in September 2016. Would you mind just running through the specific changes? Do you want me to just list them? In a letter to the Committee dated 16 September 2016, you told us that you had undertaken a full review of your business to ensure that operations were fully compliant. Would you mind just stepping through what specifically you have done?

Jennifer Hardy: We have engaged with third-party auditors, as I have mentioned before, which were recommended by the ALP. They have come in and done a full review of all our contracts. They have reviewed the contracts of the workers and how they are structured, and the recruitment process, and made sure that our workers fully understand what they are engaging into. It has gone beyond that point, to making sure that it is available to them and that it is readable. The Employment Agency Standards Inspectorate have been in to review as well; they have a code of conduct, and there were some minor points that we immediately rectified. We are working on the recommendations, pretty much all of which have been put in place now to make sure that we are ALP and GLA-compliant, which is seen as the standard.

Q160 Michelle Thomson: I am keen to understand this in a bit more detail. You have talked about contracts. You are saying that you have put in place steps so that workers understand the nature of the contracts they are signing up to. Have the contracts themselves changed, or is it just now that more effort is put into understanding?

Jennifer Hardy: The underlying principles of the contract have not changed, but the contract has been totally revamped and it is easier for the worker to understand. It is much more worker-friendly, which was one of the recommendations we received, and we have now actively put that in place.

Q161 Michelle Thomson: Would you be able to supply a copy of a new



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contract to the Committee so we can compare it?

Jennifer Hardy: Yes.

Q162 **Michelle Thomson:** What are the other steps, then, in your full review? Do you mind just stepping through those?

Jennifer Hardy: We are continuously under client review as well. We have undertaken an investigation from the REC. I am heavily engaged with a myriad of third-party organisations.

Q163 **Michelle Thomson:** I am just trying to understand specifically the top three areas that you have changed, apart from contracts. What are the specifics, rather than generalities?

Jennifer Hardy: They are the contract and worker engagement—the way that our workers are engaged—making sure we understand how our workers feel on the ground, working with our clients to make sure that they understand what is required, and making sure that, from the outcome of the last inquiry, there is nothing within our power that is going on. That is more complex, so I cannot give specifics.

Q164 **Michelle Thomson:** Do you still have prepayment cards?

Jennifer Hardy: The prepayment cards are still in existence. I defended them last time I was here. However, we have changed the way they work and have given a range of options, if someone decides that they need a prepayment card while they wait for a bank account to be opened. We review how long people are on them. We actively encourage them to move away from the prepayment card and open up a full bank account. It is just a mechanism to make sure that payment can be received directly, on a timely basis. For example, if someone has just arrived in this country and they are working for us, it does take a little bit of time to open a bank account.

We do not actively encourage them to stay on them for a long period of time, but it is an opportunity for someone to make sure that they are receiving pay on a timely basis. When you are dealing with people who are not necessarily on huge amounts of money per week, and may not have savings, they need that mechanism in place.

Q165 **Michelle Thomson:** Presumably, then, you are collecting the management information of the average time on a prepayment card as of today's date, compared to the average time in September 2016?

Jennifer Hardy: I would not have those figures to hand, but I could come back to you.

Q166 **Michelle Thomson:** How do you know you are getting better, then?

Jennifer Hardy: I have seen the data.

Q167 **Michelle Thomson:** In that case, would you be willing to write to the Committee and set out specifically what you have done, with the



supporting management information, so that we can compare where you were and where you are now?

Jennifer Hardy: Yes.

Q168 **Chair:** Jennifer, do you turn down work? If a client or potential client were to say, "I really want to pay the least amount I can; can you help me do that, as part of your package?", would you turn them down?

Jennifer Hardy: Yes. It is not our policy to actively supply every single end user that we possibly can. We review what that would do to our reputational risk, and whether it is right for us to supply. We have been known to walk away from clients, and to turn them down because they are not prepared to work within our remit, so yes.

Q169 **Anna Turley:** We talked in the first session about how it seems as though agency work is becoming much broader than our traditional idea of what agency work should be. Businesses are starting to design their models around a higher proportion of agency workers. What are the consequences of that for the labour market, in terms of skills and the quality of training and of the labour market, for those individuals themselves and for society? Also, what are the risks to employers?

