

**His Majesty's Treasury, His Majesty's Revenue and Customs and  
the Department for Business and Trade consultation on tackling  
non-compliance in the umbrella labour market**

- 1.1 The NASUWT welcomes the opportunity to respond to His Majesty's Treasury (HMT), His Majesty's Revenue and Customs (HMRC) and the Department for Business and Trade consultation on tackling non-compliance in the umbrella labour market.
- 1.2 The NASUWT – The Teachers' Union – represents teachers and headteachers across the United Kingdom.

**GENERAL COMMENTS**

- 1.3 The Union recognises that the questions in the consultation are significant and wide ranging and cover a number of key objectives aimed at tackling non-compliance in the umbrella company market.
- 1.4 The NASUWT's submission seeks to address a range of issues, including those associated with the experiences of supply teachers working through supply agencies and umbrella companies.
- 1.5 The NASUWT welcomes the Government's commitment to address the growth of umbrella companies in the labour market and the role they play in facilitating the engagement of temporary workers, such as supply teachers.

- 1.6 It is right that action is taken by the Government to deliver better outcomes for workers, to support a level playing field in the umbrella company market, and to ensure that taxpayers are protected from the significant loss in tax revenues associated with non-compliance.<sup>1</sup>
- 1.7 This includes tackling those that promote and enable tax avoidance, which deprives the Chancellor of the Exchequer of funds for public services, including schools, and has a detrimental financial impact on dedicated workers such as supply teachers.
- 1.8 Changes in the UK labour market over recent years have had a significant impact upon pay, job security and conditions of employment, resulting in an increased disparity in the balance of power between employers and workers.
- 1.9 Whilst the Government values the resilience of the UK's dynamic and flexible workforce,<sup>2</sup> the well-documented move away from permanent employees to a more complex and flexible labour market has resulted in the increased use of umbrella companies, including those wishing to expose the fragile job security and unfair conditions of employment of agency workers, such as supply teachers.
- 1.10 External analysis and HMRC data show that the umbrella company market has grown substantially since 20 years ago.<sup>3</sup>
- 1.11 Individuals and businesses (including those hiring workers) may now choose different methods of engagement when sourcing or securing work. For example, agencies may prefer to engage workers through umbrella companies to outsource human resources and payroll, as well as employment rights.
- 1.12 Workers may opt to use an umbrella company to maintain a continuous payroll link from one assignment to the next, as the umbrella company acts

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<sup>1</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

<sup>2</sup> Ibid.

<sup>3</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

as a single employer through which a worker can channel all their pay and tax.

- 1.13 It has also been suggested that workers may be able to access a broader suite of employment rights associated with ‘employee’ status, as opposed to ‘worker’ status, in respect of employment law, although the value of such rights is questionable (e.g. protections around unfair dismissal and redundancy)<sup>4</sup> to those who are in intermittent, insecure and precarious employment, such as supply teachers as agency workers.
- 1.14 Furthermore, given the itinerant nature of the work undertaken by individuals, it is often the worker who leaves the umbrella company rather than the umbrella company terminating employment.
- 1.15 However, sometimes an umbrella company will consider it a resignation and remove a worker from their books after a set period of time if they have not heard from the worker. In fact, HMRC guidance advises that there will be an automatic cessation of the employment record should the employer (e.g. an umbrella company) stop sending payroll information over a period of time, unless the irregular payment indicator has been set up.<sup>5</sup>
- 1.16 It is hard to envisage a situation where a worker would be let go by an umbrella company and could seek a claim for unfair dismissal, or a situation where they would be made redundant.
- 1.17 Indeed, it is more likely that the hirer or end client would stop the assignment, so that the worker would no longer have an employment relationship with them.
- 1.18 Given the above, the additional employment rights associated with ‘employee’ status are therefore seen as ‘theoretical rights’,<sup>6</sup> which individuals are unable to access due to the eligibility criteria (e.g. two years’ continuous service).

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<sup>4</sup> <https://www.litrq.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

- 1.19 It is also worth noting that agency workers do not have to work through an umbrella company in order to access a range of employment rights, although this is often not told to them because the agencies want to push the benefits of working through an umbrella company.
- 1.20 In addition, the competitiveness of the market has resulted in a situation where many agencies are looking to reduce their margins and liabilities through the use of umbrella companies.<sup>7</sup>
- 1.21 As the recruitment sector has evolved, umbrella companies have become a legitimate part of the modern labour market; an increasing number of agency workers now find themselves engaged through umbrella companies.
- 1.22 As a consequence, umbrella companies now proliferate in all areas of the temporary labour market. HMRC estimates suggest that there has been an increase in the number of individuals working through an umbrella company from 100,000 in the tax year 2007/08 to at least 500,000 in the tax year 2020/21.<sup>8</sup>
- 1.23 Further estimates suggest that the number of those working through an umbrella company has increased from between 300,000 to 400,000 in 2015 to over 625,000 in 2021,<sup>9</sup> whereas others have estimated that between 1.4 million<sup>10</sup> to 1.7 million<sup>11</sup> individuals are involved in agency or temporary work.
- 1.24 Many of these will have little choice but to work through an umbrella company. Indeed, it has been argued that the proportion of agency workers using umbrella companies is approximately 50%,<sup>12</sup> a figure that is likely to increase in the future, given that many agencies increasingly look to dissuade workers from using their own Pay-As-You-Earn (PAYE) function in

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<sup>7</sup> Ibid.

