



Department for
Business, Energy
& Industrial Strategy

GOOD WORK: THE TAYLOR REVIEW OF MODERN WORKING PRACTICES

**Consultation on measures to increase
transparency in the UK labour market**

February 2018

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Consultation on measures to increase transparency in the UK labour market

The consultation can be found on the BEIS section of GOV.UK:

<https://www.gov.uk/government/consultations/increasing-transparency-in-the-labour-market>

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Any enquiries regarding this publication should be sent to us at increasingtransparency.consultation@beis.gov.uk

Contents

General Information	3 - 4
Introduction	5
Executive Summary	6 - 7
Section A – Written Statements	8 - 18
Section B – Continuous Service	19 - 22
Section C – Holiday Pay	23 - 26
Section D – Right to Request	27 - 29
Section E – Information and Consultation of Employees Regulations (2004) (ICE)	30 - 33
Catalogue of Consultation Questions	34 - 46

General information

Purpose of this consultation

The government is consulting on recommendations included in The Review of Modern Working Practices that consider how best to increase transparency within the UK labour market. We welcome views from businesses, unions, employer associations, workers and other interested organisations and individuals on our proposals.

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Respond by: 23/05/2018

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Consultation reference: Consultation on measures to increase transparency in the UK labour market

Territorial extent:

England, Scotland and Wales. Employment law is devolved in Northern Ireland.

How to respond

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Additional copies:

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No hardcopies of this document are available.

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information legislation (primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004).

If you want information that you provide to be treated as confidential please say so clearly in writing when you send your response to the consultation. It would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded by us as a confidentiality request.

We will summarise all responses and place this summary on the [GOV.UK website](#). This summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the [Government's Consultation Principles](#).

If you have any complaints about the consultation process (as opposed to comments about the issues which are the subject of the consultation) please address them to:

Email: beis.bru@beis.gov.uk

Introduction

In October 2016 the Prime Minister commissioned Matthew Taylor (Chief Executive of the Royal Society of the Arts) to conduct an independent review into modern working practices, focused on assessing how employment practices might need to change in order to keep pace with modern business models.

In July 2017, *The Review of Modern Working Practices* was published, which included 53 recommendations. He considered a range of issues, including the implications of new forms of work, the rise of digital platforms and the impact of new working methods on employee rights, responsibilities, freedoms and obligations.

The review noted that the UK labour market is characterised by flexibility, meaning that individuals and businesses are free to agree terms and conditions that suit them best. It highlighted the benefits of this model, with the UK being in a position of overall strength. Employment levels and rates are at historic highs and comparatively we perform well internationally.

Flexibility has been a key part of enabling business to respond to changing market conditions and has supported record employment rates. Individuals have the opportunity to work in a range of different ways, on hours that fit around other responsibilities. However, one of the issues raised through the review was that some employers seem to use this flexibility to transfer risk to workers, and there is no corresponding benefit to the worker from the flexible arrangement.

We need to ensure that we strike the right balance between maintaining the flexibility in the labour market that the review so rightly championed, whilst equally ensuring that, in a changing work environment, workers are afforded the necessary rights and protections, and have access to the information they require.

The review highlighted a number of areas where individuals and businesses would benefit from greater transparency around contractual arrangements between employers and workers, and made a number of recommendations aimed at achieving this. This consultation will focus on those areas in more detail.

Executive Summary

The Review of Modern Working Practices made the assessment that we require greater transparency and clarity between workers and employers in the UK labour market. The review highlighted that, whilst flexibility is a strength, the emergence of new employment relationships and a rise in atypical working has resulted in some workers not having access to all the information they need to fully understand their employment contract and associated rights.

There are many businesses who are already taking proactive steps to promote transparency in their employment relations and the government commends this best practice. There are also examples, however, where a lack of transparency has had a negative impact, leading workers to face concerns over insecurity of work and resulting in reduced workforce engagement and lower productivity. It is in the interests of the government, the courts and businesses to ensure that people who engage staff make clear what their employment offer is. It is also in the interests of individuals to be clear about what they are entering into in order to make informed decisions about how they choose to work.

Increased transparency should bring clarity to the rights and responsibilities of both parties and, in the longer term, help to reduce misunderstandings and disputes in the employment relationship. The government is taking immediate steps to implement this aim. For example, we will legislate to extend the right to payslips to all workers, and to improve the quality of the information provided on those payslips.

In line with increasing transparency and enhancing employment rights, the review made a number of recommendations. We are accepting some of these in full and consulting on the details prior to implementing them. This includes the proposal to extend the right to a written statement to workers as well as employees, and the recommendation that the government should do more to promote awareness of holiday pay entitlements and increase the holiday pay reference period from 12 to 52 weeks.

There are also recommendations that relate to transparency of information that we agree with and intend to implement, but where we want to collect further evidence before taking a firm decision on exactly how best to implement them. These include the proposal to extend the relevant break in service for the calculation of the continuous service qualifying period, and also proposals relating to the introduction of a right for workers to request a change in contract to improve predictability. We will also use this consultation to gather more evidence on the effectiveness of the Information and Consultation Regulations in improving employee engagement in the workplace.

Following the UK, the EU is also proposing action to improve transparency and predictability of working conditions through the Working Conditions Directive, which was published on 21 December 2017. This would replace the 1991 Written Statement Directive (91/533/EEC), which gives individuals starting a new job the right to be notified in writing of the essential aspects of their employment relationship.

A number of the European Commission's proposals reflect the recommendations made by *The Review of Modern Working Practices*, including a day one right to an enhanced written statement for workers and the right for workers to request a more predictable form of employment. The government will actively engage on this EU proposal. We will contribute our valuable experience from being one of the first countries in the world to examine how to ensure everyone benefits from the technological revolution through commissioning and acting upon this review.