Tim Roache: It is a key question. First of all, we are seeing this becoming a model, particularly in this gig economy, with this fourth industrial revolution that is hurtling towards us. We are moving towards more casualisation, for reasons that I have already talked about. In terms of the individual consequences, how can you plan? How can you begin to plan your life? How do you know you will be provided with enough work, either by the agency or by the employer—and I use that phrase on purpose—to put a meal on the table for your kids and pay your bills, let alone save for a mortgage or get a roof over your own head?

Secondly, and people tell me this all the time, you cannot underestimate the fear factor. I was listening earlier, and I hope Peter asks me the same questions about the union's role. You cannot understate this fear factor for people. People do not want to be treated the way they are treated by some agency employers. People do not want to not know if they are going to get a day's work, let alone a week's work. People do not want to be treated in such a way that they do not know where their next meal is coming from. That brings with it individual challenges.

Thirdly, there is no evidence at all that employers that make large-scale use of agency employees—I differentiate between large-scale and Extraman, for example—invest in those employees. They are viewed as temporary in every sense. They do not integrate with the permanent workforce. They are not invested in in terms of their skills, their standing in their workplace or their standing in the community. Let us be honest about where this has led: this has led to large numbers of people voting to come out of the European Union.



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Is that a bit extreme? How do I make that link? I will tell you. For some years, workers have felt that their lot is getting worse and worse and worse. With this drive towards casualisation, they feel even more disenfranchised. They feel that people like you, politicians, do not understand their challenges. You do not look like them, sound like them or have the same life experiences that they do. They look for someone to blame. Who do they blame? Let's blame migrant workers, who are bussed over here. Some of the examples I have just heard from Jennifer are simply not true. ASOS workers, for whom Transline provide people, have told us this, and I can give you a quote: when they are being taken on—lots of agency staff—the training team are told to lower the test scores to pass people and get them through their tests, whatever it takes, even when they have little or no English, putting people at risk. They are not even able to read the fire exits. That is the implication. That is the reality of work.

People, therefore, are looking for someone to blame. They think, "I can't take any more losses. I can't take any more cuts. My employer doesn't give me anything. I will blame migrant workers. If they weren't over here, my employer would treat me brilliantly, like they used to". It is probably all nonsense, but that is how they would view it. "I would be able to get to the doctor's tomorrow, not next week. My child would not be in a class with 40 people". So they vote to come out. Society has a price to pay for this hurtling towards casualisation. These employers are highly profitable, and that is the key point for me, Anna. We are talking here about employers such as ASOS and Next—and I can give you an example from Next as well—that are highly profitable at the expense of their workers.

Next has a warehouse in South Elmsall, in Yorkshire. It is an ex-mining village, and just before Christmas two years ago they needed to employ seasonal workers to meet the Christmas demand. Two things to note: one, this was just after Next had announced record profits, the first time they had ever declared profits higher than Marks & Spencer. They offered these warehouse jobs at 10p per hour above the national minimum wage, and offered them to a Polish agency. When we challenged them, Next said, "People in South Elmsall, ex-miners, would not work for 10p per hour above the minimum wage". That is the response you get. They are not sharing those massive profits with these workers.

Who picks up the tab for that? You are getting people coming over here, working at 10p per hour above the minimum wage. That drives down wage rates for everybody else. Local and indigenous workers working at 10p per hour above the minimum wage probably have to claim top-up benefits. Who pays top-up benefits? We do. We pay into the welfare. We are paying to support the system so people in work can claim benefits, and employers just raise their profits. It is unsustainable, it is unfair and it is unreasonable. It has to change.

Q170 Anna Turley: Would anyone else on the panel like to contribute to that?



I will ask Adrian: are businesses going to start to wake up and see the downside for them? Surely there is going to come a point when they realise that the lack of investment in the workforce, the lack of sustainability and security, is detrimental to the workforce they are employing. Are businesses starting to see this?

Adrian Gregory: A number are, and, particularly if labour shortages develop, that could be more the case. We only deal with companies like that, because we cannot compete with those that do not have that outlook. There will always be a number of responsible employers that realise that a well treated and properly paid workforce will be more productive than an exploited one. Where the percentages lie, I do not know. Iain pressed David earlier on dodgy, criminal and so on. Steve Turner said that he would say the majority of agencies are dodgy. I would say the majority or the vast majority. That would be my response.