<sup>8</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

<sup>9</sup> <https://www.litrq.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>10</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/902667/Tackling\\_disguised\\_remuneration\\_tax\\_avoidance\\_-\\_call\\_for\\_evidence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/902667/Tackling_disguised_remuneration_tax_avoidance_-_call_for_evidence.pdf)

<sup>11</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

<sup>12</sup> <https://www.recruitment-international.co.uk/blog/2018/05/recruitment-industry-edges-closer-to-40000-agency-mark>; and <https://www.recruiter.co.uk/news/2020/01/200-increase-new-recruitment-agencies-2019>

favour of umbrella companies which take on the responsibility for such costs and obligations.<sup>13</sup>

- 1.25 Reports suggest that umbrella companies are increasingly involved in the supply chains of lower-paid workers, including those who promote and enable tax avoidance schemes.<sup>14</sup>
- 1.26 Given this, the increased use of umbrella companies and the associated increased complexity in the labour market presents a challenge that may be contributing to the widening tax gap between what is expected to be paid and what is paid.<sup>15</sup>
- 1.27 Despite guidance from the Employment Agency Standards (EAS) Inspectorate which suggests that agencies cannot force people into using an umbrella company, it is by not offering any other option that workers, such as supply teachers, are effectively forced into such arrangements if they want to engage and work with the supply agency.<sup>16</sup>
- 1.28 Indeed, the vast majority of workers report that they are obliged to work through an umbrella company at the behest of either the end client and/or employment agency/business or receive no work.<sup>17</sup>
- 1.29 Research conducted by the NASUWT found that almost half of supply teachers (49%) reported that they had been asked to sign a contract or agreement with an umbrella/offshore company when working through a supply agency.<sup>18</sup>
- 1.30 It has been suggested that using an umbrella company is the best way to maximise revenue and minimise risk. Agencies have a preferred supplier list

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<sup>13</sup> <https://www.litrg.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>14</sup> Ibid.

<sup>15</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

<sup>16</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/936515/eas-brief-guide-for-agencies.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936515/eas-brief-guide-for-agencies.pdf)

<sup>17</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

<sup>18</sup> <https://www.nasuwt.org.uk/uploads/assets/uploaded/cbf2bdf5-8e39-484b-926b1becb8fc586c.pdf>

and will decide on which umbrella company to use based not on what is best for the agency worker, but on the best margins for the employment agency.<sup>19</sup>

- 1.31 Umbrella companies are an additional revenue stream for employment agencies as they are able to demand upfront payments for referring an agency worker to an umbrella company. There is even some evidence that employment agencies are setting up their own umbrella companies to increase their margins through savings on payroll costs, a practice known as ‘white labelling’.<sup>20</sup>
- 1.32 Furthermore, there is evidence that umbrella companies aggressively advertise, promote and enable tax non-compliance based on disguised remuneration (DR) schemes.<sup>21</sup>
- 1.33 The lack of transparency means that those using such schemes (i.e. supply teachers) are unaware exactly what they are involved in, as there is confusion and misinformation about the pay rates and the way in which the pay is comprised (e.g. as National Minimum Wage (NMW), discretionary bonuses, or loans).
- 1.34 Workers experience a number of problems when working through an umbrella company, including a lack of transparency. This includes transparency around contractual terms and conditions, as well as transparency around rates of pay.<sup>22</sup>
- 1.35 For example, 60% of those workers who reported receiving a payslip stated that that they did not understand their payslip either due to a lack of clarity, not understanding the make-up of their pay, or variances in the pay received week-to-week.<sup>23</sup>

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<sup>19</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/936515/eas-brief-guide-for-agencies.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/936515/eas-brief-guide-for-agencies.pdf)

<sup>20</sup> <https://www.tuc.org.uk/research-analysis/reports/umbrella-companies-why-agencies-and-employers-should-be-banned-using-them>

<sup>21</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161119/M4027\\_Call\\_for\\_Evidence\\_SoR\\_UCs\\_0103.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161119/M4027_Call_for_Evidence_SoR_UCs_0103.pdf)

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

- 1.36 The rate advertised by an agency often does not reflect the fact that the worker will be processed through an umbrella company, and, as such, should receive an uplift in their rate of pay to ensure that they are no worse off than if they were paid by the agency directly with a non-uplifted rate of pay.
- 1.37 Disappointingly, there is the possibility that some agencies may purposefully deceive workers by advertising at one rate without being clear that the amount received by the worker will be another rate, due to the amount of money which will be taken by the umbrella company.<sup>24</sup>
- 1.38 The introduction of a Key Information Document (KID) from 6 April 2020 sought to address issues of transparency by making it a requirement of agencies to provide agency workers, such as supply teachers, with key information prior to signing up for an assignment, including in relation to how they were paid, and if an intermediary or umbrella company is involved.<sup>25</sup>
- 1.39 However, it appears that there is still a lack of transparency over the deduction, fees and contractor pay/payments, with some agencies ignoring the legal requirement to provide all workers with a KID.<sup>26</sup> This is a particular problem when the only source of work is via recruitment agencies, which can often be the case for lower paid workers.
- 1.40 Despite it being a legal requirement since April 2020, only 34% of supply teachers who obtained work through a new supply agency reported that they had been provided with a KID detailing how they would be paid and associated deductions, as well as other key details.<sup>27</sup>
- 1.41 In addition, the NASUWT is concerned about the extent to which supply teachers, as agency workers, are provided with a KID by their respective agencies at the appropriate time.

