

## About The Adecco Group

As a world leading provider of talent and technology expertise, The Adecco Group has a crucial role to play in driving forward a well-regulated and high-quality temporary employment sector that simultaneously ensures fair and safe working conditions whilst delivering benefits for both workers and businesses. We have welcomed this Government's commitments to strengthening workers' rights and to supporting more people into good jobs, which will benefit businesses and workers alike. These are transformative ambitions for our economy that have the potential to modernise the world of work, thereby reducing economic inactivity, boosting productivity, and driving economic growth.

In the UK alone, The Adecco Group's own employees total 2,500 people. We place an additional 20,000 temporary workers a day and 10,000 permanent workers a year in more than 5,000 companies across all industries, levels and geographies nationwide. The scope of our work and the extent of the services that we provide give us unique perspectives into the challenges and opportunities for workers and their employees.

## Executive Summary

The Adecco Group supports the Government's commitment to strengthening workers' rights and delivering fair compensation for agency staff through the Employment Rights Bill (ERB). This must, however, be taken forward in a manner that does not place additional burdens on an already well-regulated sector, whilst ensuring that the immense benefits of temporary work are preserved for both the worker and the end hirer. Crucially, the proposed legislation must seek to avoid unintended consequences such as the reduction in employment opportunities and making the sector unviable for employment businesses.

The key points from this submission are:

- **Zero Hour Contracts and Guaranteed Hours:** The flexibility afforded by temporary work is hugely beneficial to both workers and businesses and is a core component in stabilising the UK workforce. This proposed legislation is unworkable for the employment business sector given that agency work is inherently – and intentionally - temporary. Neither employment businesses nor end hirers will therefore be able to meet the requirements for guaranteed hours.
- **Existing Regulation:** The Conduct of Employment Agencies and Employment Businesses Regulations 2003 and the Agency Workers Regulations 2010 already provide extensive protections to temporary workers and uphold the highest standards across the industry. The proposed legislation would create overregulation within the sector, undermining temporary work and threatening the viability of the sector.
- **Transfer Fees:** Transfer fees are already regulated and must be retained. They provide compensation to agencies where a hirer permanently engages an agency worker, in recognition of the skill and resource that the agency provided in sourcing the right candidate.
- **“Reasonable Notice” of Shifts:** The definition of “reasonable” notice - and what constitutes this - must remain flexible to reflect the nature of agency work, the different needs of businesses and the variety of sectors, assignments and locations in play.
- **Cancellation and Curtailment Payments:** The responsibility for making payments for short notice cancellation or curtailment should sit with the employment business, but the **cost** should sit with the end hirer who was responsible for requesting the agency worker and has the control over shift availability. The employment business should therefore be able to recoup the cost from the end hirer in **full**. Any other system would leave the employment business burdened with significant additional costs.
- **Statutory Sick Pay (SSP):** There is potential for exploitation under the proposed reforms to SSP; this will mean that a worker will be able to sign up for shifts with multiple agencies, then claim SSP from day one without ever working a shift (and never having intended to).

The Government must create a specific carve out for the agency sector within the proposals to avoid this situation.

- **Unfair Dismissal and Contract Variation:** The ERB must carefully balance the need for protections for workers with the genuine ability for organisations to adapt their contractual terms in response to legitimate business needs. The Government must avoid a situation whereby all dismissals - regardless of circumstance - are deemed unfair.
- **Fair Work Agency (FWA):** The FWA should engage with stakeholders from the outset to foster a collaborative relationship, built on trust and transparency about the purpose and objectives of the agency. This will help to ensure compliance across the sector.

The Employment Rights Bill casts uncertainty over the sector. Many of the proposals within the Bill are deeply concerning and have the potential to threaten the fundamental principles of agency work, namely its flexibility. The Government must acknowledge the enormous benefits of temporary work and the regulations already in place that protect workers. Any forthcoming legislation should work to support and strengthen existing regulations, rather than weaken the prosperity and viability of the sector.