Section A – Written Statements

1. *The Review of Modern Working Practices* recommended:

‘The government should build on and improve clarity, certainty and understanding of all working people by extending the right to a written statement to ‘dependent contractors’¹ as well as employees.’

2. We accepted this recommendation in the Government Response to the review. We recognise its merits and through this consultation we want to explore how best to implement this change. This consultation is an opportunity for the government to test its proposals on how to take this recommendation forward and gather evidence to inform its decisions.

Current position

3. Current legislation requires an employer to give employees whose employment has continued for at least one month a ‘written statement of employment particulars’. The Written Statements Directive was transposed in 1993 in Great Britain and it is embodied in the Employment Rights Act 1996 (ERA). It builds upon the legislative framework the UK already had in place via the Contracts of Employment Act 1963.
4. The written statement itself consists of a ‘principal statement’ in which a certain subset of information must be contained all in one document, and key additional information, which must be provided but can be contained in various other documents. Employees are entitled to receive a written statement within 2 months of starting work, setting out basic details about the employment relationship, such as the name of the employer, the place of work, hours of work, and pay including holiday pay, sick pay and pension.
5. The government supplements the written statement provision in the Employment Rights Act by providing additional guidance and information that is easily accessible to employers and individuals on GOV.UK. Acas also provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems, including disputes around a written statement.

Proposal

6. The review recommended greater transparency around the employment law framework to help ensure that legal rights and responsibilities are not misunderstood or exploited.

¹ The review recommended that government should retain the current three-tier approach to employment status, but rename as ‘dependent contractors’ the category of people who are eligible for worker rights but are not employees. The renaming recommendation is being considered through the employment status consultation <https://www.gov.uk/government/consultations/employment-status>

7. The review highlighted that, whilst written statements must be provided to employees, there is currently no requirement for workers² who are not also employees (referred to legally as Limb (b) workers), to receive them. To implement this recommendation, we would need to extend the entitlement to “Limb (b) workers” so that everyone starting work knows what they are entitled to in terms of their employment relationship. This would provide more individuals (who are not employees but are workers) and employers with a greater understanding of the main terms of their working relationship. The government is separately consulting on the recommendations made by *The Review of Modern Working Practices* on employment status itself: <https://www.gov.uk/government/consultations/employment-status>.
8. The government agrees that employers should provide basic information about the employment relationship to all workers (including employees) at the outset. The written statement provides a means of achieving this. The government is also considering whether extending the right to a written statement from day one for both workers and employees would improve clarity and understanding and would be beneficial to both parties.

Experience of written statements

9. Alongside consulting on the recommendations made in the review, we also want to better understand the use of written statements in the UK labour market, and gather evidence on whether they are routinely being made available to employees. We are therefore seeking input from both employees and employers on their experience of written statements. If you are an employer or employer representative group, we would welcome your input to the following questions:

Questions for employers

Question 1 - Have you provided a written statement of employment in the last 12 months to:

a) Your permanent employees

Yes/No/Don't know.

² Section 230(3) ERA 1996 defines a worker as someone who entered into or works under:

- (a) a contract of employment [i.e. an employee], or
- (b) any other contract...whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual

The definition therefore covers both employees but also a distinct category of persons who are sometimes referred to as “Limb (b) workers”.

b) Your non-permanent staff

Yes/No/Don't know.

If you answered yes to question 1b, approximately how many have you provided in the last 12 months?

If you answered no to question 1b, please explain your reasons.

Question 2 - In general, when do individuals starting paid work at your organisation receive:

a) A written statement

Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

b) An employment contract or other employment particulars

Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

Question 3 – How long, on average, would it take a member of staff to produce a written statement for a new starter?

Under half-an-hour/Between half-an-hour and an hour/Between one hour and half a day/Between half a day and a full working day/More than one working day.

Question 4 – How often do you seek legal advice when producing a written statement?

Always/Often/Sometimes/Rarely/Never.

Question 5 – Are there other business costs associated with producing a written statement, in addition to personnel and legal costs that we should be aware of?

Yes/No/Don't know. If yes, please provide details.

10. If you are an employee we would welcome your input to the following questions:

Questions for individuals

Question 6 – If you are employed, have you received any of the following from your employer:

a) A written statement?

(A written statement is a legally binding agreement between employer and employee, which is formed when an employee agrees to work for an employer in return for pay. Employers are legally required to put some of the main particulars of employment in writing. It is not itself a contract of employment but is evidence of the contract of employment. Currently employers are required to give the written statement to employees within two months of starting work, ideally on their first day. Employers can issue the written statement in instalments; however key information must be included in a single document which is known as the 'principal statement').

Yes/No/Don't know.

b) An employment contract or other employment particulars?

Yes/No/Don't know.

Question 7 – If yes, when did you receive the following in relation to starting paid work with your employer:

a) A written statement

Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

b) An employment contract or other employment particulars

Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

Question 8 – If yes, was the information presented in a way that was easy to understand?

Yes, very easy to understand/Yes, fairly easy to understand/No, quite difficult to understand/No, very difficult to understand/Don't know.

11. We would also welcome views from all respondents on the following question:

Question 9 - To what extent do you agree that the right to a written statement should be extended to cover permanent employees with less than one month's service and non-permanent staff?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

Please provide reasons for your answer.