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<sup>24</sup> <https://www.litrg.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>25</sup> <https://www.gov.uk/government/publications/providing-a-key-information-document-for-agency-workers-guidance-for-employment-businesses>

<sup>26</sup> <http://www.ioanchargeappg.co.uk/wp-content/uploads/2021/04/How-Contracting-Should-Work-Inquiry-Report-April-2021-min.pdf>

<sup>27</sup> <https://www.nasuwt.org.uk/static/e183d19a-bbd0-425e-ae2a7c910e7dc2c4/Supply-Teachers-Annual-Survey-2022-England.pdf>

- 1.42 It is also unclear as to whether a KID is being given out multiple times in the event of multiple potential pay routes, so as to allow workers to compare and contrast accordingly.
- 1.43 The KID is supposed to be one of the first things that an agency provides to a worker in order for them to make an informed choice. Whilst the Government has not tested with workers whether this has helped them better understand their situation,<sup>28</sup> the evidence presented above suggests that this is not the case.
- 1.44 As such, many workers are unaware of their employment rights and are unsure how to report unfair practices, particularly given that there is currently no specific regulatory framework for umbrella companies in the same way as there is for employment businesses and agencies.<sup>29</sup>
- 1.45 Whilst the EAS can intervene in regards to issues of compliance with agencies that use umbrella companies, and HMRC can intervene if there are compliance issues relating to tax or PAYE and the NMW, the majority of employment law is dealt via employment tribunals which have developed to become the UK's main employment court, covering a wide-reaching and significant jurisdiction that includes a range of key employment issues.
- 1.46 Despite this, HMRC does not have a good track record of policing umbrella companies. Instead, HMRC often targets workers too readily, particularly over issues of non-compliance in relation to tax.<sup>30</sup>
- 1.47 This is compounded by the fact that clients (e.g. schools and colleges as the end user) appear fairly indifferent to the type of contract that agency workers are on, instead preferring to focus on the cost savings associated with the use of umbrella companies in the labour supply chain.<sup>31</sup>

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<sup>28</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

<sup>29</sup>Ibid.

<sup>30</sup> <https://www.litrq.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>31</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161119/M4027\\_Call\\_for\\_Evidence\\_SoR\\_UCs\\_0103.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161119/M4027_Call_for_Evidence_SoR_UCs_0103.pdf)



- 1.48 This perceived lack of oversight and visibility which the end client has over lengthy convoluted labour supply chains could be seen to contribute to labour abuses for those in precarious, intermittent and insecure work.
- 1.49 The TUC maintains that the ‘kickbacks’ from umbrella companies could result in those umbrella companies obtaining places on preferred supplier lists without any necessary due diligence taking place.<sup>32</sup>
- 1.50 Indeed, the Government concedes that the structure of the temporary labour market and the pursuit of engaging labour at as low a cost as possible had driven some businesses to seek to engage workers in ways which may not be compliant.<sup>33</sup>
- 1.51 Currently, agency workers have very little recourse to redress, or access to a formalised complaints procedure other than an Employment Tribunal (ET) or Acas’s mediation services.
- 1.52 However, ensuring fair practices by these agencies and umbrella companies, and seeking to close loopholes, should not be reliant upon individual teachers being prepared to challenge their practices.
- 1.53 In a context where supply teachers are already subject to intermittent and insecure work, being registered with these agencies is of critical concern, as otherwise it could deny an individual the opportunity for work.
- 1.54 The Union asserts that at the root of this problem is a lack of clarity and transparency, as well a lack of monitoring and scrutiny. This has encouraged the growth of employment businesses and umbrella companies that deny workers access to even basic employment rights.
- 1.55 Indeed, many umbrella companies involved in DR arrangements do not even attempt to conceal what they are doing when referring to an element of a worker’s pay as an advance or loan.

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<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

1.56 The NASUWT believes that the use and involvement of umbrella companies in the labour market makes the lives of workers unnecessarily complicated, as it fragments the employment relationship further by creating a tripartite arrangement involving the work-seeker, the agency and the client or hirer (end user).

## 2. SPECIFIC COMMENTS

### **Regulating umbrella companies for employment rights – defining umbrella companies**

2.1 The evidence provided throughout this consultation demonstrates that the current balance of benefits between workers (i.e. supply teachers) and the employer is skewed significantly in favour of the employer (i.e. the end client/agency/umbrella company).

2.2 Indeed, the Government itself acknowledges that there is a consensus that the poor behaviour of some umbrella companies needs to be addressed to protect workers and provide a level playing field.<sup>34</sup>

2.3 As such, there is a pressing need for greater government regulation of the role played by umbrella companies in the labour supply market, including the role played by umbrella companies in promoting non-compliant tax arrangements.