### **The Adecco Group Inquiry Submission**

#### **Zero Hour Contracts and Guaranteed Hours**

In looking to legislate in this area, the Government must distinguish between potentially exploitative zero hour contracts which are made directly with the hirer, and contracts entered into between agency workers and employment businesses, which will match those agency workers to roles with their clients in accordance with existing legislation; namely the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (the “Conduct Regulations”) and the Agency Workers Regulations 2010 (AWR).

Crucially, contracts between agency workers and employment businesses are not exploitative zero hours contracts. They are flexible contracts which are not restricted to one end hirer, offering the candidate the freedom to work when they are able and willing, and supporting candidates who want the option of being able to pull out last minute of a booking if circumstances change or if they get a better offer.

It is essential that businesses and workers have clarity on what effect the Bill will have on temporary and short-term employment. The additional measures proposed under the ERB, particularly around zero hour contracts and the right to guaranteed hours, would lead to the over-regulation of agency workers who are already protected and made aware of permanent vacancies under the AWR.

#### 1) The benefits of agency work

Having worked extensively with temporary workers, The Adecco Group knows that this type of employment gives workers the opportunity to accept or refuse assignments as their schedules permit, and to try out new skills and industries without the commitment required for a permanent role. For others, temporary assignments present low-risk and confidence-boosting opportunities to re-enter the labour market, helping them to gain work experience as a stepping stone to more permanent positions. This is particularly important for those seeking to re-enter the workforce after periods of absence, but also for young workers entering the job market for the first time and seeking to gain experience in a variety of roles and industries.

The Recruitment and Employment Confederation’s (REC) [Voice of the Worker](#) campaign, which features some of The Adecco Group’s own temporary workers, has highlighted how temporary work is often a choice made by workers. Its survey of temporary agency workers found that 79% of

respondents say their work provides an important element of flexibility, whilst more than two-thirds say their work provides a greater work-life balance.

The temporary nature of these contracts is intended and benefits both the agency worker and the hirer; changing this will damage business growth as companies – as well as many public sector organisations - greatly value this flexibility as a mechanism to support the scaling up and scaling down of their operations. They are able to do this safe in the knowledge that the agencies they use can look, where possible, to redeploy candidates elsewhere.

## 2) The issue with guaranteed hours

The proposals to introduce a new right to guaranteed hours undermine the inherent unpredictability of agency work and the benefits of flexibility that this affords both workers and businesses. Hirers use agency workers precisely because in most cases they are not in a position to guarantee hours beyond the length of the assignment that has been confirmed to the agency worker – otherwise, they would likely offer a permanent or a fixed term contract. For some sectors such as manufacturing and logistics, this would be particularly problematic.

Employment business will always seek to keep their workers on assignment. Not only is this the right thing to do for the worker but it is also the entire business model of employment businesses, meaning they are incentivised to continually search for assignments for their workers. However, temporary work operates in such a way that neither the hirer nor the employment business is able to guarantee hours for an extended period of time. One common example is where the assignment is to cover sickness absence, and it is not clear when the hirer's directly hired employee will return to work.

Equally, agency workers know what they are signing up for: they choose whether they wish to accept any individual assignment. At a fundamental level this differs from zero hours contracts of indefinite duration entered into directly with hirers.

Even if the responsibility lay with the employment business to guarantee the hours for the worker beyond the end of any given assignment (which is not recommended), employment businesses would need to look across multiple clients to try and find a similar assignment offering the same working pattern in a similar location. For smaller employment businesses, this would be particularly challenging, but larger employment businesses will also not be able to guarantee the availability of similar work with a similar working pattern with other local clients.