Contents of a written statement

12. We also want to explore whether the existing prescribed contents of a principal written statement meets the needs of employers and workers and whether there is additional information that should be provided within two months of an employee or worker starting. This consultation therefore seeks views on whether the proposed list of mandatory contents is right, both in terms of information that should be provided on day one of a job and additional information to be provided within a two month window.
13. To ensure that we strike the right balance between giving greater clarity to workers and avoiding placing unnecessary additional burdens on employers, we propose updating the mandatory elements of the principal written statement, to include only the information that would be important and useful for both employees and workers at the outset. This information would have to be provided as a single stand-alone document, as now, by the first day of work.
14. The review also recommended that we consider '**...the development of a standard format that can be easily adapted with specific information by the employer.**' However, as we are considering making certain information mandatory on the principal statement, so that all employers provide the same information in a single document, we want employers to have the freedom to present that information in a format as they see fit.

15. The current requirement for contents of a principal written statement are as follows:

Information that must be included in a 'principal statement'	
<ul style="list-style-type: none"> • The business's name • The employee's name, start date, job title or a description of work • If a previous job counts towards a period of continuous employment, the date the period started • How much and how often an employee will get paid, including hourly rate 	<ul style="list-style-type: none"> • Hours of work (and if employees will have to work Sundays, nights or overtime) • Holiday entitlement (and if that includes public holidays) • Where an employee will be working and whether they might have to relocate • If an employee works in different places, where these will be and what the employer's address is

16. In addition to this information in the principal statement, a written statement must also contain information about:

Key additional information that must be included in a written statement	
<ul style="list-style-type: none"> • How long a temporary job is expected to last • The end date of a fixed-term contract • Notice periods • Collective agreements • Pensions 	<ul style="list-style-type: none"> • Who to go to with a grievance • How to complain about how a grievance is handled • How to complain about a disciplinary or dismissal decision

17. The written statement doesn't need to cover the following (but it must say where the information can be found):

Additional information that can be provided in other documents such as staff handbooks, or staff intranet sites	
<ul style="list-style-type: none"> • Sick leave and pay entitlement • Disciplinary and grievance procedures 	<ul style="list-style-type: none"> • Appeals procedure under the disciplinary and grievance procedures

18. We propose, in addition to the current information that must be included in a principal written statement, this should also require information on the following:

- how long the job is expected to last, or the end date of a fixed-term contract
- how much notice the employer and the worker are required to give to terminate the agreement
- sick leave and pay entitlement

19. This information is currently required but may be provided outside of the principal written statement. The above approach would add them to the single document. In addition to current information on hours of work we also intend to include information about which specific days and times workers are required for work. This information would be useful to

include in the principal written statement especially for workers working on a more casual basis.

20. The government would also like to test whether the following information would be useful to include in a principal statement:
- The duration and conditions of any probationary period
 - Training requirement and entitlement - this would include any mandatory training that would need to be completed by the worker or employee as well as any further training entitlement.
 - All remuneration (not just pay) - contributions in cash or kind e.g. vouchers and lunch
 - Other types of paid leave e.g. maternity leave, paternity leave and bereavement leave.
21. The government understands that some important information, such as details on pensions, may be difficult to provide by the first day. We therefore propose retaining the principal in the existing legislation that some information can be provided outside the 'principal statement' – for example, in a separate document or in a staff handbook. For this information we propose retaining the existing timing requirement that it must be provided within 2 months of the job starting. Information required within 2 months of the job starting could include details of:

Question 10 - The following items are currently prescribed contents of a principal written statement. Do you think they are helpful in setting out employment particulars?

a) The business's name

Yes/No/Don't know. If no, please explain why.

b) The employee's name, job title or a description of work and start date

Yes/No/Don't know. If no, please explain why.

c) If a previous job counts towards a period of continuous employment, the date that period started

Yes/No/Don't know. If no, please explain why.

d) How much, and how often, an employee will get paid

Yes/No/Don't know. If no, please explain why.

e) Hours of work (and whether employees will have to work Sundays, nights or overtime)

Yes/No/Don't know. If no, please explain why.

f) Holiday entitlement (and if that includes public holidays)

Yes/No/Don't know. If no, please explain why.

g) Where an employee will be working and whether they might have to relocate
Yes/No/Don't know. If no, please explain why.

h) If an employee works in different places, where these will be and what the employer's address is
Yes/No/Don't know. If no, please explain why.

Question 11 – Do you agree that the following additional items should be included on a principal written statement:

a) How long a temporary job is expected to last, or the end date of a fixed-term contract?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

b) How much notice the employer and the worker are required to give to terminate the agreement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

c) Sick leave and pay entitlement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

d) The duration and conditions of any probationary period?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

e) Training requirements and entitlement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

f) Remuneration beyond pay e.g. vouchers, lunch, uniform allowance?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

g) Other types of paid leave e.g. maternity, paternity and bereavement leave?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

If you disagree that any of the above additional items should be included on a principal written statement, please provide reasons.

Question 12 - To what extent do you agree that the principal written statement should be provided on (or before) the individual's start date?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

Question 13: To what extent do you agree that other parts of the written statement should be provided within two months of their start date?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

Employment tribunal process and Acas guidance

22. The final element we would like to explore is the extent to which people are currently aware of the Acas guidance on the rights of employees and workers and how to enforce them. We also want to consider how the existing system for bringing written statement claims to an Employment Tribunal works and whether there needs to be a stronger remedy in place.
23. The review recommended that '***the government should also consider introducing a standalone right for individuals to bring a claim for compensation if an employer has failed to provide a written statement...***' and that '***the government should do more; working with Acas and others to ensure information is accessible.***'
24. Some evidence provided to the review suggested that written statements are not always provided by employers. Improving awareness of the legal requirement to provide written statements may help improve compliance. In addition, further information on how rights can be enforced is also important.
25. Under current legislation, if an employee does not receive a written statement within two months of starting the job they can make this complaint to an Employment Tribunal for a declaration as to what the particulars should have been. However, there is no standalone right to compensation for this failure. Compensation can only be claimed if another substantive claim has also been brought (such as an unlawful deduction(s) from wages claim, for example). If the substantive claim is successful and at the time of commencing the proceedings the employer was in breach of its duty to provide a written statement, the tribunal must, in normal circumstances, award additional compensation of at least two weeks' pay (and up to four weeks' pay where it considers it just and equitable to do so).
26. This consultation seeks information on whether employees have taken written statement complaints to employment tribunals so we can better understand the issues flagged by the review and make an informed assessment as to whether action is required.