2.4 The state has a fundamental role in protecting individuals, particularly the most vulnerable, from umbrella companies who use exploitative and unscrupulous employment practices, including non-payment, payroll skimming and the non-payment of holiday pay.<sup>35</sup>

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<sup>34</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

<sup>35</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

- 2.5 As such, it is essential that there is a strong employment law framework and a strong enforcement system that provides redress that is fair, open, accessible and impartial.<sup>36</sup>
- 2.6 This is ever more prescient given the fact that many workers are unaware of their employment rights and are unsure how to report unfair practices, particularly as there is currently no specific regulatory framework for umbrella companies in the same way as there is for employment businesses and agencies.<sup>37</sup>
- 2.7 Whilst the EAS can intervene in regards to issues of compliance with agencies that use umbrella companies, and HMRC can intervene if there are compliance issues relating to tax or PAYE and the NMW, the majority of employment law is dealt via ETs which have developed to become the UK's main employment court, covering a wide-reaching and significant jurisdiction that includes a range of key employment issues.
- 2.8 The lack of regulation of umbrella companies has long been identified as an issue that needs to be rectified. For example, the 2017 *Taylor Review of Modern Working Practices* recommended that the Director of Labour Market Enforcement (DLME) should consider whether the remit of EAS should be extended to cover policing umbrella companies and other intermediaries in the supply chain.<sup>38</sup>
- 2.9 Whilst the Government has committed to expand state enforcement to include umbrella companies through its *Good Work Plan*,<sup>39</sup> to date, the closest it has got is to reaffirm its commitment to do so in its response to the 2019 consultation on the creation of the Single Enforcement Body (SEB).<sup>40</sup>

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<sup>36</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf)

<sup>37</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

<sup>38</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf)

<sup>39</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf)

<sup>40</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/991751/single-enforcement-body-consultation-govt-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf)

- 2.10 The failure to act has left a void in which agencies may be putting profits over the welfare of its workers through the use of umbrella companies,<sup>41</sup> a situation which the Loan Charge All-Party Parliamentary Group inquiry into how contracting should work describes as: *'out of control, all too often exploiting contractors (even without them realising it).'*<sup>42</sup>
- 2.11 Indeed, whilst acknowledging the concerns over the role played by umbrella companies in the labour market, including in relation to employment rights and issues of tax non-compliance, the Government has failed to address the situation and presided over a state of affairs which has worsened, given the increased complexity of the modern labour market.
- 2.12 Despite successive consultations and calls for evidence, it cannot go unnoticed that the Government is still failing many workers. For many employers, including umbrella companies, the threat of detection and having a sanction applied represents a good risk.<sup>43</sup> For example, estimates suggest that an employer could expect a visit every 320 years from a NMW Inspector, or every 39 years by the EAS.<sup>44</sup>
- 2.13 Given this, the NASUWT cautiously welcomes the proposals outline in this consultation in respect to umbrella companies, including, but not limited to, the objective of delivering improved outcomes for workers.<sup>45</sup>
- 2.14 The Union is clear that any recommendations must ensure that employers who break the law can expect significant repercussions for their actions, yet at the same time provide workers with the comfort and knowledge that the system works in a fair and just manner.

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<sup>41</sup> <https://www.litrq.org.uk/sites/default/files/files/LITRG-Labour-Market-Intermediaries-Report-2021.pdf>

<sup>42</sup> <http://www.loanchargeappg.co.uk/wp-content/uploads/2021/04/How-Contracting-Should-Work-Inquiry-Report-April-2021-min.pdf>

<sup>43</sup> [https://www.mdx.ac.uk/\\_data/assets/pdf\\_file/0017/440531/Final-Unpaid-Britain-report.pdf?bustCache=35242825](https://www.mdx.ac.uk/_data/assets/pdf_file/0017/440531/Final-Unpaid-Britain-report.pdf?bustCache=35242825)

<sup>44</sup> Ibid.

<sup>45</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

- 2.15 The lack of a statutory definition of an umbrella company in legislation inhibits the ability of the Government and ministers to act.<sup>46</sup>
- 2.16 Instead, a wide variety of definitions exist around different arrangements and activities. For example, sometimes the umbrella company will be the legal employer of the agency worker, whereas other times the umbrella company will provide payroll services for the recruitment agency without becoming the legal employer.<sup>47</sup>
- 2.17 The NASUWT maintains that the issue of defining precisely what an umbrella company is impacts on the appropriate mechanism for the regulation and enforcement of umbrella companies.
- 2.18 Furthermore, different definitions for umbrella companies are used by different government departments. For example, the EAS defines an umbrella company as: *'A payroll company, which might charge or deduct a fee from a work-seeker's payment that has been passed to them by an employment business to process the work-seekers' wages earned through the agency. In some cases, the work seeker will become an employee of the umbrella company.'*<sup>48</sup>
- 2.19 However, the definition of an umbrella company used by HMRC is: *'A UK limited company which acts as an employer to a number of individuals, meeting PAYE and other requirements, where operating legitimately. It signs contracts to provide the individual's labour to engagers, either directly or through another intermediary such as a recruitment agency.'*<sup>49</sup>
- 2.20 The lack of consensus on the definition of an umbrella company further demonstrates the need for greater clarity and transparency about the role umbrella companies play, if any, in an increasingly complex labour market.