The most any employment business could reasonably be expected to offer would be to offer candidates, who have established a pattern of work over the reference period, preferential treatment in being offered other work with other clients (this could perhaps work in a similar way to the protections granted to workers returning from maternity leave into a role other than the one they left because that earlier role is no longer there). This would also be challenging and costly to enforce, whilst creating an additional administrative burden for businesses that many cannot afford.

Fundamentally however, the proposal is flawed and unworkable for employment businesses. The Government's own Next Steps to Make Work Pay document states that "where work is genuinely temporary, there will be no expectation on an employer to offer permanent contracts." Given that agency work is purposefully temporary, these provisions should not apply to employment businesses. It is also likely that if such provisions were introduced, we would increasingly see a situation in which assignments are terminated early by the end hirer before reaching any reference period to avoid triggering the guaranteed hours provision, depriving work seekers of work and therefore pay.

Ultimately, the suggestion to legally require businesses and employment businesses to offer contracts with guaranteed hours would not work in practice for many organisations and could have unintended consequences on work availability. Agencies and businesses are unable to forecast the availability of work beyond a worker's initial assignment, and – particularly for industries that have seasonal demand for labour – this is not something that can be calculated and delivered on a regular basis.

### 3) Existing regulation

When considering these proposals, it is important to recognise that comprehensive regulation already exists to support agency workers in the transition to permanent roles where this is desired, and that there are mechanisms in place to also support the extension of agency workers' assignments.

For example, the existing Agency Workers Regulations ensure that agency workers are notified, from day one of their assignment with a hirer, of any job vacancies that the hirer is seeking to fill in the same way as the end-hirer's permanent staff. This therefore creates opportunities for agency workers to explore permanent opportunities while on assignment. Equally important, the existing system upholds and protects worker and hirer choice and autonomy.

Instead of introducing legislation to guarantee hours where it's not reasonably practical or possible to provide them, this right to information about permanent vacancies with a hirer could perhaps be strengthened to include granting a guaranteed interview, for example (as many public sector employers operate voluntarily for the benefit of candidates who are disabled or have other protected characteristics).

It is also worth noting that the Conduct Regulations already require that the likely duration of an assignment and the likely hours are confirmed in writing at the time that an assignment is offered to an agency worker, but this could be further strengthened, if required, and these provisions could potentially be documented in the Key Information Document (KID).

Under the existing and well-regulated system, temporary work is able to respond to the demands of different industries and sectors, including those with seasonal peaks and troughs, and it continues to be in the employment business's best interest to redeploy their candidates, maintaining access to good work. The proposals to introduce a new right to guaranteed hours undermine this system, risking a shift toward avoidance measures such as artificially reducing the length of shifts, that could reduce meaningful opportunities for workers whilst creating inefficiencies for businesses.

The Government should make a clearer distinction in the new regulations between those zero hour contracts that offer two-sided flexibility to workers (as is the case with agency contracts where exclusivity clauses are already prohibited under the Conduct Regulations) and those that offer one-sided flexibility, in favour of the employer. Any new legislation should also recognise that regulations to protect agency workers already exists, upholding standards and best practice within the sector.

The Government should not introduce a new right to guaranteed hours as this would fundamentally undermine the short-term and temporary work sector and would lead to excessive regulation of the industry. We also echo the REC's calls for the Government to ensure that the ERB does not negatively impact the ability of workers to engage with the workforce in a way that best suits their needs and protects worker choice.

### Transfer Fees

The Adecco Group believes that transfer fees must be retained. Transfer fees are already regulated under the Conduct Regulations. Transfer fees provide compensation to agencies where a hirer permanently engages an agency worker, in recognition of the skill and resource that the agency provided in sourcing the right candidate.

To remove transfer fees would result in end hirers being able to circumvent direct hiring fees by simply hiring the agency worker as a temporary worker first before offering them a permanent role.