Questions for employees

Question 14 – Have you ever worked for an organisation that has not provided you with a written statement of employment particulars within 2 months of starting your job?

Yes/No.

Question 15 – If you answered yes to question 14, did you:

- a) Consider lodging a complaint with an employment tribunal (even if you did not end up doing it)?**

Yes/No/Don't know.

If no, please explain your reasons for this.

- b) Pursue compensation?**

Yes/No/Don't know/Not applicable.

If no, please provide your reasons for this.

Question 16 - If you answered yes to question 15b, were you successful in securing compensation for failing to receive a written statement within 2 months of starting your job?

Yes/No/Don't know/Not applicable.

If no, please provide a reason for your answer.

Question 17 – If we introduced a standalone right for individuals to bring a claim for compensation where an employer has failed to provide a written statement, what impact do you think this would have? Please consider the impact on:

- a) Individuals**
- b) Employers**
- c) The Tribunal Service**

27. We also want to explore how useful employers, workers and employees find the existing Acas online guidance on what is required in a written statement. We are seeking views on the potential impact caused by updating and promoting the guidance to make the entitlement clearer in the future.

Question 18 - Which of the following best describes your awareness of the Acas guidance on written statements?

I have not heard of the Acas guidance/I am aware of the Acas guidance but do not know much about it/I am aware of the Acas guidance and have some knowledge of what it says/I have a good knowledge of the Acas guidance/Don't know.

Question 19 - If you have some knowledge of the Acas guidance on written statements, how helpful did you find it?

Have not used/Very helpful/Quite helpful/Not very helpful/Not helpful at all.

Please provide reasons for your answer.

Section B: Continuous Service

28. *The Review of Modern Working Practices* recommended:

‘The government should extend, from one week to one month, the consideration of the relevant break in service for the calculation of the qualifying period for continuous service and clarify the situations where cessations of work could be justified.’

29. We recognise the rationale behind this recommendation in a labour market where more people work atypically, and agree that the break in service period for continuous service should be extended beyond one week. However, we do not yet have a firm position on the length that the period should be extended to. Therefore we want to seek further evidence and a range of views from stakeholders before deciding on the extent to which we extend the break in service period.

Current position

30. There are three main categories of employment status for employment rights purposes – employee, self-employed and worker. The vast majority of people in the UK are likely to be employees and eligible for the full suite of employment rights. The worker status (which includes workers who are not employees – referred to as Limb (b) workers³) is designed to capture those working relationships that fall between formal employment and self-employment. Limb (b) workers will generally be under less control from their employer than employees but will not be completely independent and therefore self-employed. The review highlighted the difficulties around determinations of status in a changing labour market in the section of the report titled “Clarity in the Law”. We are consulting on these recommendations as part of a separate consultation on employment status <https://www.gov.uk/government/consultations/employment-status>.

31. People working atypically and intermittently may be workers or employees, depending on the totality of their individual circumstances at work. If they are employees, they may find themselves with breaks in-between periods of work for the same employer. This can impact their ability to demonstrate periods of continuous service in order to qualify for employment rights.

32. There are currently two types of *employee* rights: those which apply from day one and those which apply after a qualifying period. All *worker* rights apply from day one. Arguably

³ Section 230(3) ERA 1996 defines a worker as someone who entered into or works under:

- (a) a contract of employment [i.e. an employee], or
- (b) any other contract...whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.

The definition therefore covers both employees but also a distinct category of persons who are sometimes referred to as ‘Limb (b) workers’.

the *employee* rights which apply after a qualifying period are more significant, such as the right to a notice period, unfair dismissal protection and statutory redundancy pay. These rights only become available when the individual has been continuously employed for a minimum length of time. For example, generally to be protected from unfair dismissal an employee must have been continuously employed for two years (although there are some instances of unfair dismissal that are automatically considered to be unfair and no qualifying period is required).

33. Employee rights are therefore harder for individuals to access if they work on a casual, 'as required' basis. The statutory rules on continuity of employment mean that if there are gaps between assignments lasting longer than a week an individual's continuity of employment is likely to be broken, unless the statutory exemptions apply.
34. There are two ways in which employees have sought to overcome this problem. The first is to try to demonstrate that the contract of employment exists between assignments by establishing that there are continuing commitments to provide and perform work spanning any periods of inactivity. However, the courts have made clear that establishing ongoing commitments during such periods will be difficult if there appears to be genuine flexibility on both sides.
35. The second is to use the statutory rules on continuity of employment which allow gaps between assignments to be discounted, in particular if there is a "temporary cessation of work". The continuous service rules apply to all employees, but there are some instances in which, even if an employee has had a break in service, they will be treated as retaining continuous employment. These circumstances include situations where an employee was:
 - Incapable of work in consequence of sickness or injury
 - Absent from work on account of a temporary cessation of work, or
 - Absent from work in circumstances such that by arrangement or custom they are regarded as continuing in the employment of his employer for any purpose.
36. If an employee's contract of employment is broken, continuity can still be preserved if an employee is absent because of a temporary cessation of work (s.212(1) ERA 1996). It is a question of fact whether an absence is temporary or not, but it has been held that the gap between assignments must be temporary in the sense of being "relatively short" as compared to periods of work (see *Ford v Warwickshire County Council* 1983). Examples of a temporary cessation can include a short-term closure of a factory as a result of a lack of orders or an issue with supply which means orders cannot be fulfilled. It is only the employee's work which needs to cease. Other parts of the business can run as normal.
37. The review was concerned about the application of continuous service legislation in relation to the impact it could have on employees in atypical work and their ability to access employment rights. We recognise this concern, and would like to understand better who is affected by the current break in service being only one week.

