JULY 2026

FCSA RESPONSE TO

Make Work Pay: Ending One-Sided Flexibility

Reforms of Zero Hours and Similar Contracts — Consultation

CONTENTS

Introduction

The emergence and growth of the professional umbrella employment sector has been a positive contributor to the UK's flexible labour market. Compliant umbrella employers – also referred to as Specialist Payment Intermediaries (SPIs) – provide workers with employment rights and protections while ensuring tax compliance and the timely remittance of employment taxes to HMRC.

The Freelancer & Contractor Services Association (FCSA) is the UK's leading professional membership body dedicated to raising standards and promoting supply chain compliance within the temporary labour market. **We are a not-for-profit organisation.** Our members provide umbrella employment, accountancy, self-employed and business support services to the contingent workforce.

At the time of writing, FCSA's Accredited Members collectively engage approximately 220,000 workers and account for billions of pounds of annual tax revenues remitted to HMRC. FCSA members represent one of the largest collective employers in the UK and play an important role in ensuring workers receive the protections and entitlements to which they are legally entitled. Around 1 in 3 of the workforce represented by FCSA are women.

FCSA has worked extensively with Government departments, Parliament, HMRC and labour market stakeholders to promote compliance and improve worker protections. This includes engagement with HM Treasury, the Department for Business and Trade, HMRC, the Fair Work Agency and numerous parliamentary groups examining labour market issues.

~220,000	Billions	1 in 3
workers engaged by FCSA Accredited Members	of pounds in annual tax revenues remitted to HMRC	of the workforce represented by FCSA are women

We support the Government's commitment to improving worker experiences and ensuring that individuals enjoy appropriate employment rights and protections. We agree that where employers engage workers on a regular and ongoing basis, they should not be able to deny those workers the security that should accompany what is, in reality, a permanent employment relationship.

However, we do not believe the proposed guaranteed hours framework is appropriate when applied to temporary agency workers employed through umbrella companies. As currently drafted, the proposals fail to recognise the fundamentally different nature of temporary agency work and risk producing outcomes that are contrary to the Government's objectives.

Similarly, we do not believe that the reasonable notice of shift provisions should apply to agency work as genuinely urgent staffing fulfilment is precisely why firms seek agency workers. In addition, agency workers are currently at liberty to refuse the shift, so curtailing the ability to offer shifts at short notice will only serve to reduce work opportunities for workers that they may, or may not, accept.

We support the intention behind the proposed policy to compensate workers for shifts cancelled at short notice, but we urge the Government to consider legislating to make those responsible for the cancellation – almost always the end-hirer – responsible for paying the compensation.

Mirroring the format of the consultation document, this response is split into three parts, with a final section focused on how all of the proposals will be enforced, as follows:

- Guaranteed hours
- Reasonable notice of shifts
- Compensation for cancelled, curtailed or moved shifts
- Enforcement

Part 1: Guaranteed Hours

FCSA's overall position

FCSA supports the Government's ambition to improve worker security and tackle genuinely one-sided flexibility.

However, we believe the proposed guaranteed hours framework has been designed to address issues arising in traditional employment relationships and should not be extended to temporary agency workers employed through umbrella companies.

> FCSA'S PRINCIPAL RECOMMENDATION
>
> **Umbrella company workers should be excluded from the guaranteed hours provisions, irrespective of whether an agency forms part of the labour supply chain.**

The central concern underpinning this response is straightforward:

> THE CENTRAL CONCERN
>
> ***The Government is seeking to solve a permanent employment problem by regulating a temporary labour market.***

The proposals assume that regular working patterns necessarily demonstrate an ongoing requirement for permanent employment. That assumption may be valid where an employer directly engages its own workforce. It is not valid in the temporary agency labour market, where businesses deliberately engage temporary workers to meet fluctuating or short-term demand.

Applying the same policy to fundamentally different employment models is likely to:

- impose obligations that compliant umbrella companies cannot realistically fulfil;
- reduce work opportunities by encouraging hirers to end assignments before qualifying periods are reached, or discourage firms from hiring additional, contingent workers

altogether;

- undermine the continuity of employment that many umbrella workers currently enjoy;
- create significant legal uncertainty regarding employment transitions;
- increase administrative burdens across the labour supply chain; and
- incentivise the growth of non-compliant labour models that avoid employment rights altogether.

FCSA believes that where an individual has worked continuously for the same hirer for a sustained period, there may be a legitimate case for offering direct employment. However, this should only arise where there is clear evidence that the role has become permanent in practice. A threshold of twelve months' continuous engagement would provide a more proportionate and evidence-based trigger than the proposed 12 week reference period framework.

The proposals are designed for a different labour market

FCSA believes the consultation applies a policy designed for permanent employment relationships to a labour market that operates on fundamentally different principles.

The guaranteed hours proposals seek to address circumstances where employers have chosen to retain the flexibility of zero hours arrangements despite having a clear and ongoing requirement for an individual to work regular hours.

We support that objective.

Where an employer controls the availability of work, determines an employee's hours and intends the employment relationship to be ongoing, it is entirely appropriate that workers should receive greater contractual certainty. However, temporary agency work operates differently.

A traditional employment relationship is characterised by a number of features:

- the employer creates and controls the work;
- the employer determines when and how many hours the employee works;
- the employer intends the relationship to be ongoing; and
- the worker forms part of the employer's permanent workforce.

Temporary agency work does not share those characteristics.

The hirer uses temporary labour because it has a temporary or fluctuating business need rather than a permanent vacancy. Recruitment agencies source workers to meet that demand. Umbrella companies provide employment and continuity of service across multiple assignments but do not create or control the work itself. Workers frequently choose this model because it offers flexibility to move between assignments, clients and sectors.

No single participant in the supply chain exercises the level of control that exists within a conventional employment relationship.

Importantly, flexibility in the agency labour market is not inherently one-sided.

The Government's policy is based on the premise that flexibility is exercised primarily for the benefit of the employer. While that may be true in some direct employment relationships, many agency workers actively value the flexibility that temporary assignments provide.

