

The Recruitment and Employment Confederation's submission to the Business and Trade Select Committee's Inquiry on the Employment Rights Bill

About the REC

The Recruitment & Employment Confederation (REC) is the professional body for the recruitment industry. We represent over 3,000 recruitment businesses and 11,500 individual recruiters. The UK recruitment sector places over a million people into permanent jobs each year and ensures that a further one million are working flexibly through temporary assignments on any given day. The professional staffing sector is bigger in scale than either law or accountancy and contributed over £44 billion to UK GDP in 2023. Every day in the UK over 1 million temporary workers support the economy.

As a representative of thousands of UK employers, who place thousands of workers into jobs, both temporary and permanent, the REC is uniquely positioned to provide insight into the labour market and the impact the Bill could have on the jobs market and what steps can be taken to enhance the Bill for the best possible outcome for workers, employers and the wider economy.

Executive Summary

The REC acknowledges the Employment Rights Bill (ERB) as a step towards better protecting workers' rights, however, it is vital that measures are balanced and do not inadvertently harm business growth or job creation. The Bill should foster a labour market that supports both workers and employers, driving economic growth and wealth creation.

Businesses must be fully consulted on the ERB. The REC welcomes the Government's commitment to consult and hopes there will be continued meaningful engagement which truly reflects the voice of a range of businesses. When looking to implement the Bill, positive communication between businesses and trade unions is crucial to improved workplace relations.

The REC is keen that the provisions set out in the Bill do not inadvertently restrict temporary work which provides such vital flexibility to many, including those with caregiving responsibilities and disabilities. As well as offering opportunities back or into work for those on career breaks, those entering employment who need to build their skills. Government should also consider the vital role temporary work provides to ex-offenders, and others from disadvantaged backgrounds as a stepping stone in the future career.

[The REC's Voice of the Worker Campaign](#) highlights the value of temporary work to many and how it is often an active and positive choice. It is important that the voices of these workers are not ignored during this process. While tackling exploitative zero-hours contracts is necessary, the REC stresses that not all zero-hours arrangements are inherently harmful and that flexible labour practices should be preserved.

The Bill's provisions on day-one rights, including protection from unfair dismissal, statutory sick pay (SSP), and flexible working, require further clarification to avoid negative impacts, particularly in terms of costs and operational flexibility. The REC also urges that parental and bereavement leave provisions be carefully considered to ensure they are accessible and beneficial to all workers.

The proposal for a Single Enforcement Body (Fair Work Agency) to oversee worker protections is something the REC has long supported, though the REC stresses the importance of maintaining expertise within existing bodies to ensure effective enforcement, especially within the temporary labour market.

The REC is calling for continued consultation with businesses on the Bill. detail and clarification where necessary, to ensure it supports both workers' rights and business sustainability.

REC Inquiry Submission

The Bill is a landmark piece of legislation which will have a profound impact on the labour Market. The REC welcome the consultation which the Government have committed to. The changes set out in the ERB will only work if they are done with business, not to it.

Protecting workers' rights

Stopping exploitation in the labour market is undeniably the most important outcome for regulators, workers, trade unions and employers alike. The REC recognise the regulatory landscape needs to evolve as the economy, labour market practice and worker needs change, but it is important that in addressing one issue we do not create unintended consequences such as discouraging businesses from taking on new hires which could limit economic growth.

It is also important the experiences and choices of workers are at the forefront of legislation. [The REC's Voice of the Worker Campaign](#) demonstrates the flexibility that temporary work affords some workers. Indeed, they enable some people into work who otherwise may not be able to because of caring commitments or health conditions. Temporary work can also build skills and experience. It is a way for people, such as ex-offenders, to re-enter the workforce in a more accessible manner. Legislation should not limit or prevent the freedoms created through temporary working.

The Voice of the Worker Campaign is underpinned by our survey of 520 temp agency workers in Britain in June 2024, the survey showed that almost eight in 10 temp agency workers (79%) say their work provides an important need for flexibility; more than half of temp agency workers (53%) believe that this is the right kind of role for their current stage in life and more than two thirds of temp agency workers (68%) say that their work provides a greater work-life balance.

For this Bill to reflect the realities of the labour market, it should recognise that demand for temporary work by both employers and individuals is increasing. Better support for flexible forms of working will add dynamism to our labour market.

Zero Hour Contracts

The REC acknowledges the legitimate calls for government action to address the exploitative behaviour of some employers with respect to zero-hours contracts (ZHCs).

In addressing exploitation, the government must be cautious not to inadvertently harm legitimate forms of flexible work that benefit both workers and businesses. Not all ZHCs are inherently harmful, and some agency work is often misclassified as such even though all agency workers have employment rights.

Unlike directly employed workers under ZHCs, agency workers operate under different terms with stronger legal protections. Agency work, being flexible and non-permanent, is crucial to individuals and the UK economy.