Q171 **Anna Turley:** I would like to go back to hear a bit more about the ASOS experience you have, Tim. Could you tell us a bit more about how ASOS have used agency workers, and could you also say something about the route out of agency work for people, or the lack of it?

Tim Roache: At any given time, ASOS employ up to 50% of their employees through an agency. As was said earlier, this has therefore become a business model. Where is the benefit for the employer? You can hire or fire them at any given time; they come and go, and they are disposable. Picking up again on Adrian's point about where agencies are able to offer people at £7.50 an hour—I am not aiming this at Transline, because I genuinely do not know—that is not reasonable. It is unsustainable. It does not make sense, as I think Adrian said. Who pays the price for that? It is obviously the worker.

Through the use of payment cards, they get the national living wage, or however it is phrased these days, unfairly. They get the minimum wage, and any payment out of that of course takes them below that. Payment for payment cards, lodgings—we have examples where unscrupulous landlords have people six in a room and are charging them for it—and employer's national insurance deductions are all taking workers below the minimum wage. That is the first thing.

What is the way out of it? I will tell you the way out of it, Anna: Nestlé. Nestlé in York are the best exponent of the use of agency workers. First of all, it is part of the industrial relations framework. There is a tripartite agreement with the trade unions, Nestlé in York—the employer is Nestlé—and the agency employer. They talk on a monthly basis about the number of agency workers, who enjoy parity rights on day one, by the way, so if you work for an agency within Nestlé, you get the same rights and rates of pay as Nestlé workers.

Jennifer Hardy: The pay parity applies at ASOS as well, just to make that clear.



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Tim Roache: The fact is that Nestlé, by the end of this year, will be a properly accredited living wage employer, i.e. the proper living wage, which is sadly something that ASOS cannot claim. Let us keep working on that one. They get parity rights on day one. Secondly, it is a statistical fact that over 50% of the agency workers who work at Nestlé end up as permanent employees. Thirdly, no temporary or agency worker is used at Nestlé for any given length of time without them becoming a permanent employee. It is properly scrutinised, openly and transparently done, with day one rights and parity within, and no one is used, abused and thrown out of the door.

Anna Turley: That is very helpful.

Q172 **Albert Owen:** What is the advantage of using an agency? Why do they bother using an agency?

Tim Roache: To properly meet demands that are unexpected, to meet sickness or unforeseen circumstances.

Q173 **Albert Owen:** Could their HR department not do that, if they knew about the fluctuation of their demand?

Tim Roache: It could fluctuate at any time. The difference is that you are not talking about 50% of your workforce being agency; you are talking about 3% to 5%, to genuinely meet demands. It is exactly the same as the care sector. I used to organise in and around the private care sector. You would go into some homes that would use agency staff all the time, which had poor, lazy management that could not be bothered, versus good, decent examples where they would use agency workers only where someone had called in sick at the last moment, because they had to use people who were properly qualified. It is exactly the same point.

Q174 **Anna Turley:** Jennifer, could you talk about your relationship with ASOS and how that works?

Jennifer Hardy: We are their main supplier of agency workers. ASOS have engaged with the union, so I do not think they can be called upon for not engaging with a union. I am aware of that. It is not specifically GMB, but—

Tim Roache: No, they specifically did not engage with the GMB, but I will deal with that.

Jennifer Hardy: That is not for me to answer upon, but I am just making that point. I am not here to defend anyone, apart from talking about Transline, which I know. I would like to just note that I got some stats yesterday, and within our business, in the last 12 months, there were 2,500 permanent roles generated, where our temporary workers went on to a permanent role. That would equate to around 25% of what I would deem to be our core level of worker. That is a reasonable stat, and



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shows that there is progress being made. ASOS is one of our clients that take on the most permanent workers from our temporary workforce.

Q175 **Anna Turley:** Do you see that as a core part of your business, to get people into full-time work and out of agency work?

Jennifer Hardy: It depends on the model that we are supplying to each of our end user clients and what their requirements are, but, yes, we certainly are not opposed to acting in a temporary to permanent role.

Q176 **Anna Turley:** I know you are not opposed to it, but is there an incentive for you to encourage people out of agency work and into permanent work, to arrange their training and development?

Jennifer Hardy: In some of our contracts and some of our work, yes, there is.

Q177 **Anna Turley:** What does that look like? What sort of incentives are they?