FCSA DATA — WHY WORKERS CHOOSE TO WORK THROUGH AN UMBRELLA

57% enjoy the flexibility of choosing where and when they work

56% choose contracting because it offers higher earning potential than permanent employment

43% enjoy the variety and different experiences that come with flexible working

35% say it improves their work life balance

24% only 24% say it is because they couldn't find a permanent role

Businesses gain the ability to respond to fluctuating demand, while workers gain the ability to choose when, where and for whom they work. In addition, agency workers are already protected by the Agency Workers Regulations which ensure they benefit from the same day-to-day rights as permanent staff such as pay, annual leave and rest breaks.

Comparable day-to-day rights for agency staff under the AWR are positive, but rights relating to certainty and permanence of employment cannot and should not follow. It undermines the agency model and removes the flexibility enjoyed by both workers and hirers.

Applying reforms designed to address one-sided flexibility to relationships characterised by mutual flexibility risks reducing opportunities without improving worker outcomes.

For these reasons, FCSA believes the proposed guaranteed hours framework is not merely difficult to apply to agency workers. Rather, it has been designed for an entirely different labour market.

Application to umbrella company workers

We understand that where an agency forms part of the labour supply chain, a qualifying umbrella company worker would receive an offer of guaranteed hours directly from the hirer at the conclusion of the reference period.

Where there is no agency in the contractual chain and the hirer contracts directly with the umbrella company, we understand that the obligation to offer guaranteed hours would instead fall upon the umbrella company.

FCSA does not believe guaranteed hours rights should apply in either scenario.

The presence or absence of an agency within the contractual chain does not alter the fundamental characteristics of umbrella employment. The worker remains employed for the purpose of undertaking temporary assignments whose availability is determined by fluctuating client demand rather than the ongoing requirements of a permanent employer.

Definition of an umbrella company as an 'employment business'

Government is taking steps to redefine umbrella companies. In the recent consultation on Modernising the Agency Work Regulatory Framework, the Government states:

> *"Through the Employment Rights Act 2025, the government is amending the definition of 'employment business' in the Employment Agencies Act 1973 to include the activities of umbrella companies. This change will bring umbrella companies into scope for regulation through the Conduct Regulations."*
>
> **Modernising the Agency Work Regulatory Framework, p.8**

There is an inconsistency here. For the purposes of the guaranteed hours rules, umbrella companies will be treated as an end hirer (where there is no agency in the chain) yet for the purposes of the Conduct Regulations, they will be treated as an employment business. It would be helpful if the Government would clarify if this is what it intends.

Interaction with other reforms and existing regulations

The proposed reforms to zero hours and similar contracts should also be considered in the context of the wider changes to the employment rights framework. If implemented, the new rules will need to interact with reforms under the Employment Rights Act 2025 which are still developing and, in some cases, have yet to crystallise, including the regulation of umbrella companies and reforms to employment status. They will also need to operate alongside existing regulatory frameworks, including the Agency Workers Regulations, provisions relating to joint and several liability, and the emerging role and remit of the Fair Work Agency.

There is therefore a risk that the proposed zero hours contract reforms are considered in isolation, without sufficient regard to how they will operate in practice within this broader and evolving regulatory landscape. The Government should ensure that the interaction between these different regimes is clearly understood and that the cumulative impact on employers, workers and labour market intermediaries is assessed before implementation. This is particularly important where the same working arrangements may be subject to multiple, overlapping obligations, potentially creating uncertainty and unintended consequences.

Government should undertake a cumulative impact assessment covering guaranteed hours, umbrella regulation, employment status, joint and several liability and Fair Work Agency enforcement to ensure the overall framework remains coherent and does not create unintended consequences for compliant supply chains.

Umbrella companies cannot guarantee assignment hours

Compliant umbrella companies, including all FCSA members, already provide employees with a contractual minimum guarantee of 336 hours of work each year, equivalent to approximately seven hours per week. This reflects the legal and commercial reality of the umbrella employment model.

Umbrella companies employ workers but do not generate assignments. Assignments are secured through recruitment businesses and end hirers and may end at short notice for reasons entirely outside the umbrella company's control. However, the worker remains employed by the umbrella company. The end of an assignment does not automatically mean the end of the contract.

FCSA DATA — ASSIGNMENTS PER ENGAGEMENT

68% of umbrella companies report that workers complete 2 to 3 assignments during the same overarching engagement

A worker may complete an assignment averaging forty hours each week over several months. However, once that assignment ends, the umbrella company cannot guarantee those hours unless another assignment has been secured.

Unlike a traditional employer, an umbrella company cannot create work where none exists. Requiring it to guarantee hours based upon historic assignment patterns would therefore impose obligations that are impossible to fulfil.

Continuity of employment is an important worker protection

One of the principal advantages of employment through a compliant umbrella company is continuity of employment across multiple assignments and multiple hirers. This continuity enables workers to accrue continuous service and the associated statutory employment rights while retaining the flexibility to undertake temporary assignments.

The proposed reforms appear intended to encourage workers into direct employment with end hirers. While this may benefit some workers, it may also require individuals to relinquish valuable accrued employment rights with their umbrella employer in exchange for employment that may itself be short-lived. A worker could lose continuity of employment only to find that their new employer terminates the employment before they acquire protection from unfair dismissal or other rights dependent upon continuous service.

The proposals therefore risk reducing employment protections for some workers rather than strengthening them.

The proposals may reduce work opportunities

Businesses engage temporary workers because they require flexibility. Many hirers have no permanent vacancy to fill. They simply require additional labour for a defined period. The proposed obligation to offer guaranteed hours therefore creates a strong commercial incentive for hirers to end assignments before workers complete the qualifying reference period. Where an assignment was already due to end before the completion of the reference period, but the hirer may have been open to extending it, they may now choose not to.

This problem could be exacerbated by the changes to unfair dismissal rules due to take effect from 1st January 2027. Hirers will want to avoid taking on staff which they don't require on a permanent basis, especially once they cannot dismiss them after just six months.

Rather than increasing security, the proposals may in practice shorten assignments and reduce opportunities for temporary workers. This risk is particularly significant for younger workers, students, individuals returning to work and others who rely upon flexible employment opportunities.

Legislation intended to improve worker security should not unintentionally reduce access to work.