The REC argues that agency workers should be exempt from proposed ZHC restrictions, as these could negatively impact those who prefer or rely on the flexibility these contracts provide. Agency workers already benefit from substantial legal protections under the Agency Worker Regulations 2010 (AWR) and other laws, which ensure equal rights to permanent staff while maintaining flexibility. Most agency workers choose this path, and agencies are incentivized to find continuous work for them. This contrasts with direct-hire ZHCs, where employers, with no guaranteed work, lack the incentive to provide work during periods of low demand. The REC supports efforts to combat exploitative ZHCs but stresses the importance of distinguishing between different employment models. The current proposals fail to recognise the value of temporary work and could harm both workers and businesses.

The REC is also concerned about proposals requiring agencies or clients to offer guaranteed hours after 12 weeks or provide "reasonable notice" for shift changes. This doesn't reflect the nature of temporary work, especially in sectors like healthcare, supply teaching, agriculture and hospitality, where demand fluctuates. These proposals could undermine the flexibility that both workers and employers rely on.

Proposals to remove transfer fees in temp-to-perm working arrangements will destabilise both the permanent and temporary recruitment sectors, and impact hiring and job creation. Removing transfer fees could lead to employers adopting a temp-to-perm model as their default to circumvent direct hiring fees. If implemented incorrectly this could also undermine the government's own plans to introduce greater protection for workers from day one, as the temp period could be used to "trial" workers before offering them a full-time position.

Further clarification is needed on the definition of "low hours" for guaranteed hours contracts. The 2022 Exclusivity Terms for Zero Hours Workers regulations made exclusivity clauses unenforceable for workers earning below the Lower Earnings Limit (LEL) of £123 per week, approximately equivalent to 10 hours at the National Minimum Wage of £12.21 in April 2025. This threshold is proposed as a baseline for "low hours." Extending this to other agency worker employment models, such as umbrella companies, would improve transparency and fairness. Focusing only on agencies or end users would contradict the government's goals of tackling job insecurity.

The definition of "employer" in section 44 of the Employment Rights Bill is broad, so whether it applies to umbrella companies must be decided by an Employment Tribunal, which has often ruled umbrella companies as employers. These companies typically engage agency workers under ZHC

contracts. Any measures on guaranteed hours that don't clarify liability in umbrella company arrangements contradict the government's goal to make work pay, as they could enable umbrella companies to avoid responsibility. This would also place an unequal burden on agencies, the majority of which are SME's attempting to remain viable and sustainable in what is currently a difficult economic climate.

While addressing exploitative ZHCs is essential, the government must strike a balance between worker protection and maintaining a fluid job market. The recruitment sector is critical to the UK economy, and provisions that harm it could conflict with broader government objectives to increase productivity, boost economic growth and reach 80% employment. The REC aims to avoid unintended consequences and is eager to collaborate with the government to ensure that reforms benefit both workers and businesses.

Rather than imposing broad restrictions, the government could enhance existing processes. For example, updating the Key Information Document (KID) provided to agency workers would clarify job expectations. Extending this requirement to all workers, including those directly hired, would ensure consistent treatment across the sector, provided enforcement is adequately resourced. Strengthening the AWR to guarantee agency workers interviews for permanent roles would better balance flexibility with job security. Creating more permanent part-time roles could address vacancies while preserving access to flexible work.

Day one rights: Protection from Unfair Dismissal, Statutory Sick Pay (SSP) and Flexible Working, Parental and Bereavement Leave

The ERB seeks to enhance workers protections from day one of employment. Proposals around protection from unfair dismissal, SSP and flexible working require greater clarity and if implemented in their current form could be very damaging to the labour market by causing significant challenges to business.

- **Protection from Unfair Dismissal** - The Bill is set to introduce protection from Unfair dismissal from day one but also introduces a proposed 9-month probation period where employer's will be able to dismiss workers without a full dismissal process if there are performance issues. Further detail is required in respect to what this process entails, and that it remains "light touch" to allow businesses and workers to make effective decisions on staff capability. The REC recommends that a clear process where an employer can establish a statutory excuse akin to the process for checking right to work. The REC also believes that 12-months' probation would be more appropriate to give employers a better opportunity to assess performance, whilst still representing a substantial reduction on the current 2-year timeframe.
- **Statutory Sick Pay** - Employment businesses hire workers on temporary contracts, either for employment or services, and provide them to clients as needed. Workers on both types of contracts are eligible for Statutory Sick Pay (SSP), but the application of SSP is more straightforward for employees and more complex for those on contracts for services. Agencies face challenges managing their SSP liability, especially because they often can't recover SSP costs from clients—particularly in the public sector, where charge rates are capped.

Proposed changes to SSP, such as removing waiting days and lowering the earnings threshold, could increase the financial strain on agencies, particularly small businesses. These changes would expand eligibility and could result in fluctuating worker earnings, which agencies would have to absorb. Coupled with other rising costs, like increases in the national minimum wage and National Insurance contributions, businesses are under significant pressure.