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<sup>46</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1037093/Umbrella\\_Company\\_CfE\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1037093/Umbrella_Company_CfE_Final.pdf)

<sup>47</sup> <https://www.tuc.org.uk/sites/default/files/2021-07/Umbrella.pdf>

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

## **Regulating umbrella companies for employment rights: Option 1 – defining umbrella companies and limiting acceptable engagement structures**

- 2.21 The consultation provides two options for defining umbrella companies. Option 1 aims to define umbrella companies and limit acceptable engagement structures by which workers can be procured.
- 2.22 In addition to this, Option 1 would be accompanied by proposals to simplify the payment arrangements in the recruitment sector by only permitting four methods of engagement and payment for workers and businesses,<sup>50</sup> with only one person or business being permitted in the supply chain between the employment agency/business and the individual supplied to do the work.
- 2.23 Option 2 defines an umbrella company through applying three conditions in order for a business to be considered an umbrella company, including the fact that there should be a separate business responsible for supplying the worker in addition to the umbrella company, as well as recognising that the umbrella company is responsible for paying the worker appropriately, including the deduction of any umbrella company ‘margin’ – but it is not responsible for providing work-finding services.<sup>51</sup>
- 2.24 Whilst the two options provided for defining umbrella companies in the consultation could be considered a step in the right direction, it needs to be recognised that neither definition captures the full range of workers who are forced to use umbrella companies. For example, it would appear to exclude freelancers and contractors working through umbrella companies.
- 2.25 Nevertheless, Option 1 does appear to cover those who are employed or engaged by an umbrella company, and appears to be the definition which is most aligned with the existing definition provided by the EAS above, which may prove advantageous when considering which regulatory body is best placed to deal with the regulation and enforcement of umbrella companies.

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<sup>50</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

<sup>51</sup> Ibid.

2.26 In addition, the definition proposed in Option 1 could be argued to help distinguish between an employment agency/business and an umbrella company by explicitly referring to ‘work-finding services’.

2.27 However, Option 1 still does not prevent a situation where an employment agency/business has a preferred list of umbrella companies which the worker is expected to use in order to secure work. As such, this option fails to address concerns over ‘one-sided flexibility’.

### **Regulating umbrella companies for employment rights: Option 2 – defining umbrella companies by applying three tests**

2.28 Whilst Option 2 could be argued to be more in line with the reality and experience of how an umbrella company operates, there is a concern that it is so specific that umbrella companies will structure themselves so that they are not captured by the regulations.

2.29 This is compounded by the fact that the consultation makes it clear that *all* three of the conditions set for Option 2 must be met in order for a business to be considered an umbrella company.<sup>52</sup>

2.30 In addition, Option 2 would not apply to other businesses, such as those who only provide payroll, which means that concerns many supply teachers have over payroll providers and the provision of transparent payslips may still not be addressed.

2.31 Whilst a statutory definition of an umbrella company is to be welcomed, as it would give Ministers the power to make regulations in respect of umbrella companies, the NASUWT maintains that attempts to define what an umbrella company is should encompass the broadest definition in order to ensure it is future proof and can deal with situations where non-compliant umbrella companies seek to ‘game the system’.

2.32 The Union acknowledges that a simpler definition should help workers understand the rules and enable them to hold umbrella companies

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<sup>52</sup> Ibid.

accountable, and, as such, this may require further consideration in order to ensure any definition is fit for purpose.

## **Regulating umbrella companies for employment rights – umbrella company standards**

2.33 The NASUWT cautiously welcomes the reference in the consultation to introduce and regulate for minimum legislative provisions for an umbrella company to comply, such as the handling of pay and holiday pay and the use of additional services.<sup>53</sup>

2.34 Nevertheless, the Union believes that the consultation should ensure that there is a minimum standard regarding transparency of payslips, including any statutory deductions applied and an explanation as to how this has been deducted (e.g. the Apprenticeship Levy), as well as greater clarity over the rates advertised and the ‘margin’ charged by an umbrella company.

2.35 Indeed, many workers have reported that they have received lower rates that did not match the original salary offer from the employment business/agency or the end client.<sup>54</sup>

2.36 As such, the NASUWT agrees that it would seem appropriate to ensure that the minimum legislative provisions for an umbrella company to comply with include the duty to pass on this information to an employment business and/or end client, such as the details provided in a KID.

2.37 Given that evidence suggests that many workers are confused about what employment rights they are entitled to when working through an umbrella company,<sup>55</sup> the Union believes that details in respect to this should also be included, as the provision of such information should enable a worker to make a choice based on *all* the relevant information provided.

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<sup>53</sup> Ibid.

<sup>54</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161119/M4027\\_Call\\_for\\_Evidence\\_SoR\\_UCs\\_0103.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161119/M4027_Call_for_Evidence_SoR_UCs_0103.pdf)

<sup>55</sup> Ibid.



- 2.38 Furthermore, the NASUWT believes that there should be an expectation on an umbrella company to share relevant information about the suitability of a worker when undertaking an assignment – something that is particularly significant when dealing with supply teachers working in education who are engaged to work with children and/or vulnerable adults.
- 2.39 Given the above, the Union advocates that the Government should engage further with key stakeholders in order to ensure that the minimum legislative provisions for an umbrella company to comply are fit for purpose and give workers and the wider public confidence in the system.
- 2.40 In addition, the Union believes that an employment business/agency and/or end client should be prohibited from using an umbrella company that fails to provide such detailed information as part of any due diligence process.

### **Regulating umbrella companies for employment rights – enforcement of umbrella company standards**

- 2.41 The NASUWT welcomes the commitment by the Government to expand state enforcement to cover umbrella companies,<sup>56</sup> and believes that the EAS is the most appropriate mechanism/body for this – given that the EAS already regulates the recruitment sector where umbrella companies overwhelmingly operate.
- 2.42 The EAS would be able to use its existing knowledge and relationships to effective use, which could prove invaluable, particularly when it comes to enforcement.
- 2.43 The Union believes that the EAS should use its full suite of enforcement powers to both proactively and reactively tackle non-compliant umbrella companies.