#### “Reasonable Notice” of Shifts

The Adecco Group believes that the definition of “reasonable” notice - and what constitutes this - must remain flexible to reflect the nature of agency work, the different needs of businesses and the variety of sectors, assignments and locations in play. In some industries, a hirer may request a shift to be covered at short notice but there is no obligation on any agency worker to accept it. The proposed measures are therefore unnecessary and would only work to over-prescribe legislation to an already regulated sector.

Furthermore, in certain situations, the “reasonable” notice period may only be a few hours due to a permanent employee becoming suddenly unwell and this is where the flexibility and responsiveness of agency work is particularly beneficial in supporting the stability of the labour market against challenges and workforce shortages. Legislating in this proposed way would work against this, leaving the UK workforce and economy vulnerable.

#### Cancellation and Curtailment Payments

The responsibility for making payments for short notice cancellation or curtailment should sit with the employment business, but the **cost** should sit with the end hirer who was responsible for requesting the agency worker and has the control over shift availability and what hours are worked.

Currently, provisions to allow the agency to recoup costs from the end hirer are agreed where possible in the contracts between the end hirer and the employment business; the employment business supports in the process as the party responsible for making the payment, but the employment business is not – and should not in any forthcoming legislation – be held responsible for the associated costs.

Should the right to payment for short notice cancellation or curtailment become a legal requirement, the cost should fall on the end hirer. This is because the end hirer is the party responsible for requesting the agency worker and is responsible for shift availability. The employment business acts as an intermediary here and should therefore be able to recoup the cost from the end hirer in **full**. Any other system would leave the employment business burdened with significant additional costs which they have not been responsible for incurring. This is on top of the cost of hours that the employment business has spent in terms of sourcing and recruiting candidates as well as any administrative and compliance fees.

Imposing these costs on employment businesses would also be counterproductive to the ambition of disincentivising shift cancellations without “reasonable” notice if the burden is placed on the employment business, instead of those in control of shift availability. However, any such legislation should account for circumstances where alternative work is offered at the same rate: this should not be classified in the same way as other shift cancellations.

Finally, whilst The Adecco Group is generally supportive of workers (and employment businesses) receiving compensation for last minute cancellation of shifts, there are also difficulties with taking a unitary and legislative approach to what is meant by “reasonable notice”. Disputes around what constitutes reasonable notice are likely to lead to an increase in demand for Tribunal hearings. The Adecco Group would therefore advocate for this to be determined in the contract between the employment business and the hirer on a case-by-case basis.

The Adecco Group remains keen to work closely with Government to ensure that any proposed legislation supports and enhances short-term and temporary staff as an integral part of the workforce, and that unintended consequences are mitigated to ensure that both business and government can work together to support economic growth.

#### Statutory Sick Pay

The Adecco Group acknowledges that Statutory Sick Pay (SSP) in its current form is low and should be subject to broader reform. We believe that aligning Statutory Sick Pay (SSP) for employees earning below the current weekly rate of SSP (£116.75 per week) to 25% of their average weekly earnings is a logical and fair approach. This proportion broadly corresponds to the proportion of SSP provided to workers earning the National Living Wage (SSP equates to approximately 25% of the weekly wages of a full-time worker on the National Living Wage). Setting the SSP rate for lower earners at this level ensures consistency and parity within the system.

That said, reform to SSP should be considered in the context of its likely impact on the temporary labour market, agency workers and the businesses that supply them. Proposals including removing waiting days and lowering the earnings limit increases the pool of eligible workers, thus raising the costs for agencies and, ultimately their end clients. This cost increase would come on top of minimum wage increases and employer National Insurance contributions hikes. At present, staffing agencies like ours do not factor SSP into pricing to clients. These reforms would therefore result in substantial change to the pricing structures of employment businesses, as it would be a cost passed on to our clients. This is compounded by the inherently fluctuating nature of agency work (particularly in seasonal sectors), which makes calculating average earnings, and therefore SSP entitlement, difficult.