The administrative burden is disproportionate

The proposed framework introduces significant administrative complexity across the labour supply chain. Businesses would be required to monitor working patterns across rolling reference periods, identify qualifying workers, calculate guaranteed hours entitlements, make repeated contractual offers and manage extensive compliance obligations. Many of these offers may never be accepted, yet the administrative burden would still be incurred.

An example of the difficulties created by the guaranteed hours requirement is supply teachers. Our understanding is that in these arrangements, the local council is the hirer; the supply teacher may work across several schools within the council boundaries. The council may never know who the supply teacher is, as it is the schools who recruit the supply teacher via the agency. Nevertheless, it would be the council, as the end-hirer, who would have the responsibility to monitor the hours worked by the teacher and to offer them a permanent contract at the end of the reference period (assuming the worker qualifies). It is not clear how the council will administer this obligation or where the supply teacher would work if they accepted the guaranteed hours contract.

If Government wishes to provide workers with greater certainty, a more proportionate alternative would be to introduce a statutory right for qualifying workers to request a guaranteed hours contract. Although such a model would still present significant challenges in the context of temporary agency work, it would avoid imposing mandatory obligations where neither party necessarily wishes to enter a permanent employment relationship.

Compliance challenges within complex supply chains

The practical operation of the proposed reforms will depend heavily on effective data sharing and clear allocation of responsibilities across labour supply chains. If hirers are expected to monitor reference periods, determine eligibility and make guaranteed hours offers, there will need to be clear rules governing record ownership, data sharing and information flows between hirers, managed service providers (MSPs), agencies and umbrella companies. The practical administration and compliance requirements should not be underestimated, particularly where information relevant to an individual's eligibility, working patterns or entitlement is held by different organisations.

Consideration should therefore be given to how compliance will operate in complex labour supply chains, including who is responsible for collecting, maintaining and validating the relevant data and how discrepancies or disputes are to be resolved. The framework will need to provide sufficient clarity on the respective responsibilities of each party, as well as appropriate mechanisms for the timely and lawful sharing of information. Without this clarity, there is a risk of significant administrative burdens, inconsistent approaches and inevitable disputes, particularly where no single party has access to the complete information required to assess eligibility or discharge the relevant obligations.

The consultation leaves fundamental legal questions unanswered

FCSA is concerned that the consultation provides no meaningful explanation of how workers would transition from employment with an umbrella company to direct employment with a hirer. Fundamental legal questions remain unresolved, including:

- whether the worker would resign from the umbrella company;
- whether the umbrella company would terminate the employment;
- whether dismissal claims could arise;
- whether TUPE would apply;
- how continuity of employment would be preserved; and
- how accrued contractual and statutory rights would be protected.

During stakeholder engagement, Government has suggested that businesses should “seek legal advice”. That is not an adequate basis upon which businesses can assess or implement legislation. If Government believes these arrangements can operate effectively, it should clearly explain the intended legal mechanism.

The proposal to guarantee hours would fundamentally change the employment status of the worker

We understand that the proposal will apply to workers on both contracts of service (employees) and contracts for services (workers) but not to the genuinely self-employed.

Where an agency worker on a contract for services accepts a guaranteed hours offer from the end-hirer, we believe that in the vast majority of cases, the worker will no longer be a 'worker' for employment rights purposes and will need to be moved to a contract of service.

This is because the existence of guaranteed hours, presumably accompanied by an obligation on the worker to carry out those hours, introduces clear mutuality of obligation into the relationship. It is quite possible that this is a deliberate policy intention. If so, guidance should be published which makes this clear.

The proposals may incentivise non-compliance

As noted above, the guaranteed hours provisions will not apply to genuinely self-employed workers. This creates a significant incentive for some businesses to restructure labour arrangements in order to avoid the legislation. FCSA is particularly concerned about the likely growth of hybrid umbrella models under which individuals are treated as employees for tax purposes while being denied employment rights through artificial claims of self-employment.

Such arrangements are expressly prohibited under the FCSA Codes because they exist solely to avoid employment protections.

Introducing additional obligations for compliant umbrella companies while leaving these arrangements outside scope risks rewarding non-compliance, distorting competition and increasing worker exploitation.

Impact on economic growth

The risks and costs associated with engaging flexible labour will increase if the proposals are implemented. Hirers may become less willing to invest in new projects or expand their operations if they are concerned that taking on agency workers could create an obligation to offer guaranteed hours and employ those workers permanently. This could make businesses more cautious about testing new ventures, responding to fluctuations in demand or taking on additional work, particularly in sectors where flexible staffing is an important part of the business model. The result could be fewer opportunities for investment, reduced labour-market flexibility and weaker overall economic growth.

The additional administrative burden on firms discussed above will be a further drain on dynamism. Time and money spent on compliance are resources that cannot be used for investment, innovation, recruitment or expanding productive capacity. At a time when businesses are already under pressure to improve productivity and control costs, adding further complexity to the use of flexible labour risks diverting valuable resources away from activities that could otherwise support growth.

A more proportionate alternative

Although FCSA does not support extending guaranteed hours provisions to temporary agency workers in the vast majority of cases, we recognise that there may be circumstances in which a worker should have the opportunity to move into direct employment.

Where an individual has worked continuously for the same hirer for twelve months, there is a reasonable basis for concluding that the hirer has an ongoing business requirement rather than a temporary labour need. In those circumstances, there is a stronger policy case for requiring the hirer to offer the worker the opportunity to move into direct employment.

Such an approach would distinguish genuinely temporary labour from de facto permanent employment while preserving the flexibility that businesses require and many workers actively value.

1 What should the minimum hours threshold be before a worker becomes eligible for the right to guaranteed hours?

FCSA believes that umbrella company workers should not fall within the scope of the guaranteed hours provisions. The policy has been designed to address one-sided flexibility in direct employment relationships rather than temporary agency work.

However, if the Government proceeds with applying the right to agency and umbrella workers, FCSA considers that the minimum threshold should be **seven guaranteed hours per week**.

This reflects the existing minimum guarantee already provided by compliant umbrella companies (336 guaranteed hours annually). Aligning the threshold with the existing legal framework would recognise the unique nature of umbrella employment.