Jennifer Hardy: It varies. It is quite specific.

Q178 **Anna Turley:** It seems intuitive to me that, naturally, you do not want people to progress, because you are losing a resource.

Jennifer Hardy: It is a continual cycle. We have attrition within our network, and our clients have attrition within their permanent workforce, so, if you come on as an agency worker, the idea within a lot of our clients is that the agency workers then move into a permanent role. As those people leave for whatever reason, such as finding work elsewhere, which is fine, the agency workers will backfill those roles, so that recruitment process has already been done. Yes, there is a period of agency within that, but there is the opportunity to move on.

Q179 **Anna Turley:** My final question, if I can, goes back to a point I made in the first session about umbrella companies, particularly in the construction sector. As I have said before, this seems to me to be basically a scam to create an extra layer for people to avoid their tax obligations, and it ends up hitting the workers in their pockets. I will go back to Tim, naturally, on this for the GMB, but I think the others would like to come in as well.

Tim Roache: The example in your own constituency, in Teesside, was probably the best worst example of the use or abuse of workers through umbrella companies. Rather than it being a two-way contract, it becomes a four-way contract: you have the worker, the client, the agency and then the person with the umbrella behind all of that. First of all, it is usually eastern European migrant workers. The umbrella company would provide you with people at such a rate. Obviously, within the engineering and construction industry there are agreed NAECI rates, which have been fought for and hard earned for many, many years.

People come in through the umbrella company, and the agency, being the provider, would employ people doing exactly the same job and



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exactly the same work, on exactly the same site, at far lower rates. That allows employers to look around and think, "What do we do with the indigenous workers? We can move those out of employment and employ more and more of these people, in pursuit of profit". That creates real social tension, of course, between indigenous and migrant workers. Rather than target the poor sods who are being abused, we need to target the abusers, the people who are using this as an employment model, and that is getting more and more common.

It has to be outlawed. I am with Steve Turner entirely on that. Zero-hours contracts have been outlawed in New Zealand; you can outlaw this practice. You absolutely can. The best way to deal with this issue of immigration and migrant workers is rate for the job. Once you come up with sectoral rate for the job, you do not get down to where you come from and whether you will work for less. The problem with the whole issue of immigration is that it is stacked in favour of the employer. It is a supply and demand issue; it is as simple as that. If you can have large numbers of people who will come and work for less, because in their country it might be a king's or a queen's ransom, you have an issue that is stacked in favour of the employer and against the worker. That relationship has to change.

Adrian Gregory: Umbrella companies are becoming an increasing problem. Up until last April, travel and subsistence schemes, which were then outlawed, were the holy grail for recruitment agencies. You could make almost as much money as you wanted. You apportion a certain amount of the temp's wages as tax-free expenses, and then you stick the proceeds in your pocket. They were fantastic, but they were outlawed from last April, and since then we have seen more and more umbrella company offerings. I am getting them every week. I got one yesterday, as it happens, from an umbrella company. I told them the size of our company, and they said that if we signed up with them—which we could do within a week or two—our annual profits from using them in addition to our normal profits would be £640,000 per year, and their fees would be £120,000 per year. This is a single-branch agency in Earl's Court. As they say, you do the maths.

They also claim to be signing up new agencies every week, and although they would not give me their names, they told me they had two very large agencies already on board. Millions and millions of pounds are being leached, and in that umbrella model there was no tax, no employer's NI, no employee's NI, and the workers were worse off. Everyone lost out, but of course you could then, as an agency, offer as low a price as you wanted.

They should be outlawed, although I would put the caveat in that I believe, as David Camp alluded to earlier, for higher-paid people who are genuinely contractors and need a vehicle to put their various different work into, that they may not be inappropriate. Certainly, on the lower pay scales, they should not be a part.



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Q180 **Chair:** Adrian, you have talked about how you provide temporary unskilled labour to companies. We have discussed how it is a wafer-thin profit margin, and how it has a reputation of being dodgy or criminal—"very dodgy", I think you said. How do you make money? How do you run a business that can be successful in this lion's den?