In industries with seasonal demand, workers' earnings can vary, making SSP entitlement unpredictable. Small businesses, which already bear a disproportionate share of SSP costs, are especially affected. To ease the financial burden on these businesses, the government is encouraged to reintroduce the system that allowed small businesses to reclaim SSP costs from the government, as it did before 2014. This would help support both workers and businesses while fostering economic growth.

- **Flexible Working** -The REC is in favour of flexibility in the labour market, but the new plans in the Bill around flexible working need to be pragmatic. It should be recognised that flexible working is not suitable for all types of jobs. Therefore, we welcome the qualification that employers can "prove [flexible working] is not an unreasonable request, with eight business reasons listed in the Bill.' These are [the same eight reasons as the reasons currently in place to reject a flexible working request](#). Further clarity is needed on what process an employer would need to go through to demonstrate the unreasonableness of a flexible working request, and the process for this needs to be developed in consultation with businesses, trade unions and third sector bodies. Maintaining consistency with the current reasons for employers to reject a request will help to deliver the clarity employers need to handle the proposed changes.
- **Parental and Bereavement Leave** - In making parental and paternity leave for all workers a day one right there needs to be a wider look at the parental leave system to ensure it is accessible and works for all working parents and carers, including those in training or education.

Single Enforcement Body (Fair Work Agency)

The proposed Single Enforcement Body – The Fair Work Agency) (FWA) seeks to be a more efficient method to protect workers rights. While more effective enforcement practices are to be welcomed there are questions to be answered in relation to resourcing and structure of the Fair Work Agency. Combining the remits of the Employment Agency Standards Inspectorate, the Gangmasters Labour Abuse Authority and HMRC's National Minimum Wage enforcement team makes sense, but it is important that the expertise of each organisation is maintained so the quality of service doesn't falter. This is particularly pertinent when it comes to the role of the Employment Agencies Standards Inspectorate and enforcement in the temporary labour market, where their experience in dealing with legislation specific to the recruitment industry must not be diluted. Proposals also include the expansion of Statutory Sick Pay enforcement to be within the remit of the FWA. Expansion of the enforcement remit beyond the current areas policed by the three enforcement bodies needs to be carefully considered to avoid overstressing the capacity of the FWA. If the remit of the FWA is expanded too quickly without sufficient resource, it will allow non-compliance to creep into the labour market.

Additionally, for the FWA to be fair and effective, they must take action and where appropriate enforce against non-compliant umbrella companies, second tier suppliers and anything that is outside of the straightforward traditional tripartite agency supply model.

Fire & Rehire and Collective Consultation

We agree that some action needs to be taken to address unacceptable 'fire and rehire' practices, as seen in the high-profile incident involving P&O ferries where workers were sacked and replaced with workers from a ship management company (not agency workers).

The REC is calling for the Government to strengthen the Code of Practice introduced by the last Government. Aligning the consultation process for a fire and rehire scenario with redundancy processes will make it easier for businesses to operate any fire and rehire processes set out in a code of practice as most businesses will already be familiar with the redundancy consultation process. As with zero hours contracts, it is when legitimate workforce management processes are applied in an exploitative manner that problems arise. However, on redundancy consultations, the change set out in the bill to the term 'establishment' needs to be carefully handled. As currently drafted, the government risks an absurd situation where businesses operating across different sites, in different regions and nations of the UK, with different skillsets and job roles will be required to include all sites and all employees in consultation, even where only a specific part of the business is at risk. This is not required given the existence of a well-established collective redundancy framework which understands the specificities of operating a large national business.

Social Care

The REC welcomes the creation of an Adult Social Care Negotiating Body to handle issues related to pay and other terms and conditions in the sector as part of the Bill. Given the importance of the sector, it is good to see the Government taking pay for care workers seriously. Of course, the public sector is the largest employer of carers in the UK so this will require significant investment from central Government, and Local Authorities may need more support on how to get best value for money when it comes to staffing. It is vital that the role of agency workers is fairly considered as part of this process. Temporary workers—such as locums and interims—are vital to maintaining NHS and Social Care services, particularly during a time of growing demand and staffing shortages. The recent rules on the use of agency workers in children's social care and plans to expand these into other forms of care, have reduced capacity in the sector, and the government needs to reconsider their approach to these changes.

Trade Union Reforms

The REC is supportive of any measures that foster positive workplace relations and encourage open dialogue between workers and employers. It is only through effective tripartite communication between business, unions and individuals that we can achieve the best balance around worker rights.

For more information on this submission, please contact:

Holly Whitbread
Public Affairs Advisor

The REC would be pleased to expand on our submission by providing oral evidence to committee.
Please do not hesitate to get in touch if this is possible.