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<sup>56</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

- 2.44 For example, the Conduct of Employment Agencies and Businesses Regulations 2003 should be strengthened to ensure that specific provisions relating to umbrella companies are incorporated, so that the EAS can enter the premise of umbrella companies, seek labour market enforcement undertakings and prosecute umbrella companies in the same way as it applies to employment businesses/agencies.
- 2.45 In addition, the NASUWT maintains that this should include the right for an agency worker, such as a supply teacher, to decide whether or not they want to be employed through an umbrella company, and a requirement for mandatory transparency so that all fees and costs are fully disclosed, including any associated deductions.
- 2.46 Furthermore, this should include a requirement for agreed rates of pay to include an uplift to cover any fees charged by the umbrella company, including the employer's National Insurance Contributions (NICs) and other related costs.
- 2.47 This should be accompanied by a statutory standards framework which strengthens existing regulations, such as those that make it unlawful for an agency to offer a position that is conditional on using a specified umbrella company, and those that stop workers being pushed or encouraged to opt out of the Conduct of Employment Agencies and Employment Businesses Regulations 2003.<sup>57</sup>
- 2.48 Furthermore, any such framework should make it unlawful for agencies to receive financial incentives or 'kickbacks' from umbrella companies, such as those received via introductions.
- 2.49 The Union also believes in the additional powers that permit the EAS to impose civil sanctions (e.g. fines) on umbrella companies.
- 2.50 In addition, the NASUWT maintains that there should be an avenue which provides for trade unions to bring a complaint on behalf of workers.

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<sup>57</sup> <http://www.ioanchargeappg.co.uk/wp-content/uploads/2021/04/How-Contracting-Should-Work-Inquiry-Report-April-2021-min.pdf>

- 2.51 However, it cannot go unnoticed that the extension of the remit of the EAS must be accompanied with improved levels of funding and additional resources to enable the EAS to deliver its extended remit.
- 2.52 As such, the NASUWT maintains that any extension of the powers of the EAS must be accompanied by improved levels of funding and additional resources to regulatory and enforcement bodies which fall under the remit of the DLME, such as the EAS.
- 2.53 The Union believes that it is right and proper that the appropriate distribution of resources is allocated so that effective labour market enforcement can take place, especially given concerns that the chances of being investigated for noncompliant employers is too low.<sup>58</sup>
- 2.54 It should be noted that, compared to European countries, UK enforcement agencies are under-resourced and underfunded. For example, in France, there are nearly 19 inspectors for every 100,000 people, whereas in the UK, there is just one inspector per 100,000 workers.
- 2.55 Furthermore, the International Labour Organization (ILO), Article 10, Labour Inspection Convention No. 81, recommends adequate resourcing for labour market inspectorates.<sup>59</sup>
- 2.56 In addition, the NASUWT reiterates previous calls for serious consideration to be given to a licensing scheme which monitors and reviews compliance of employment businesses and umbrella companies operating in education.<sup>60</sup>
- 2.57 Employment businesses/agencies and umbrella companies operating in the state-funded education sector would be an ideal area to extend licensing schemes, particularly given the growing concern over the way they operate and the levels of fees they charge, which is, in essence, money being

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<sup>58</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705495/labour-market-enforcement-strategy-2018-2019-executive-summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705495/labour-market-enforcement-strategy-2018-2019-executive-summary.pdf)

<sup>59</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C081](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C081)

<sup>60</sup> <https://www.nasuwt.org.uk/static/f4b934af-aaa4-405b-8ab101fc1a77e994/Consultation-Response-HMRC-Tougher-Consequences-for-Promoters-of-Tax-Avoidance.pdf>

diverted away from the public purse and the education of children and young people.

- 2.58 Licensing would be the most effective way to tackle non-compliance in education when there is evidence of repeated breaches of employment rights, as it requires the licence holder to demonstrate compliance before they are legally permitted to operate in the sector. They are also subject to continuing checks.
- 2.59 In order to secure public confidence, any licensing scheme should be backed up by an independent regulator that has the ability to hold employers to account and apply appropriate sanctions for those who do not comply with the provisions of any such scheme.
- 2.60 The NASUWT believes that this should be comprised of relevant stakeholders, including trade unions, in order to ensure that there is a requisite level of veracity about the scheme, as there is currently very little to dissuade an agency if they want to push workers into arrangements with unscrupulous or non-compliant umbrella companies.
- 2.61 As such, it may be worth giving further consideration as to whether the Gangmasters and Labour Abuse Authority (GLAA), which operates a licensing scheme regulating businesses which provide workers to certain sectors of the economy, is best placed to operate this, particularly given the complexities associated with issues of tax non-compliance.
- 2.62 Furthermore, the Union believes that the naming and shaming of agencies and umbrella companies could act as an additional lever for compliance. It seems appropriate that employers who commit serious breaches of employment law should be named in order to serve as an effective deterrent.
- 2.63 Consistent application of naming and shaming must have the desired effect of incentivising non-compliant employers to act promptly or face further escalation through additional sanctions, including greater compensation for workers affected.

## **Tackling tax non-compliance in the contingent labour market**

2.64 Despite the steps taken by HMRC, including measures introduced to strengthen anti-avoidance regimes in respect of tax, such as the disclosure of tax avoidance schemes (DOTAS) and promoters of tax avoidance schemes (POTAS), it is still the case that DR schemes and other such enterprises have continued and are still promoted.