We do not support increasing the threshold above seven hours. A higher threshold would not address the practical concerns identified throughout this response and would instead create additional complexity by introducing another arbitrary threshold into an already complex employment model.

More fundamentally, eligibility should not be determined solely by the number of hours worked. In the temporary agency labour market, working regular hours during an assignment does not necessarily indicate that a permanent labour requirement exists. The defining feature of agency work is that assignments are temporary and fluctuate according to business demand.

Accordingly, FCSA's preferred position remains that umbrella company workers should be excluded from these provisions altogether.

2 What should the reference period be?

If the Government decides to extend guaranteed hours rights to umbrella company workers, FCSA believes the reference period should be **52 weeks**.

A shorter reference period risks treating temporary peaks in demand as evidence of a permanent labour requirement.

Agency workers are frequently engaged to support seasonal demand, fixed-term projects, maternity cover, sickness absence, infrastructure programmes and other temporary business needs. It is entirely possible for an individual to work for several months before the assignment naturally concludes.

A reference period of 52 weeks would provide a much more accurate indication of whether the working pattern genuinely reflects an ongoing labour requirement rather than a temporary fluctuation in demand.

It would also reduce incentives for hirers to terminate assignments prematurely in order to avoid guaranteed hours obligations, as the assessment would better reflect the long-term nature of the working relationship.

Nevertheless, FCSA reiterates that no reference period can overcome the fundamental policy issue that temporary agency work has been brought within a regime designed for permanent employment relationships.

3 Do you agree with the proposed approach to determining guaranteed hours?

No.

FCSA does not believe the proposed approach is appropriate for temporary agency workers employed through umbrella companies.

The proposals assume that regular working patterns demonstrate an ongoing need for permanent employment. While this assumption may be reasonable in direct employment relationships, it does not reflect the operation of the temporary labour market.

Agency work exists precisely because businesses experience fluctuating labour requirements. Regular hours over a particular assignment do not necessarily indicate that work will continue once that assignment has concluded.

As a consequence, the proposed approach would impose obligations that neither umbrella companies nor many hirers are capable of meeting.

4 Are there alternative approaches that Government should consider?

Yes.

The most appropriate solution would be to exclude temporary agency workers employed through umbrella companies from the guaranteed hours regime.

If Government nevertheless wishes to strengthen protections for agency workers, FCSA considers the following alternatives to be more proportionate:

- introducing a statutory right for qualifying workers to request a guaranteed hours contract rather than requiring employers to make mandatory offers;

- recognising that continuity of employment with a compliant umbrella company already provides significant employment protections that should not be undermined;
- requiring hirers to offer direct employment only where a worker has been engaged on a full-time basis for the same hirer over a sustained period, such as twelve continuous months, demonstrating that the labour requirement has become permanent rather than temporary; and
- ensuring that any future framework clearly distinguishes between permanent employment relationships and genuinely temporary agency work.

These alternatives would better balance worker protection with labour market flexibility while avoiding many of the unintended consequences identified in this response.

5 Are there any other comments?

FCSA remains concerned that the consultation does not explain how workers would transition from umbrella employment into direct employment with a hirer.

Fundamental legal questions remain unanswered, including the treatment of continuity of employment, dismissal, TUPE, accrued employment rights and contractual obligations. During stakeholder engagement, Government officials have repeatedly advised businesses to seek legal advice rather than explaining how the legislation is intended to operate.

This level of uncertainty is incompatible with effective implementation.

We are also concerned that the proposals will create strong incentives for hirers to shorten assignments or not to take on temporary agency staff at all, and for non-compliant providers to promote artificial self-employment and hybrid umbrella models that fall outside the scope of the legislation.

The likely consequence would be fewer opportunities for temporary workers, greater labour market distortion and increased worker exploitation.

For these reasons, FCSA respectfully urges the Government to recognise that temporary agency work serves a fundamentally different purpose from permanent employment and should not be regulated through a framework designed to address one-sided flexibility in direct employment relationships.

Conclusion on Part 1

FCSA supports the Government's objective of improving worker experiences and preventing the misuse of insecure working arrangements. However, we do not believe that the proposed guaranteed hours framework is appropriate for workers employed through umbrella companies.

The proposals seek to address a problem that arises in permanent employment relationships by regulating a labour market that exists for fundamentally different reasons. We therefore urge the Government to exclude umbrella company workers from the guaranteed hours provisions, irrespective of whether an agency forms part of the labour supply chain.

Umbrella companies themselves are simply not in a position to offer a guaranteed hours contract to workers. They do not source work opportunities; they simply provide employment to workers that have already secured an assignment. Where there is an agency in the chain, hirers will curtail or restrict hiring to avoid the obligation to monitor worker hours and offer permanent roles.

The proposals risk reducing work opportunities, weakening existing employment protections, increasing legal uncertainty and encouraging non-compliance.

If Government wishes to encourage progression into direct employment where temporary arrangements have genuinely become permanent in nature, this should instead be achieved through a targeted mechanism based on sustained engagement over a substantially longer period, such as twelve months.

Such an approach would better balance worker protection, labour market flexibility and business certainty, while avoiding the unintended consequences identified throughout this response.

Part 2: Reasonable Notice of Shifts

FCSA's overall position

FCSA supports the Government's objective of ensuring that workers are treated fairly and are given appropriate notice of work wherever possible.

However, we do not believe the proposed right to reasonable notice of shifts should apply to temporary agency workers, including those employed through umbrella companies.

The proposal has been developed with direct employment relationships in mind and does not reflect the operational realities of the temporary agency labour market.

Agency workers exist precisely because businesses occasionally need workers at very short notice. Requiring minimum notice periods would undermine one of the principal reasons why temporary agency work exists and would reduce opportunities for workers who actively choose flexible work.

Agency workers are often engaged to meet urgent business needs

Temporary agency workers enable organisations to respond to unforeseen events and short-term fluctuations in demand.

In many sectors, the need for labour arises unexpectedly. A worker may report sick shortly before a shift begins, an employee may experience a family emergency, demand may increase unexpectedly, or additional staff may be required to maintain safe staffing levels.