Adrian Gregory: I have been in business 30 years. Our agency turns over £7 million, and that is okay. I think we only have access to perhaps between one quarter and one half of our target marketplace; the rest of it is out of bounds, because very cut-price alternatives are being offered. We work hard with our clients: we give them various guarantees; we explain to them, as we talked about earlier, the benefits of a well treated workforce, the lack of reputational risk if they are associated with us, and so on. There are companies that are very much on board with that. There are also a lot of companies where we cannot even get through the door.

Q181 **Chair:** How do we accentuate your business model, at the expense of the business models that are lending themselves to exploitation and undercutting of terms and conditions?

Adrian Gregory: Steps can be taken: outlaw the Swedish derogation; firm up considerably the holiday pay legislation; and look into personal accident insurance schemes. I cannot say they are illegal, because they could be offered for free, but I would imagine that the amounts being charged amount to mis-selling of insurance. I do not think anyone has ever looked into it. There are practical steps that could be taken, either short of licensing or incorporated within a licensing regime.

Q182 **Amanda Solloway:** In that vein, it has been fascinating to listen to the agencies, and I am just thinking about how agencies operate historically. I am speaking particularly to you, Jennifer: I am not quite sure whether it was as a result of the inquiry, or something you would have done. There are some things that you have examined, and therefore improvements have been made. I have two questions. Why do agencies not operate at that level of decency in the first place? Secondly, what can be done to make sure that agencies operate at the level at which they should be operating? The question is to all of you, but to Jennifer first.

Jennifer Hardy: On the question of why they do not operate this way, the sector has effectively out-competed itself. As Adrian has alluded to, he is priced out of the market the majority of the time, because the ALP, in order to be a compliant agency, is required to operate at x pence per hour. That is what you should expect, as an end user client, to be charged. With the historical backdrop of the T&S schemes, the expectations from the logistics sector on what the margins look like are a little bit skewed, and learning has still been going on since the April changes last year. That is slowly being eked out; I think you would agree with that.

Adrian Gregory: No.



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Jennifer Hardy: My experience is that margins are coming up, and those people are being exposed within the sector, but it is a long road. It is about where you generate your profits from.

Q183 **Amanda Solloway:** I will come to Adrian in a second, because he sees it differently. Just on that point, you said something around reputation. Is that the shift that you have gone through? In other words, you are cutting your profitability in order to increase your reputation, which will ultimately increase your profitability.

Jennifer Hardy: Yes, I believe so. We are standing at the front and saying that we are a compliant agency. We want to be seen out there as a compliant agency. We have had a big red light flashing over us, and we have done everything we can. A lot of things were being done, but we were not publicising them beforehand. We have had a big shift in our thought process and realised that we need to be at the forefront of this, looking to say, "What does our compliance look like? Are there recommendations? Yes. Have we put those in place? Yes. How do we move forward from that, and push that out?"

We probably have a slightly louder voice than Adrian has, because of the reach that we have to our end user clients. We have to make sure they understand how they and their reputations are at risk, by using other agencies that do not necessarily have the compliance that we have in place.

Q184 **Amanda Solloway:** But this is about the agencies as a whole. Adrian, you were going to say something?

Adrian Gregory: The fact that HMRC has a very culpable role in allowing the agency world to develop in the way that it has should not be ignored. It does absolutely nothing, or nothing visible, to curtail the use of the most outlandish schemes that man has ever devised. It occasionally puts out strongly worded sentences, saying that this or that model is not viable. There was a scheme that was exposed by the BBC two years ago, where you split your workforce into hundreds of little mini-companies, to avoid employer's national insurance. HMRC issued a strongly worded statement saying, "Do not do this". There was another exposé on the same subject from the *Guardian* last November.

We keep getting approached by the same companies, and different ones, saying that their businesses are going extremely well. It was a standing joke at the annual general meeting of the Association of Labour Providers in the travel scheme days: HMRC would have a spokesman every year standing up and saying, "Don't worry. Be compliant; we are on the trail of the non-compliant. We will get them". They never got them. The only success they ever had, that I know of, was when they fined Reed Employment £158 million for their misuse of travel schemes. That seemed to exhaust them, and there were far bigger culprits around the place that everyone knew about, which sailed through very happily. They are now probably migrating to other models.



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If, as an agency, we took up this one that I mentioned, and £640,000 a year came our way, I have very little doubt that we would be absolutely fine. If anyone was ever going to be taken to task, it would be the umbrella company, not us. We would also get a lot more business, because we would be a lot cheaper. We could double or treble our agency, I think, in a few years. I do not want to do it, but it should not be a choice.