2.65 It is therefore welcomed that this consultation proposes three options aimed at tackling tax non-compliance which builds upon previous consultations proposing to make it a criminal offence for those who continue to promote tax avoidance,<sup>61</sup> including mandating due diligence (Option 1), the transfer of tax debt that cannot be collected from an umbrella company to another party in the supply chain (Option 2), and deeming the employment business which supplies the worker to the end client to be the employer for tax purposes where the worker is employed by an umbrella company (Option 3).<sup>62</sup>

### **Tackling tax non-compliance in the contingent labour market: Option 1 – mandating due diligence**

2.66 The NASUWT believes that it is concerning that many employment businesses/agencies and/or end clients do not undertake due diligence on the entities that make up the labour supply chain, as the lack of visibility and absence of due diligence enables non-compliant umbrella companies to operate.

2.67 Given this, the Union maintains that Option 1 (mandating due diligence), where an employment business/agency and/or end client are required to undertake due diligence, could represent a positive step towards removing non-complaint umbrella companies from the labour supply chain.

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<sup>61</sup> <https://www.gov.uk/government/consultations/consultation-tougher-consequences-for-promoters-of-tax-avoidance/outcome/tougher-consequences-for-promoters-of-tax-avoidance-summary-of-responses>

<sup>62</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

- 2.68 The NASUWT maintains that any such due diligence *must* be operated through a statutory requirement in order to avoid a situation where some employment businesses/agencies or end clients do not undertake due diligence.
- 2.69 In addition, any such process must include appropriate financial penalties for both the employment business/agency and the end client (it should not be the case that it is *either/or*).
- 2.70 As such, this would reflect existing practice that operates in employment tribunals, where *all* parties involved are held to be responsible (joint and several liability), as this would provide workers with other avenues to pursue when seeking to enforce their rights, whilst ensure that due diligence is maintained, which in turn could incentivise more permanent and secure employment.<sup>63</sup>
- 2.71 Furthermore, the Union advocates that the establishment of a due diligence process, and any associated good practice must be developed in conjunction with key stakeholders, including trade unions, as it would be unacceptable for any such process to involve checking whether an umbrella company is accredited with a trade/voluntary body.
- 2.72 The Union is therefore disappointed that the consultation references the fact that any legislative requirement regarding mandating due diligence is not too prescriptive in respect of what is expected of an employment business/agency and/or what an end client should undertake,<sup>64</sup> as the success of this option is dependent on the process for checking due diligence being robust enough to instil public confidence in the system.
- 2.73 In addition, the NASUWT maintains that any due diligence process should extend to detailing the obligations on employment rights in the labour supply chain.

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<sup>63</sup> <https://www.tuc.org.uk/sites/default/files/2021-07/Umbrella.pdf>

<sup>64</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)

- 2.74 As referenced above, the credibility of any due diligence process would be enhanced by the naming and shaming of agencies and umbrella companies, as employers who do not comply with any such statutory process should be named in order to serve as an effective deterrent.
- 2.75 In addition, public procurement rules should be strengthened to ensure that public sector bodies are prohibited from using those employment agencies and umbrella companies which fail to adhere to minimum standards.
- 2.76 The House of Lords Economic Affairs Finance Bill Sub-Committee reinforced this notion by recommending that the Government: *'ensure that no government or public sector body contracts with an intermediary operating a disguised remuneration scheme, and to publicise this requirement along with the protocols that public bodies are expected to follow'*.<sup>65</sup>
- 2.77 In the case of schools and colleges, as public bodies, they have a great deal of purchasing power and, as a consequence, leverage over their suppliers. This provides them with the opportunity to bring about change in the behaviour of those employed in the supply chain. Suppliers wishing to enter a contract with such public bodies should be expected to evidence a robust approach to both employment and tax law obligations.
- 2.78 For example, in Norway, public authorities are obliged to advance contract clauses on wages and decent working conditions in relation to the procurement of construction, facility management and cleaning services.<sup>66</sup>
- 2.79 Public authorities in Norway are also required to follow up with suppliers on the performance of such clauses, such as requiring the supplier to make a self-declaration.

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<sup>65</sup> <https://committees.parliament.uk/publications/4097/documents/40546/default/>

<sup>66</sup> <https://www.hrprocurementlab.org/wp-content/uploads/2016/06/Public-Procurement-and-Human-Rights-A-Survey-of-Twenty-Jurisdictions-Final.pdf>

**Tackling tax non-compliance in the contingent labour market: Option 2 – the transfer of tax debt that cannot be collected from an umbrella company to another party in the supply chain**

- 2.80 The low levels of capital held by umbrella companies means that there can be difficulties in HMRC collecting unpaid tax from them.
- 2.81 Given this, the NASUWT welcomes the proposals set out in Option 2 which would see the transfer of tax debt to other parties in the labour supply chain, notably the employment business/agency and/or the end client,<sup>67</sup> as creating a consequence for these other parties could result in them taking greater care when deciding if it is appropriate to use an umbrella company, and which one to select.
- 2.82 In addition, the Union understands that this could be managed under the Managed Service Company (MSC) rules, meaning that HMRC would have the power to transfer liability, thereby creating another avenue by which any unpaid tax can be collected from an employment business/agency and/or end client.
- 2.83 The NASUWT believes that this could produce significant behavioural change for end clients, given that they could be held liable for the tax liabilities of an umbrella company.
- 2.84 The Union does not agree that the most appropriate way to seek to recover any debt is to look to the employment business/agency that supplies the worker to the end client, as this would undermine the desire **to be** about behavioural change in regards to how end clients operate things such as outsourced payroll.
- 2.85 Instead, as referenced above, the NASUWT advocates that there should be joint and several liability in respect of any transfer of tax debt that cannot be collected from an umbrella company.

