



Department for Business, Innovation & Skills

Hiring agency staff during strike action: reforming regulation response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 9 September 2015

Name: **Ian Toone**

Organisation (if applicable): **Voice: the union for education professionals**

Address: **2 St James' Court, Friar Gate, Derby DE1 1BT**

Please return completed forms to:

Paula Lovitt
Labour Market Directorate
Department for Business, Innovation and Skills
1 Victoria Street
London
SW1H 0ET

Telephone: 020 7215 5000

Email: recruitment.sector@bis.gsi.gov.uk

Please select a box, from the list of options below, that best describes you as respondent.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input checked="" type="checkbox"/>	Trade union or staff association
<input type="checkbox"/>	Other (please describe)

A definition of each of the stakeholder groups in the following questions is included at Annex D of the consultation document.

Question 1

a) i) How do you think the removal of *Regulation 7* would affect employment businesses?

Positively

No Impact

Negatively

ii) Please explain briefly what you think the impact will be on employment businesses? (*max 500 characters*)

In the education sector, removal of Regulation 7 is likely to have little or no impact, as many agency staff are trade union members and so would either be striking (if their union had called for a strike) or, as a matter of conscience, would refrain from covering for striking colleagues. Strikes in the education sector are, generally, single day events and so there would be insufficient time to induct agency staff to take on the responsibilities of strikers. Also, there is not a large agency workforce waiting for the odd occasion when a strike occurs, so recruitment would be difficult. Current legislation allows employers to recruit staff to cover for strikers, providing such workers are hired directly rather than through agencies, but there is no evidence that schools make use of this option.

i) How do you think the removal of *Regulation 7* would affect work-seekers?

Positively

No Impact

Negatively

ii) Please explain briefly what you think the impact will be on work-seekers? (*max 500 characters*)

Work seekers generally want regular work. Very few work seekers are prepared to wait for the odd day when a strike happens to be taking place in the world of education. Many agency staff are members of unions and so would abide by their union's rules in the event of a strike.

i) How do you think the removal of *Regulation 7* would affect hirers?

- Positively
- No Impact
- Negatively

ii) Please explain briefly what you think the impact will be on hirers? (max 500 characters)

If hirers were intent on employing a temporary labour force to cover for strikers, they would be hiring workers directly rather than going through an agency in order to remain within the law, but there is no evidence of such a practice. Most hirers would be cautious about having a large influx of untrained staff on their premises, especially in the education sector, where inexperienced agency staff could only expect to provide a child-minding service rather than know immediately where each child was at in terms of their educational progress so that they could differentiate their teaching appropriately. There is also a risk that inexperienced agency staff could pose a safety risk to themselves and to the children, and no hirer would want to take such a risk.

d) i) How do you think the removal of *Regulation 7* would affect employees taking part in industrial action?

- Positively
- No Impact
- Negatively

ii) Please explain briefly what you think the impact will be on employees taking part in industrial action? (max 500 characters)

As a non-striking union, our own members would not be taking part in industrial action, but colleagues in other unions may be unlikely to withdraw from industrial action merely because agency staff may be brought in. They would know that many agency staff are in the same union as they are, and so would expect them to be joining in the strike. Alternatively, they may express their trade dispute in other ways, through action short of strike, which may be more disruptive.

e) i) How do you think the removal of *Regulation 7* would affect the wider economy and society?

- Positively
- No Impact
- Negatively

ii) Please explain briefly what you think the impact will be on the wider economy and society? (max 500 characters)

We can only comment in relation to the education sector. As we believe that there is limited scope for the recruitment of agency workers to cover for strikers (as explained above), we believe that any impact on the wider economy and society would be very limited.

Question 2

a) The impact assessment for this consultation assumes that, between 17% and 27% of working days lost due to industrial action will potentially be covered by temporary agency workers, based on the limit of availability of suitable temporary agency workers, and the fact that some stoppages involve a large number of workers on a particular day. Do you think this assumption, as set out in the impact assessment, is reasonable?

No

b) Please give your reasons

The figure of 17-27% is not specific to the education sector and overlooks the fact that many agency staff in the education sector are in trade unions (and so would be affected by a strike in the same way that their permanently employed colleagues would be). Also, as strike action is very rare, and generally very short-lived, in the education sector, it is not safe to assume that there would be a sufficiently large agency workforce available to offset the safety hazards of schools remaining open in the event of a strike involving large numbers of permanent staff.

Question 3

a) The impact assessment assumes that the current options for recruiting temporary labour to provide cover during industrial action are used infrequently, due to the additional costs and administrative burden of hiring staff directly, or contracting service providers at short-notice. Do you think this assumption is reasonable?

No

b) Please give your reasons

In the education sector, use of agency staff generally involves additional costs and administrative burdens (which is why many schools do recruit directly rather than using agencies), and use of agency staff is generally at short notice as there is an urgent need to maintain staffing ratios.

Question 4

- a) **The impact assessment estimates that a quarter of the pool of temporary agency workers would be available for a placement at short-notice to provide cover for workers taking industrial action. Do you think this estimate is reasonable?**

No

- b) **Please give your reasons**

For the reasons already given above, we do not believe that such a sizeable temporary workforce is available within the education sector.

Please use this space for any general comments that you may have, comments on the layout.

As a non-striking union, we are concerned that removal of Regulation 7 would put pressure on our members to cover for striking colleagues. Our current advice to members is that they should continue with their normal duties but, out of respect for the rights of others, not to take up duties laid down by striking colleagues. Many of our members report that they are put under pressure to cover for strikers, and this invariably causes stress, anxiety and general upset, whilst also making it difficult to resume positive working relationships with colleagues once the strike is over. We also have members who are employed as agency staff and, if Regulation 7 is abolished, we would expect their employers to accept that, as a matter of conscience, such members would not want to act as strike-breakers by covering for strikers – and also to understand that they must not suffer unfair discrimination on grounds of their union membership. This point should be made clear in any advice and guidance issued by the DfE and/or BIS.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available from www.gov.uk/bis

Contacts us if you have any enquiries about this publication, including requests for alternative formats, at:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000
Email: enquiries@bis.gsi.gov.uk

BIS/15/416/RF