A straightforward example is the education sector. Schools frequently rely upon supply teachers to provide cover where a teacher becomes ill on the morning that lessons are due to begin. Without the ability to engage temporary workers at very short notice, pupils may be left without appropriate teaching provision or schools may be forced to redistribute classes in ways that affect educational outcomes.

Similar examples arise throughout the NHS and social care, logistics, manufacturing, hospitality and construction, where agency workers provide an essential source of labour flexibility that enables organisations to continue operating effectively.

The temporary labour market exists because businesses cannot always predict their labour requirements in advance.

Introducing statutory notice periods for agency assignments would therefore reduce the effectiveness of the temporary staffing market without necessarily benefiting workers.

Agency workers already retain control over whether they accept work

Unlike many employees engaged under direct employment arrangements, agency workers are not required to accept every assignment offered to them.

Where an assignment is offered at short notice, the worker remains free to decline it if:

- they already have another work commitment;
- they have caring responsibilities;
- the proposed hours are inconvenient; or
- they simply choose not to accept the assignment.

This is an important distinction.

Offering an agency worker a shift at short notice does not compel them to work. It simply provides them with an additional opportunity to earn income.

Accordingly, FCSA does not consider that offering work at short notice creates the same potential detriment that may arise where an employer changes the working hours of an existing employee at minimal notice.

The worker remains entirely free to refuse the assignment without penalty.

Conclusion on Part 2

For these reasons, FCSA believes the reasonable notice provisions should not apply to temporary agency workers employed through umbrella companies.

The proposal seeks to regulate a labour market that depends upon rapid deployment of temporary workers to meet unpredictable demand. Applying statutory notice requirements risks reducing employment opportunities while delivering limited additional protection for workers who already retain the ability to accept or decline individual assignments.

Part 3: Compensation for Cancelled, Curtailed or Moved Shifts

FCSA's overall position

FCSA is sympathetic to the Government's objective of ensuring that workers are treated fairly where work is cancelled at short notice.

Workers who have arranged childcare, travelled to a workplace or turned down alternative work should not be left out of pocket because a shift has been cancelled unexpectedly.

We therefore support the underlying policy objective.

However, we have significant concerns regarding where responsibility for compensation should sit within the temporary labour supply chain.

As currently proposed, the legislation risks placing financial liability upon umbrella companies even though they neither make nor control the decision to cancel the shift.

Responsibility should rest with the organisation making the decision

In the overwhelming majority of cases, it is the end hirer that decides:

- whether work is available;
- whether a shift proceeds;
- whether a worker is required; and
- when a cancellation is communicated.

Umbrella companies have no control over these decisions. Indeed, many umbrella companies have no direct contractual relationship with the hirer at all.

In a typical labour supply chain, the hirer contracts with a managed service provider or recruitment agency. The recruitment agency may then engage another agency before the worker is ultimately employed by the umbrella company.

The umbrella company may therefore have little or no direct communication with the organisation that has decided to cancel the shift. Holding the umbrella company financially responsible for a decision made entirely by another organisation is neither fair nor likely to influence behaviour.

Contractual recovery will be unfeasible in practice

We recognise the Government's view that intermediaries can seek to recover compensation payments through contractual arrangements within the labour supply chain. However, this is unlikely to provide an effective or proportionate solution.

Recovery would depend upon the precise contractual terms between each organisation in what may be a lengthy contractual chain. Disputes regarding liability could arise between hirers, managed service providers, recruitment businesses and umbrella companies.

Many compensation payments are likely to be relatively modest. The costs of pursuing contractual recovery may exceed the value of the compensation itself, meaning recovery is often not commercially viable.

In practice, the organisation that pays the worker is likely to bear the financial burden regardless of who caused the cancellation. The proposal therefore risks transferring responsibility away from the organisation responsible for the conduct and onto the organisation that the worker contracts with.

Because seeking compensation from hirers will be so difficult, both umbrella companies and recruitment agencies may choose to protect themselves by increasing their margin, negatively impacting worker pay.

The legislation should influence the behaviour of hirers

If the Government wishes to prevent unnecessary last-minute cancellations, the legislation should create incentives for the decision-maker to change its behaviour. That decision-maker is almost always the end hirer.

If hirers know that cancelling shifts without reasonable notice will result in a direct financial consequence, they will have a clear incentive to improve workforce planning, communicate earlier and avoid unnecessary cancellations.

Conversely, imposing liability on umbrella companies is unlikely to influence hirer behaviour at all. The hirer suffers no direct consequence, while the umbrella company bears costs arising from decisions over which it has no control. The worker may ultimately bear the cost as umbrella companies seek to increase their margin to cover compensation costs they have no control over.

The policy objective is therefore unlikely to be achieved.

Uncertainty of how the compensation payments should be treated

We understand that tax, National Insurance and the Apprenticeship Levy would apply to compensation payments. We are not clear on whether these payments should be included for the purposes of calculating holiday pay, or student loan repayments.

If the proposal is implemented, we would be grateful for clear guidance on how these payments should be treated to enable payroll providers to avoid accidental non-compliance.

FCSA's recommendation

If Government proceeds with these proposals, responsibility for compensation should rest with the end hirer that decides to cancel, curtail or move the shift. It should be made clear that this statutory responsibility cannot simply be transferred contractually to other parties in the supply chain. FCSA's preference would be for the worker to claim any compensation from the client directly, via the ACAS route where the payment is disputed. This would take umbrella companies and agencies out of the process but still provide a mechanism to drive client behaviour.

This would:

- align legal responsibility with operational decision-making;
- create appropriate incentives to reduce unnecessary cancellations;
- avoid imposing unfair costs upon organisations that cannot control the relevant conduct;
- reduce disputes throughout the labour supply chain; and
- better achieve the Government's objective of improving worker experiences.

In addition, guidance should be published to enable those administering the payments to remain compliant with their tax and employment rights obligations.

Conclusion on Part 3

FCSA supports the principle that workers should be compensated where shifts are cancelled at short notice. However, effective legislation must place responsibility on the party responsible for the cancellation.

The overwhelming majority of last-minute cancellations are decisions taken by end hirers. If Government wishes to discourage this practice and improve worker security, the legal obligation to compensate workers should rest with the hirer rather than with umbrella companies or other intermediaries that have neither control over, nor visibility of, the underlying operational decision.