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<sup>67</sup>[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1161120/230411\\_Umbrellas\\_condoc\\_HMT\\_template.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1161120/230411_Umbrellas_condoc_HMT_template.pdf)



- 2.86 Furthermore, careful consideration needs to be given to Option 2 in order to avoid non-compliant umbrella companies from feeling emboldened if they know that the tax debt will transfer.
- 2.87 Nevertheless, Option 2 has the potential to positively impact on workers who, through no fault of their own, may find themselves being pursued by HMRC for an umbrella company's unpaid tax debt, as this could shift the focus onto the employment business/agency and the end user, particularly given the fact that agency workers, such as supply teachers, often have very little choice over whether or not they are enrolled into a DR scheme.

**Tackling tax non-compliance in the contingent labour market: Option 3 – deeming the employment business which supplies the worker to the end client to be the employer for tax purposes where the workers are employed by an umbrella company**

- 2.88 It has been suggested that the most effective way to prevent tax non-compliance would be to prevent umbrella companies from being the employer for the purposes of pay and tax purposes.
- 2.89 This would have the effect of removing the incentive for an employment business/agency to use an umbrella company because the behavioural effect is likely to mean that employment businesses/agencies would operate their own payrolls and not bother with umbrella companies.
- 2.90 However, the NASUWT has reservations over this option because it would create a situation where there could be different employers for tax and employment rights, meaning additional layers of complexity when seeking to assert their employment rights.
- 2.91 Finally, the Union believes that, with the case of the options referenced above, it should not be a case of either/or, but should instead be a case that *both* Option 1 and Option 2 are given serious consideration as to the most effective way to address tax non-compliance.

## ADDITIONAL COMMENTS

- 3.1 Given the growing complexity of taxation and employment and equality law, coupled with the significant changes in the UK labour market over recent years which have impacted upon pay, job security and conditions of employment, it is essential that there is a strong legal and regulatory framework and a strong enforcement system that provides redress and is also fair, open, accessible and impartial.<sup>68</sup>
- 3.2 The Union agrees that changes to the labour market must work for everyone, while ensuring that the interests of everyone in the labour market are properly protected and that workers can enforce their rights effectively.<sup>69</sup>
- 3.3 The NASUWT believes that the COVID-19 pandemic has exposed and shone a spotlight on the unscrupulous practices of some agencies and umbrella companies, which should be addressed as a matter of urgency.
- 3.4 If the Government fails to adopt some if not all of the steps referenced above, then the Union agrees that there is a cogent argument for the outright ban of the use of umbrella companies in the labour market, as proposed by the TUC<sup>70</sup> and further tabled in an amendment to the Finance Bill put forward by a cross-party group of MPs.<sup>71</sup>
- 3.5 The Government accepted in *Good Work – A response to the Taylor Review of Modern Working Practices* that all work should be fair, decent and underpinned by five principles: worker satisfaction; good pay; participation and progress; wellbeing safety and security; and voice and autonomy.<sup>72</sup>
- 3.6 The NASUWT appreciates that any changes, such as those put forward in this consultation, will have a cost implication. However, given the current

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<sup>68</sup> <http://rtsa.ro/tras/index.php/tras/article/viewFile/27/23>; and [https://www.riir.ulaval.ca/sites/riir.ulaval.ca/files/1968\\_23-4\\_15.pdf](https://www.riir.ulaval.ca/sites/riir.ulaval.ca/files/1968_23-4_15.pdf)

<sup>69</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/817359/single-enforcement-body-employment-rights-consultation.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/817359/single-enforcement-body-employment-rights-consultation.pdf)

<sup>70</sup> <https://www.tuc.org.uk/sites/default/files/2021-07/Umbrella.pdf>

<sup>71</sup> Ibid.

<sup>72</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679767/180206\\_BEIS\\_Good\\_Work\\_Report\\_Accessible\\_A4\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679767/180206_BEIS_Good_Work_Report_Accessible_A4_.pdf)

situation in regards to the role played by umbrella companies in the labour market, the Union believes it is not a question of whether the Government can afford to make them, but rather whether they can afford *not* to make them.

- 3.7 The NASUWT believes that the consultation should consider remedies to ensure that the employer is ordered to reimburse the worker as soon as possible in order to avoid situations where workers are frustrated by the difficulty of enforcing awards against employers.
- 3.8 Whilst organisations such as trade unions are available to assist and offer invaluable advice, guidance and support, the NASUWT believes that measures should be introduced to promote and support collective bargaining and the right of trade unions to access workplaces and represent individuals and groups of workers when enforcing their rights.
- 3.9 Trade unions have a vital role to play in ensuring that workers are better informed and empowered in respect of their employment rights. The right to representation is a key concern for the NASUWT.
- 3.10 The involvement of trade unions is crucial in negotiating improved terms and conditions and putting in place mechanisms to remedy breaches of these terms and conditions.

Dr Patrick Roach

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