Q185 Amanda Solloway: I have one final question on that. Ultimately, if agencies are out to make a profit, and therefore be as cost-effective as they can, does that mean it is at the sacrifice of employment rights?

Jennifer Hardy: No.

Adrian Gregory: Yes.

Q186 Chair: Adrian, in terms of those non-compliant companies that are doing scams, do you shop them to HMRC?

Adrian Gregory: Regularly.

Q187 Chair: But there is very little response.

Adrian Gregory: Nothing.

Q188 Chair: I have two lines of questioning that are focused predominantly on you, Jennifer. One is about the flex. It makes perfect business sense to me that a business wants to compete in times of high demand. You will want to flex up and down whenever appropriate. I want to get a flavour of this: with the two big companies that we have considered and looked at, Sports Direct and ASOS, I would have thought that in many respects they are very similar. I can imagine a flurry of activity at Christmas, and then maybe something in the summer as well, especially if England is doing well at something, or whatever. Sorry about that, Michelle.

Does that make sense? What proportion of the workforce flexes within those two companies? Would that be representative of that sector in general?

Jennifer Hardy: We find within our business a seasonal cycle. You get an Easter peak, particularly if the weather is good. You can get a summer peak. There are sales that impact that. Black Friday impacts that, and tends to be bigger than Christmas. Then you have Christmas itself and the January sales. Lots of variables impact those businesses, and, on top of that, they affect our business in terms of what the level of demand is. The hardest thing for our clients is to know whether you or I will click a button and say, "Do I want to buy that today, or not?", and that is a very difficult thing to determine.

That is the reason why they require the flexibility. Do you buy more at Christmas? Yes. Are you going to buy more this Christmas than you did last Christmas? I do not know the answer to that question, and neither do my end user clients. They need a model in the economy. They cannot



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have a fixed level of overheads throughout the year to warrant that. Those peaks can vary. They can instigate a slight peak in their requirements by having a flash sale and all these myriads of things.

Q189 **Chair:** Sorry, but from your response I still do not get a sense of what baseload of workers we require, before we will flex. Maybe I am old-fashioned in my thinking that it might go up at Christmas.

Jennifer Hardy: The flexibility sometimes varies; it can vary with additional headcount and with overtime that is required. It is not necessarily a base headcount and then you go to additional headcount on top. It is all about the supply of hours, effectively. I can come back to you with that data.

Q190 **Chair:** That would be helpful, just in terms of to what extent they have to flex. As I said, I am somewhat old-fashioned, in the sense that I can anticipate we might get a bit of a flurry at Easter or Christmas. You are saying, "Actually, we might have to flex next Friday".

Jennifer Hardy: Yes.

Chair: You provide that flexibility on a daily basis. That is one of the means by which you can do that.

Jennifer Hardy: It is very difficult. If we know there is going to be a peak period, and you are bringing workers into that environment, you also need to work it so that the existing workforce is impacted as minimally as possible. It takes planning. We do not necessarily work on a per day or per work basis. Our end user clients try to plan as much as they possibly can to make it as steady as possible, but yes, there are huge peaks.

Q191 **Chair:** If we have a glorious summer, people might want to spend money on clothes, and then you will see an increase. If we have a poor summer and a washout on a bank holiday, people will not. You will adapt your working rota as a result of that, will you not?

Jennifer Hardy: Yes, we would adapt the working rota, and we would also adapt the intake that is required.

Q192 **Chair:** That is to the detriment of the worker. You will say to me the following week, "Do you know what? It is raining outside. You do not need work".

Jennifer Hardy: You are discounting natural attrition, as well. It is not necessarily that we are hiring and firing at will. There are people who move out of working in that particular area and leave Transline, on a totally amicable basis and by their choice. No one is forcing someone to be there. Those positions may not be filled.

Q193 **Chair:** What is the level of turnover and attrition?

Jennifer Hardy: I will have to come back to you on specific data.



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Q194 **Chair:** That would be helpful. My second line of questioning—I am very conscious to try to finish as close to midday as possible—is about ASOS. There were investigations by BuzzFeed and by the BBC about annualised contracts, flexing, and workers possibly being disciplined if they could not commit to short-term announcements on work. Has that changed?