Part 4: Enforcement

If these proposals are implemented, they are likely to generate a significant volume of new employment disputes at a time when the Employment Tribunal system is already operating under considerable pressure. The proposed rights to guaranteed hours, reasonable notice of shifts and compensation for cancelled, moved or curtailed shifts are fact-sensitive and administratively complex.

Determining whether a worker qualifies for a guaranteed-hours offer, whether sufficient notice was given, or whether an exception applies will often require detailed examination of rotas, payroll records, timesheets and patterns of work over extended reference periods. Even relatively straightforward disagreements may therefore become resource-intensive to resolve.

The consultation gives relatively little attention to how these rights will be enforced in practice. While the Government intends the new Fair Work Agency to play an important role in employment rights enforcement, the Agency is not yet fully operational and its future remit, priorities and resourcing remain uncertain. In the meantime, workers are likely to rely heavily on Employment Tribunal claims to vindicate their rights.

This raises the prospect of substantial additional litigation, including claims where the sums in dispute may be modest — for example, compensation relating to one or two cancelled shifts — but where the costs, time and management resources required to investigate and defend the claim may be disproportionate to the value of the claim itself. There is also a risk that the reforms could encourage a significant volume of weak or unmeritorious claims, particularly where there is limited financial disincentive for employees to bring proceedings. Employers may, in some cases, consider it more cost-effective to settle a claim, even where they believe there is no legal basis for it, rather than incur the potentially significant costs and management time involved in defending an Employment Tribunal claim. This could create a perverse incentive for claims to be brought and increase the overall administrative and financial burden on employers and tribunals.

The consultation would therefore benefit from a much clearer explanation of the Government's intended enforcement model. In particular, it should address how routine disputes are expected to be resolved without adding further pressure to an already stretched tribunal system, whether alternative enforcement or dispute resolution mechanisms are envisaged, and how employers and workers will obtain timely and consistent determinations on what are likely to be highly fact-specific disputes.

Without a credible and adequately resourced enforcement framework, there is a risk that these reforms will create uncertainty, increase litigation and undermine confidence in the very rights they are intended to strengthen.

ADDENDUM ONE

Contractor Survey Findings

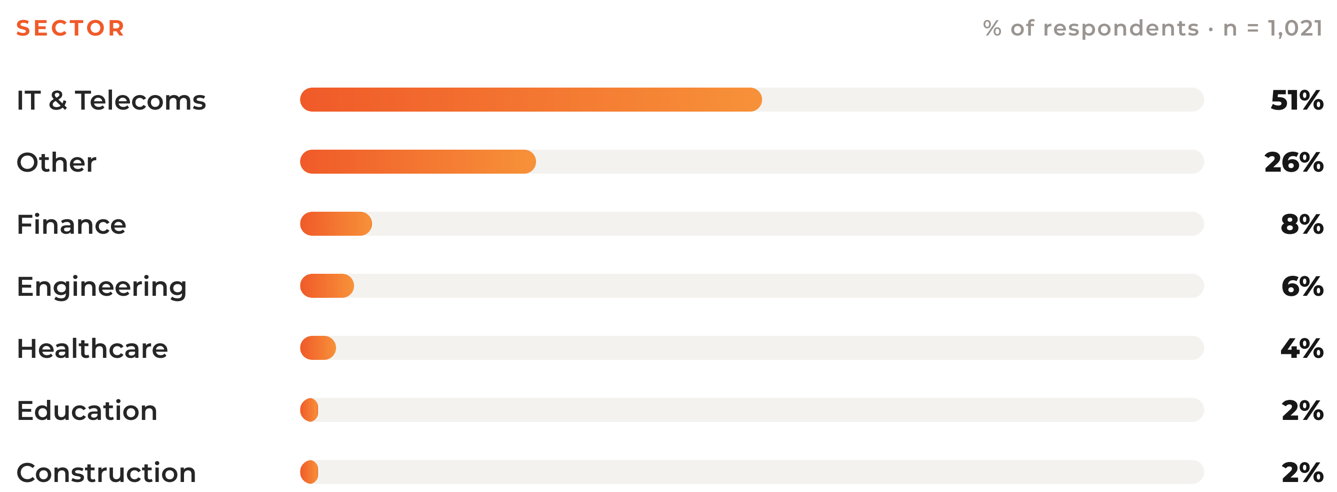
The findings below form the evidence base for this response. FCSA surveyed 1,021 umbrella company contractors on their sector, motivations, tenure and attitudes towards the proposed Employment Rights Act reforms. Percentages are rounded and, unless stated otherwise, are expressed as a proportion of all respondents.

1,021
umbrella company contractors surveyed

62.9%
have been contracting for three years or more

1 in 5
expect the ERA measures to benefit them

A1 Sectors contractors are working in



READING NOTE

IT & Telecoms and ‘Other’ together account for over three-quarters of all responses, so the sector split should be read as broadly IT-led rather than exhaustive. The sample is heavily concentrated in technology and professional services — a skilled, knowledge-economy workforce.

A2 Why contracting rather than permanent roles?