Question 20 - What do you think are the implications for business of the current rules on continuous service?

Question 21 - If you are employed, or represent employees, what are the implications for you or those you represent of the current rules on continuous service?

Question 22: Do you have examples of instances where breaks in service have prevented employees from obtaining their rights that require a qualifying period?

Yes/No/Don't know.

If yes, please provide examples.

Question 23: Do the current rules on continuous service cause any issues in your sector?

Yes/No. Please specify your sector and explain your answer.

Proposal

38. Through this consultation, we also want to seek views on how far the period counted as a break in continuous service should be increased and consider the potential impact of an extension.

Question 24: We have committed to extending the period counted as a break in continuous service beyond one week. What length do you think the break in continuous service should be?

2 weeks/3 weeks/One month/6 weeks/Other - please specify.

Please provide your reasoning.

39. The review also recommended that the government should consider clarifying the situations in which legitimate cessations of work for the same employer apply. We will therefore be updating the existing guidance in relation to continuous service to allow employers to understand their obligations and individuals to understand their rights. We would also like to explore which factors should be taken into account when considering if a break in service would affect an individual's continuity of service.

Question 25: Do you believe the existing exemptions to the break in continuous service rules are sufficient?

Yes/No/Don't know.

If no, do you have views on additional circumstances that should be added?

Question 26: We intend to update the guidance on continuous service, and would like to know what types of information you would find helpful in that guidance. (Select all that apply)

Real examples from case law/Signposts to further information/Information on what to do if you feel your employer has not complied with the legislation/Other - please specify.

Section C: Holiday Pay

40. *The Review of Modern Working Practices* recommended:

‘The government should do more to promote awareness of holiday pay entitlements, increasing the pay reference period to 52 weeks to take account of seasonal variations and give dependent contractors the opportunity to receive rolled-up holiday pay.’

There are three elements to this recommendation which we will discuss individually:

Increasing awareness of holiday pay entitlements

41. The first element focuses on ***increasing awareness of holiday pay entitlements***, which we accept. We agree with the review’s findings that individuals who work flexibly often encounter difficulties in calculating their holiday pay entitlement. We also acknowledge that many employers and workers are not aware of all the current entitlements, particularly as there have been a series of binding European and domestic court cases relating to holiday pay.

42. Acas provides detailed guidance on their website about holiday pay, and there is also a holiday pay calculator on GOV.UK.⁴ However, given the lack of awareness, it is clear that we need to explore different forms of messaging, taking advantage of the opportunities provided by social media.

43. In the Government Response to the review, we have committed to take steps to explore awareness further. This will include looking into the messaging and channels for communicating National Minimum Wage/National Living Wage rights and how annual rate changes are publicised, with a view to exploring the opportunities to increase awareness about holiday pay entitlement. We will focus on the ancillary PR, stakeholder and digital activity and will work with Government Communication Service Local. We will also work with Acas to review advice and guidance and seek improvement where needed.

Changing the reference period

44. The second element of this recommendation focuses on ***extending the holiday pay reference period for workers without normal working hours from the current 12 weeks to 52 weeks***, so to better reflect the seasonal nature of much casual and zero hours work. We also accept this recommendation, and are consulting on the approach to implementation.

⁴ The holiday pay calculator can be found at the following link - <https://www.gov.uk/calculate-your-holiday-entitlement>

Current position

45. The current regulatory situation is set out in the Working Time Regulations 1998 (WTRs) and entitles a worker to be paid at the rate of “a week’s pay” for each week of annual leave (regulation 16). “A week’s pay” is calculated under the Employment Rights Act 1996 (section 221 – 224). In the case of a worker with no normal hours of work or whose pay varies according to the amount of work done, “a week’s pay” is calculated by taking an average over the previous 12 weeks in which the worker was paid. This is known as the ‘reference period’.

Proposal

46. There is widespread acknowledgment that a 12 week reference period does not work for everyone and the inflexibility of the current arrangements may lead to differences in incentives between employers and workers regarding the timing of annual leave. This is because different business sectors may have different peaks of work. For example, for many retailers the peak might come at Christmas. Workers may have received extra hours of work or paid overtime during that period. The workers would therefore have an increased incentive to take their leave soon after the end of that peak period to benefit from the higher holiday pay, but may be dissuaded from doing so by the employer due to the extra cost of their holiday pay. These incentives are potentially distortive and could lead to disharmony in the workplace.

Question 27: Do you agree that government should take action to change the length of the holiday pay reference period?

Yes/No/Don't know.

If no, explain your answer.

Question 28: If you answered yes to Q27, should government:

a) increase the reference period from the current 12 weeks to the 52 weeks recommended in the review?

Yes/No/Don't know.

b) Set a 52 week default position but allow employees and workers to agree a shorter reference period?

Yes/No/Don't know.

c) Set a different reference period

Yes/No/Don't know.

If yes, please specify.

Ensuring atypical workers receive their full holiday pay entitlement

47. The third recommendation made in the review was that workers should have greater choice in the way they receive holiday pay. The government agrees with the review's concerns that some workers may not be receiving the holiday pay to which they are entitled. However, because rolled-up holiday pay has been found to be unlawful (see below) we will not be pursuing this recommendation directly. Instead we want to explore what alternative action could be taken to address these issues and are consulting on this to seek input from stakeholders on the most effective options.