More than this, we are concerned about the potential exploitation of SSP if these reforms are implemented without taking into account the unique structure of agency work. Under the current plans, the waiting period will be removed and SSP will become available from day one. If there is no *specific* carve out for the agency sector, a worker will be able to sign up for shifts with multiple agencies, then claim SSP from day one without ever working a shift (and never having intended to). This works against the Government's ambitions to get Britain working and opens agencies up to significant risk. We advocate for at least a small waiting period to be retained for agency workers in order to reduce this risk.

Combining this with the changes announced in the Chancellor's recent Budget, businesses are growing increasingly anxious about the potential costs of these measures and may look to the Government to make provisions available to help cover these costs. The Government must provide assurances to agencies regarding the potential for exploitation under the proposed SSP reforms and outline how they will prevent such instances from occurring.

#### Unfair Dismissal and Contract Variation

Whilst The Adecco Group supports the Government's ambition to strengthen the collective redundancy framework and introduce protections for employees against unfair dismissal, we remain concerned that the proposals may have unintended consequences for business; we believe this could result in more redundancies, rather than fewer.

Employers may have sound business reasons for seeking to change the terms and conditions of employment (for example to vary working hours by introducing new shift patterns or changing pay terms such as shift premiums). However, under the ERB, employers may not be able to introduce these changes and offer alternative roles unless they can show that they are facing existential financial difficulties and the need to change the contractual terms is unavoidable. This significantly increases the risk for businesses and essentially means that any resulting dismissal will be deemed unfair, with

little room or understanding for situations where it is appropriate to change the terms of contract with a worker as outlined above.

The Government must avoid a situation whereby all dismissals - regardless of circumstance - are deemed unfair and must take steps to reassure businesses against this risk.

### Fair Work Agency

The Adecco Group understands the importance of compliance and supports the proposal for a Single Enforcement Body (Fair Work Agency) to monitor and regulate the labour market. We do, however, believe that the culture of the Fair Work Agency (FWA) will be important, and we would urge the new combined body to take a collaborative approach in supporting both workers and businesses through challenging periods to make things right, rather than taking a punitive approach.

As the FWA continues to be established, The Adecco Group urges the Government to host regular meetings and roundtables with labour providers to discuss how the proposed changes to the legislation will impact them. This avoids the potential risk that any forthcoming proposals and changes to the system will negatively impact the sector and thereby the workforce and labour supply. Engaging the sector in this way from the outset of the FWA will help to build longstanding relationships between the body and the organisations it regulates, encouraging trust and compliance with the system, which is ultimately what government, industry and workers want to see.

As the proposed enforcement body for the sector, it's important that the FWA does not **only** inspect the larger labour providers, but also small and medium sized employment businesses, helping to drive up standards and maintain consistency across the sector. To support the FWA in this, there must be a fundamental understanding of how larger employment businesses are structured. For example, The Adecco Group is comprised of multiple brands, and when inspections are underway in a certain region, inspectors can end up visiting multiple brands across the one group. To ensure the best use of FWA resources, it would make sense to structure the investigations in a way that captures a range of different labour providers, rather than the various arms of one organisation.

To further build trust between employment organisations and the FWA, it's important that adequate information is shared about the FWA, its remit, its purpose and its objectives, and how the 'success' of the agency is measured. For example, the National Minimum Wage (NMW) inspections currently sit with HRMC; if this is to change under the ERB and the NMW becomes the responsibility of the FWA, employers need clarity on how this system will be transferred and how the sector will be regulated. This helps to improve understanding of and confidence within the system, whilst ensuring that there are no 'gaps' during this period of transition.

Publishing guidance to ensure that the various regulatory arms of government regarding the employment sector work together effectively and cohesively, will also be essential to creating sustained compliance with the new system. To develop this guidance, it's important that the FWA and the Government understand the different sectors that they seek to regulate, and the risks involved in these sectors. The Government must also engage with the whole supply chain in this process, including those at the very top, to ensure there is a comprehensive understanding of the sectors in question.