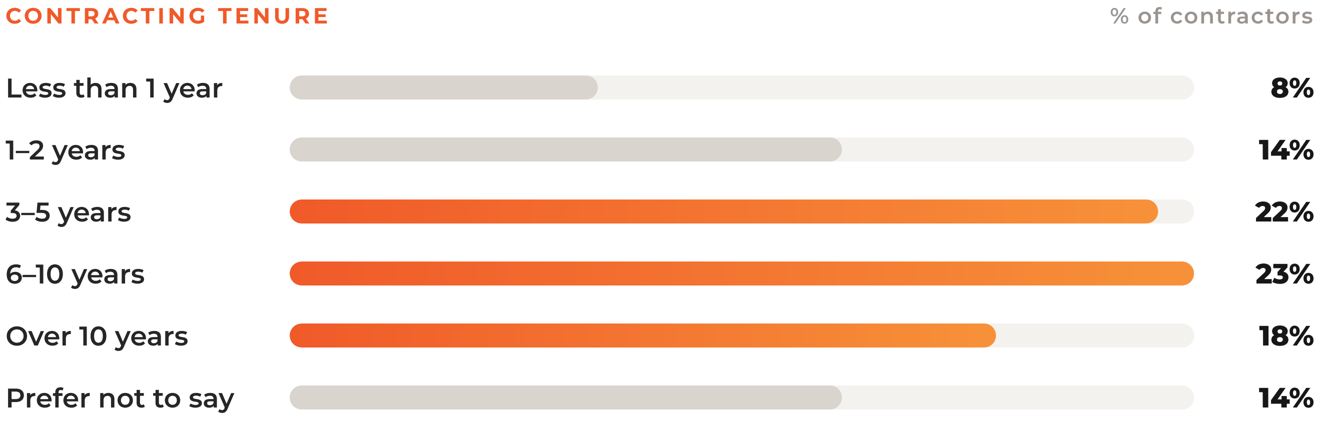
1. **Flexibility & autonomy**
   Control over working patterns, projects and clients was the dominant motivation for choosing contracting.

2. **Higher earnings**
   Day rates and take-home pay compared favourably to equivalent permanent roles.

3. **Project variety**
   Access to diverse assignments and sectors that permanent roles cannot offer.

4. **No suitable permanent role**
   Only a minority — around 25% — cited an inability to find a suitable permanent position as their reason for contracting.

A3 Length of contracting careers



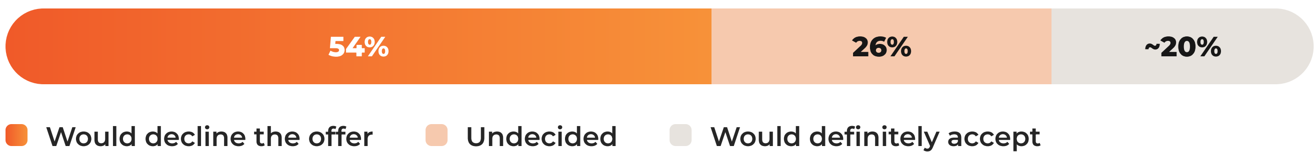
Bars shaded orange denote three or more years of contracting.

A SETTLED, EXPERIENCED WORKFORCE

Nearly two-thirds of contractors (62.9%) have been contracting for three or more years, and almost a fifth for over a decade. This is not a transient or vulnerable workforce — it is a settled, experienced population who have deliberately chosen contracting as a long-term career path, which directly challenges the assumption that contractors are a temporary or precarious labour segment.

A4 If offered, would contractors take up permanent roles?

If offered a permanent role by their current end client three months into an assignment, more than half of contractors would decline. A further 26% were undecided, meaning only around 1 in 5 would definitely accept.



A5 Why contractors would decline permanent work

GROUP 1 — WOULD ACCEPT A PERMANENT ROLE

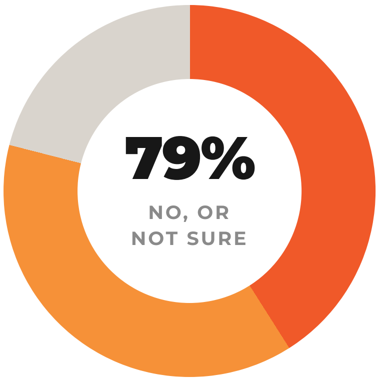
- Job security
- Benefits such as pension and sick pay
- Stable income
- Career progression

GROUP 2 — PREFER CONTRACTING

- Flexibility and autonomy
- Higher earnings
- Variety of projects
- Control over working patterns
- No desire for permanent employment

Among those who would decline a permanent role, the dominant reasons were flexibility, autonomy and higher earnings — not a lack of awareness of employment benefits. Those open to permanency cited job security, pension and sick pay as primary motivators, but they represent a clear minority of the contractor population.

A6 Would the ERA measures benefit umbrella workers?



No, would not benefit	**41%**
Not sure	**38%**
Yes, would benefit	**21%**

When asked whether the Employment Rights Act's guaranteed hours and job security measures would benefit them as umbrella workers, 79% said either no or that they were not sure. This suggests the reforms, designed for zero hours workers, are misaligned with the realities of umbrella contracting, where flexibility is a deliberate choice rather than a constraint.

A7 What contractors want Government to understand

Four themes recurred throughout the free-text responses.

1. **Double taxation under IR35**
   Employer's NI, employee NI and the Apprenticeship Levy — described as being taxed like an employee with none of the offsetting benefits.

2. **Taxed as employed, treated as neither**
   Many called for a distinct 'third category' of employment status.

3. **Flexibility is the point**
   Many chose contracting deliberately and asked explicitly not to be brought into ERA-style protections designed for zero hours workers.

4. **Notice periods and job security**
   Some contracts end with little or no notice. A recurring ask was for a guaranteed minimum notice period, distinct from wider job security guarantees.

ADDENDUM ONE

Key Points in Summary

63%	**Settled workforce:** 63% have contracted for three years or more — not a transient or vulnerable zero hours population.
25%	**Choice, not necessity:** flexibility and autonomy are the primary draw; only 25% cited an inability to find a permanent role.
54%	**Permanent roles declined:** 54% would turn down a permanent offer from their current client; a further 26% are undecided.
1 in 5	**ERA misalignment:** only 1 in 5 contractors expect the guaranteed hours measures to benefit them as umbrella workers.
TAX	**Core concern is tax:** free-text responses were dominated by double NI liability — not a desire for guaranteed hours.