Current position

48. In this recommendation, the review suggested that some workers should be able to receive holiday pay in real time (i.e. at the same time as they receive their hourly pay or salary), a system known as 'rolled-up holiday pay'. This is when the employer pays a holiday pay supplement at the same time as, and in addition to, a worker's basic pay, spreading it out during the time they are working. The government appreciates that such a system could be useful to ensure that atypical workers receive the holiday pay to which they are entitled, particularly those working a series of short term contracts or for very casualised work. However, we are also aware of the decision of the Court of Justice of the European Union (CJEU) case of *Robinson-Steele v RD Retail Services Ltd* 2006 C-131/04, in which the CJEU decided that rolled-up holiday pay schemes are contrary to the Working Time Directive.

49. This means rolled-up holiday pay schemes are considered to be unlawful and Member States should take "appropriate steps" to ensure they are discontinued. The Court held that rolled-up holiday pay defeats the object of the Working Time Directive as it could deter workers from taking holidays, because the worker would be financially worse off for doing so. On this basis, we have previously published guidance which states that an employer should not use rolled-up holiday pay. Whilst we therefore recognise some of the concerns the review was trying to address through this recommendation, whilst the UK remains subject to EU law, the government cannot consider proposals that might be contrary to this court decision and the Working Time Directive.

Proposal

50. On that basis, through this consultation we would like to explore whether there are other ways in which atypical workers might be able to benefit from flexibility in how they receive their holiday pay. Atypical workers with very variable working patterns may take the opportunity to have time off work when they are not on the rota for shifts without getting paid holiday pay because they do not regard this as annual leave.

51. The review also recommended that the government should consider taking responsibility for enforcing the basic set of core pay rights that apply to all workers, including holiday pay. We are addressing this recommendation through our consultation on enforcement: <https://www.gov.uk/government/consultations/enforcement-of-employment-rights-recommendations>.
52. If it were possible to find a more flexible way to ensure workers received their holiday pay entitlement, we would need to ensure that appropriate safeguards were included so that workers had the opportunity to take their full entitlement of annual leave and are not deterred from doing so.

Question 29: What is your understanding of atypical workers' arrangements in relation to annual leave and holiday pay?

For example:

a) Are they receiving and taking annual leave?

Yes/No/Don't know.

b) Are they receiving holiday pay but not taking annual leave?

Yes/No/Don't know.

c) Do you know of any other arrangements that are used?

Please explain your answer.

Question 30: How might atypical workers be offered more choice in how they receive their holiday pay?

Please provide examples including how worker's entitlement to annual leave could be safeguarded so they are not deterred from taking leave.

Section D: Right to Request

53. *The Review of Modern Working Practices* recommended:

‘The government should introduce a right to request a direct contract of employment for agency workers who have been placed with the same hirer for 12 months, and an obligation on the hirer to consider the request in a reasonable manner.’

‘The government should act to create a right to request a contract that guarantees hours for those on zero hours contracts who have been in post for 12 months which better reflects the hours worked.’

54. Current statistics show that zero hours contracts make up 2.8% of the total workforce. The latest Labour Force Survey (LFS) statistics show a decrease in the number of people who report being on a zero hours contract. The Recruitment and Employment Confederation (REC) conducts surveys with agencies which suggest that in 2014/15 there were around 1.2 million temporary agency workers, representing around 3.7% of the total number of people in employment.

55. Given the scope of the original recommendations, only a small proportion of the workforce would benefit. Therefore we are considering these two recommendations in the wider context that all workers should have more choice, where possible, in how and when they work including having a right to request a more predictable and stable contract.

56. The review discusses the concern that some employers use the flexibility of zero hours contracts and agency workers to transfer risk to, and exert control over, workers – what the review viewed as “one-sided flexibility”. This means that some individuals on flexible contracts face uncertainty around their hours and income, making it hard for them to manage their financial obligations.

57. The review recommendations seek to address these issues. Having a right to request would provide more certainty, allowing individuals to plan for the future.

Current position

58. There is a perception that atypical work only covers low-paid work. But we know that zero hours contracts can be found across all levels of employment, from lower skilled, lower-paid work right through to highly skilled and highly paid work. When used correctly, these types of contracts benefit both employers and employees. They help employers create a flexible and agile workforce which can adapt and respond to changing business needs and demands, including responding to seasonal fluctuations, and to help grow new businesses. Flexibility also provides a number of benefits for individuals who cannot, or do not want, to commit to ‘standard’ full-time employment. Criteria mandating how these contracts can be used may undermine the flexibility of a zero hours contract or the use of agency workers, and may discourage job creation. However, we recognise that in some instances agency

workers, or those on zero hours contracts, will have regular working patterns and regular hours, but the employer will not offer the individual a permanent contract which reflects the reality of the role.

59. We believe that employers should treat their workforce fairly and not seek to 'play' the system to their advantage to avoid costs and responsibilities. Individuals should be making an informed choice as to the way they work.

Proposal

60. We are not convinced that the issues the review's recommendations seek to address are exclusive to agency workers or those on zero hours contracts. Whilst these groups play an important role in the labour market, they represent a relatively small proportion of the UK workforce.

61. There are a multitude of different working arrangements in the UK labour market which helps contribute to its success. Our aim is that all businesses have an agile flexible workforce to meet their business needs while individuals have more choice in how and when they work. We accept the principle of individuals having a right to request a more predictable and stable contract and this consultation seeks information as to how best to implement this.