Jennifer Hardy: I believe the ASOS warehouse is a very good example of a warehouse, in my opinion. It is not somewhere that I frequent that often, so I would need to gain evidence from someone who is on the frontline. However, I believe that, if those instances happened, that process has been rectified and they have engaged with the union, as I said. They are making very positive steps in that direction.

Q195 **Chair:** So things have changed.

Jennifer Hardy: I am not saying that there was anything, from what I know. But, if there was something there that was found in the first place, yes, it has changed. I am not really in a position to answer that question.

Q196 **Chair:** That is a bit curious, because you are the representative of Transline here, which provides agency workers. I would expect you to have a flavour of what is going on there. It is a case of whether it has improved since the investigations by BuzzFeed and the BBC in the summer. I would be interested to know what drove that. Was it the media attention? Was it the client saying, "This might be affecting our business, we want to move"? Was it you saying, "As part of our move towards an enhanced reputation, we advise you to do this"? Where were the drivers of change, if any?

Jennifer Hardy: You have to remember that I am the finance director of Transline. I am not an online operator 100% of the time. I came here the first time because I was heavily involved in Sports Direct, and that is why I put myself forward to give evidence. But I am happy to take that question away and come back with where it was, what the findings were and what the improvements were. I believe that my team on the ground work very closely with the ASOS team on a day-to-day basis, and at high level within XPO. ASOS is not actually our customer.

Q197 **Chair:** You have been before us previously, Jennifer, so you know what we are like. Did you not do any checks with your representatives at ASOS to see what has happened since the summer?

Jennifer Hardy: Of course I did.

Q198 **Chair:** Could you tell us what they are?

Jennifer Hardy: That is not something that I would necessarily be party to on a day-to-day basis. We have an infrastructure, an operational team that deals with that. I am happy to come back and answer that question.

Q199 **Chair:** I do find it astonishing that you did not do the prep or the homework beforehand in respect of that.



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Jennifer Hardy: I was not made aware that it would be an ASOS-specific inquiry.

Chair: It is not an ASOS-specific inquiry. It is looking into agency workers.

Jennifer Hardy: I believe that our team have worked hard on the ground, with the logistics team at ASOS, to make sure that anything that was found has been improved.

Q200 **Chair:** Tim, you have highlighted as part of the GMB some of the working practices in ASOS. I know that you are not privy to what is going on, but has anything changed for the better or for the worse? What is going on?

Tim Roache: First of all, the silence was deafening then. I have to say that ASOS is not a good example of a warehouse: I am afraid it is one of the worst examples of a warehouse. That is the reality. Has anything changed? Things like flexing up and down used to happen immediately. Flexing up and down now means that people are given 24 hours' notice. 24 hours' notice is hardly ideal, particularly if you have childcare responsibility or parental care. But at least, after pressure from the GMB, people now get 24 hours' notice on flexing up and flexing down.

Secondly, there are obvious answers to your questions, Iain. For an organisation like ASOS, which as I have said is highly profitable, operating at 50% levels of agency workers, the answer is to employ more permanent people. That is the answer to your question. Employers do not want to do that. They do not want to invest in their workers. They like this revolving door of hire and fire, where they can just bring people in and out. On Jennifer's point that nobody is forcing people to work for the agency, they are. The employment model is forcing people to work for the agent, and unlike with the example I have given at Nestlé, there is no incentive for agencies to encourage people to become permanent employees of that place of employment.

The last thing—it has been mentioned twice now, and I was not going to mention it, but I will—is the union relationship within ASOS. We stood outside ASOS, battling, for two and a half years. We have hundreds of members who have joined the GMB, despite our never being allowed on the premises even now. When GMB workers who work for XPO ASOS are on a disciplinary or grievance, they will not let us go on site to represent these people. They would rather pay to hire a hotel room for us to go and represent them. That is how much ASOS and XPO ASOS have kept us out of that workplace.

Nick Beighton, the CEO, was going to come before one of the Committees. The night before, they had signed a "deal" with another trade union. That was nothing but the pressure of the workers; and particularly—and this is important, Iain, and I will finish on this point—that union is not the choice of the workers. The GMB is the choice of the workers in ASOS; it is the employer that has denied us access.



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Chair: Thank you. I am very conscious of time, and I am very grateful for your evidence. We have had a lot out of that, and much food for thought. Thank you again for your time.