ADDENDUM TWO

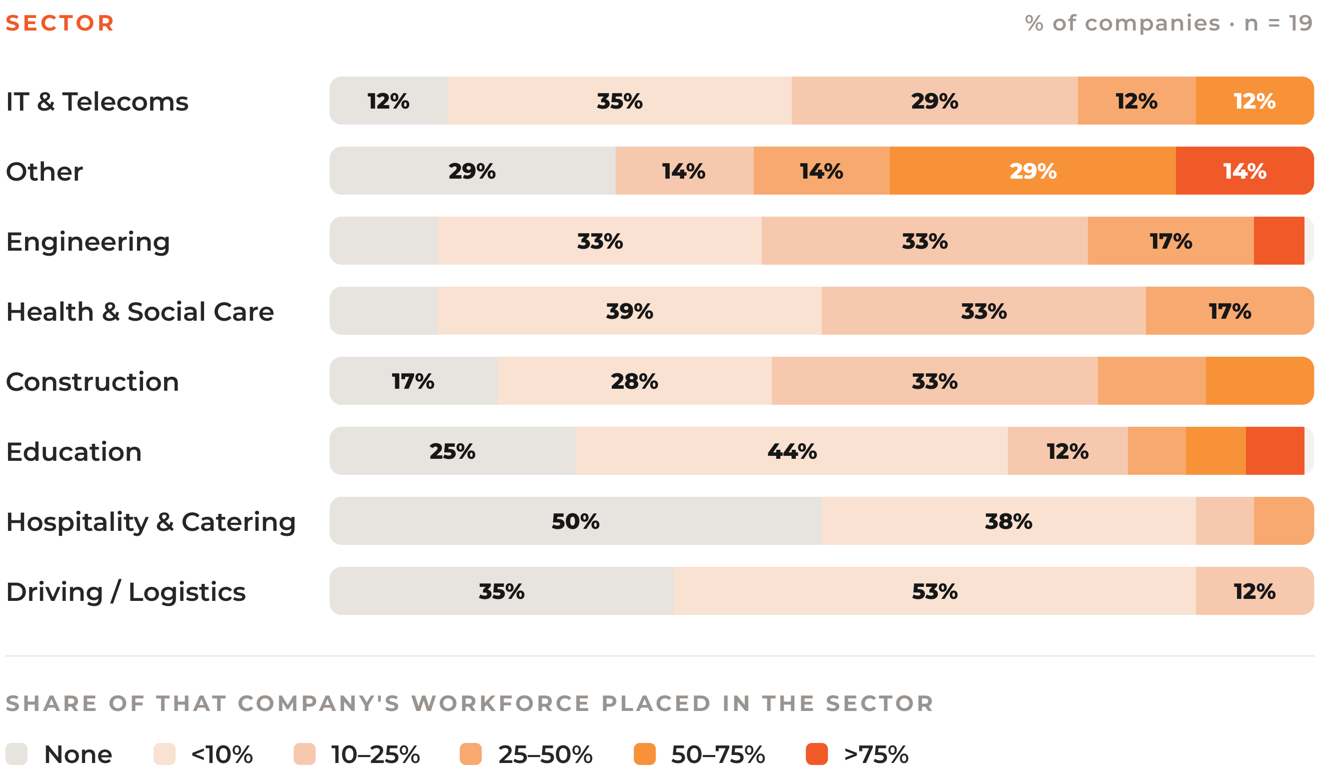
Umbrella Company Survey Findings

This second evidence base looks at the same question from the employer side. FCSA surveyed 19 umbrella and PEO companies on worker tenure, assignment structure, sector placement and the prevalence of shift-based working. Percentages are expressed as a proportion of responding companies rather than of individual workers, and are rounded.

19	89%	68%
umbrella and PEO companies surveyed	report average worker tenure of 6 months to 2 years	have fewer than 1 in 10 workers on shift patterns

B1 Where umbrella companies place their workforce

Companies reported the share of their workforce placed in each sector. Concentration is uneven: technology and professional services dominate, while the sectors most associated with shift-based working are the least represented.



READING NOTE

IT & Telecoms and 'Other' show the heaviest concentration of placements. Hospitality & Catering and Driving/Logistics — the sectors where end-client-notified shift working is most common — are the least represented for most companies. The employer data therefore mirrors the contractor sample in Addendum One. Figures in this chart are read from the source survey chart and rounded to the nearest whole percentage.

B2 Structured, substantial engagements

1. **6–12 months to 2 years**
   The typical average tenure a worker holds with the umbrella company, reported by 89% of companies.

2. **2–3 assignments**
   The average number of assignments completed per contract, reported by 68% of companies.

3. **30+ hours a week**
   Typical hours worked per assignment for 68% of companies; 95% report assignments averaging 17 or more hours a week.

4. **Under 10% shift workers**
   The share of the workforce on end-client-notified shift patterns, for 68% of companies.

B3 Assignment length varies sharply by sector

LONGER, MORE STABLE PLACEMENTS

- **Engineering** — 47% run 6–12 months; 18% run 1–2 years
- **IT & Telecoms** — 47% run 6–12 months; 29% run 1–2 years
- **Health & Social Care** — 35% run 6–12 months

SHORTER, MORE TRANSIENT PLACEMENTS

- **Hospitality & Catering** — 27% run 4 weeks or less; 33% not applicable or no assignment
- **Driving / Logistics** — 38% run 1–3 months; 31% not applicable or no assignment
- **Construction** — 28% run 1–3 months; 28% run 3–6 months

The sectors where umbrella companies place the largest share of their workforce are also those with the longest assignments. Short, intermittent placements are concentrated in the sectors that make up the smallest part of the umbrella population.

B4 Only a small minority are shift-pattern workers

Companies were asked what share of their workforce has hours and days notified by the end client, rather than fixed at the start of the assignment.

Share of responding companies · n = 19

WHY THIS MATTERS

The great majority of umbrella assignments do not resemble the shift-based, hours-notified-by-end-client pattern the zero hours reforms are designed to address. Applying that framework to umbrella employment would therefore regulate a working arrangement that, on this evidence, is the exception rather than the norm.

ADDENDUM TWO

Key Points in Summary

89%	**Structured engagements:** 89% of companies report average worker tenure of 6 months to 2 years — not short-term or casual placements.
95%	**Substantial hours:** 95% of companies report assignments averaging 17+ hours a week; over two-thirds average 30+ hours.
68%	**Shift work is rare:** 68% of companies say fewer than 1 in 10 of their workers are on shift patterns notified by the end client.
2–3	**Continuity of work:** 2–3 assignments are completed per contract for 68% of companies — sustained engagements, not one-off shifts.
SECTOR	**Sector variation:** Engineering and IT & Telecoms skew towards longer, more stable placements; Hospitality and Driving/Logistics towards shorter ones.