Question 31: Do you agree that we should introduce a Right to Request a more stable contract?

Yes/No/Please explain your reasons.

Question 32: Should any group of workers be excluded from this right?

Yes/No/Please explain your reasons.

Question 33: Do you think this will help resolve the issues the review recommendations sought to address?

Yes/No/Please explain your reasons.

Question 34: Should employers take account of the individual's working pattern in considering a request?

Yes/No/Please explain your reasons.

Question 35: Should there be a qualifying period of continuous service before individuals are eligible for this right?

Yes/No/Please explain your reasons.

Question 36: What is an appropriate length of time the employer should be given to respond to the request?

1 month/2 months/3 months/more than 3 months.

Question 37: Should there be a limit on the number of requests an individual can submit to their employer in a certain period of time?

Yes/No.

Please explain your reason for this and include a suggestion of what an appropriate limit might be and why.

Question 38: When considering requests, should Small and Medium Enterprises (SMEs) be included?

Yes/No/Don't Know.

If yes, do you think they should have any dispensations applied e.g. longer to respond?

Section E: Information and Consultation of Employees Regulations (2004) (ICE)

62. *The Review of Modern Working Practices* underlined the importance of the relationship between employers and those who work for them. It argued that a general improvement in this relationship was key to improving working lives and, ultimately, boosting UK productivity. In order to promote good relations between employers and the people who work for them, the review recommended taking steps to strengthen the 'worker voice'.
63. The review also drew some conclusions about quality of work and indicated the link between this, consultative participation and providing workers with an effective voice. The government set out plans to take forward the review's recommendations on quality of work in the Government Response to the review and will be delivering against this in the coming months. A link to the response can be found here:
<https://www.gov.uk/government/publications/government-response-to-the-taylor-review-of-modern-working-practices>
64. The review noted many examples of good management in which employers engage constructively with their workforce. In order to extend this good practice the review recommended that:
- 'The government should examine the effectiveness of the Information and Consultation Regulations in improving employee engagement in the workplace. In particular it should extend the Regulation to include employees and workers and reduce the threshold for implementation from 10% to 2% of the workforce making the request.'***
65. We welcome the rationale behind this recommendation, and are interested in exploring this further. Our evidence on the uptake of provisions in the Information and Consultation of Employees (ICE) regulations to date suggests that the legislation is not widely used. However, we will use this consultation to gather further evidence before fully assessing the merits of the recommendation. We also want to seek wider views on how we can improve worker voice in the workplace more generally and welcome input from all stakeholders on this.

Current position

66. The principal aim of the Information and Consultation of Employees Regulations 2004 (ICE) is to encourage long-term information and consultation (I&C) with employees about issues that affect them at work. For example, as the review noted, these can be strategic matters such as a restructuring, possible redundancies or changes in working conditions. ICE implements an EU Directive and came into force in April 2005, setting out the process for establishing I&C arrangements. It applies to undertakings (i.e. organisations with at least 50 employees).

67. The ICE regulations offer employees a legal right to information and consultation on a range of issues affecting their work. These rights are not automatic. The regulations may be initiated by employers or by employees, as described below:

- a) An employer may choose to set out voluntary I&C arrangements in the form of a 'pre-existing agreement' (PEA) which meets a number of conditions set out in the regulations. A new arrangement must be negotiated if 40% or more of employees ask for an existing agreement to be amended.
- b) Where an employer does not voluntarily initiate I&C arrangements employees can request that a formal agreement be negotiated. This request must be made by a minimum of (1) 15 employees or (2) 10% of all employees, up to a maximum of 2,500 employees (whichever of (1) and (2) is greater). Requests may come as a single request or as a number of separate requests so long as they are all made within the same 6 month period. A single request may be made by a group of employees. Negotiations on I&C arrangements must start no later than 3 months after a legitimate request has been made. A negotiated agreement will set out the circumstances in which the employer must inform and consult employees. For example, this might include information regarding the company or organisation's performance, and any changes to working conditions and employment prospects. It will also provide for appropriate channels of communication.

68. Where negotiations have not been requested, or in cases where negotiations have failed, standard provisions ensure that employers:

- Inform about the business's activities and economic situation
- inform and consult about employment prospects, and
- inform and consult, with a view to reaching an agreement, on decisions likely to lead to substantial changes in work organisation or contractual relations.

69. The Central Arbitration Committee (CAC) resolves disputes relating to I&C agreements. Individual rights are enforced by the Employment Tribunals.

70. The review observed that, largely because of the restrictions around the application of ICE, "...only 14% of workplaces organisations with 50 or more employees had an on-site joint consultative committee or works council in 2011." This prompted the suggestion that the threshold for a valid employee request to negotiate an information and consultation procedure be substantially reduced.

71. There has been little take-up of rights under the ICE regulations. The Workplace Employment Relations Survey (WERS) 2011 showed that the number of workplaces with

an on-site Joint Consultative Committee (JCCS) remained low⁵. A research paper⁶, published by the Department for Business, Innovation and Skills, provided evidence from case studies with businesses who have established I&C arrangements and also indicated that the impact of ICE has been limited. Despite the I&C bodies being established around the time the Regulations came into force, the reasons for establishing I&C arrangements were most often attributed to internal factors concerned with the management of change and not the Regulations.

72. The number of ICE-related complaints per year is equally low. In 2015, two cases were presented to the CAC; one of which was upheld, the other withdrawn. Research further shows that the employee right to request I&C arrangements has rarely been used; the CAC is aware of about 20 such requests having been made since these new rights came into force.
73. Extending the Regulations to include workers who are not employees, and lowering the request threshold from 10% to 2%, would make it easier for workforces to request I&C arrangements.
74. The government will examine the effectiveness of the ICE regulations and will consider the review's recommendations for how the current regulations could be amended.

Question 39 – Are there formal provisions in your workplace for informing and consulting employees about changes that may affect their work?

Yes/No/Don't know.

If yes, were these provisions:

- requested by employees?
- initiated voluntarily by the employer/manager?

Question 40 (for employees only) – Have you ever requested Information and Consultation of Employees provisions in your workplace?

Yes/No.

⁵ WERS 2011 indicates that: 8% of workplaces on Britain with 5 or more employees had on-site JCCs in 2011 while 9% had on-site JCCs in 2004; and 13% of workplaces with 50 or more employees had on-site JCCs in 2011, compared to 14% in 2001.

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/32158/10-1380-information-consultation-ice-regulations.pdf

If **no**, please describe why you have not made a request for ICE provisions. Please select all that apply:

- My workplace has less than 50 employees, and so does not qualify for ICE regulations
- There were not enough employees wanting to make a request to meet the required 10% threshold
- It was too complicated/difficult to make the request
- I was not aware of the ICE regulations
- I don't believe that the ICE regulations would make a difference to my working conditions
- Other – please explain

If you answered **yes**, did this lead to positive outcomes for you at work?

Yes/No/Don't know.

Please explain your answer.

Question 41 - How might the ICE regulations be improved?

Question 42 - Should the ICE regulations be extended to include workers in addition to employees?

Yes/No/Don't know.

Please explain the reasons for your answer.

Question 43 – Should the threshold for successfully requesting ICE regulations be reduced from 10% of the workforce to 2%?

Yes/No/Don't know.

Please explain your answer.

Question 44 – Is it necessary for the percentage threshold for implementing ICE to equate to a minimum of 15 employees?

Yes/No/Don't know.

Please explain your answer.

Question 45 - Are there other ways that the government can support businesses on employee/worker engagement?

Question 46 - How might government build on the expertise of stakeholders such as Investors in People, Acas and Trade Unions to ensure employees and workers engage with information about their work?

Question 47 - What steps could be taken to ensure workers' views are heard by employers and taken into account?

Question 48 - Are there other ways that the government can support businesses on employee/worker engagement?

Consultation Questions

Personal (P) information

P1	Your name
P2	Your E-mail address
P3	<p>Are you:</p> <ul style="list-style-type: none">• An individual• An employer• Representing employers' or employees'/workers' interests• Legal profession• Other (please specify)
P4	<p>If you are responding as an individual which best describes your employment status?:</p> <ul style="list-style-type: none">• Employed• Self-employed• Unemployed - Looking for work• Unemployed – Not looking for work• Retired• Not looking for work - other
P5	<p>If you are an employer, how would you classify your organisation?</p> <ul style="list-style-type: none">• Private sector organisation• Public sector• Charity/voluntary sector• Other (please specify below)
P6	<p>If you are an employee or worker, what type of organisation do you work for?</p> <ul style="list-style-type: none">• Private sector organisation• Public sector• Charity/voluntary sector

- Other (please specify below)

P7 If you are an employer, how many employees work for your organisation?

- Micro-business (0-9 employees)
- Small business (10-49 employees)
- Medium-sized business (50-249 employees)
- Large-sized business (250+ employees)

P8 If you are employed, how many people work for your organisation?

- Micro-business (0-9 employees)
- Small business (10-49 employees)
- Medium-sized business (50-249 employees)
- Large-sized business (250+ employees)

P9 If you represent employers or employees/workers, which best describes you

- A trade union
- An industry or employer association
- An agency worker interest group
- Other (please specify below)

P10 If you are an employer, what proportion of individuals undertaking paid work at your workplace are:

a) Permanent employees

100%/ 80-90%/ 60 – 79%/ 40 – 59%/ 20 – 39%/ 1 – 19%/ 0%

b) Non-permanent staff

[To include non-permanent agency workers, non-permanent casual and seasonal workers, those working under a contract for a fixed period of fixed task, or other types of non-permanent staff]

100%/ 80-90%/ 60 – 79%/ 40 – 59%/ 20 – 39%/ 1 – 19%/ 0%

Section A: Written Statements – Questions for employers

Q1 Question 1 - Have you provided a written statement of employment in the last 12 months to:

a) **Your permanent employees**

Yes/No/Don't know.

b) **Your non-permanent staff**

Yes/No/Don't know.

If you answered yes to question 1b, approximately how many have you provided in the last 12 months?

If you answered no to question 1b, please explain your reasons.

Q2 In general, when do individuals starting paid work at your organisation receive:

a) **A written statement**

Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

b) **An employment contract or other employment particulars**

Before paid work starts/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

Q3 How long, on average, would it take a member of staff to produce a written statement for a new starter?

Under half-an-hour/Between half-an-hour and an hour/Between one hour and half a day/Between half a day and a full working day/More than one working day.

Q4 How often do you seek legal advice when producing a written statement?

Always/Often/Sometimes/Rarely/Never.

Q5 Are there other business costs associated with producing a written statement, in addition to personnel and legal costs that we should be aware of?

Yes/No/Don't know. If yes, please provide details.

Section A: Written Statements – Questions for individuals

Q6 If you are employed, have you received any of the following from your employer:

a) A written statement?

(A written statement is a legally binding agreement between employer and employee, which is formed when an employee agrees to work for an employer in return for pay. Employers are legally required to put some of the main particulars of employment in writing. It is not itself a contract of employment but is evidence of the contract of employment. Currently employers are required to give the written statement to employees within two months of starting work, ideally on their first day. Employers can issue the written statement in instalments; however key information must be included in a single document which is known as the 'principal statement').

Yes/No/Don't know.

b) An employment contract or other employment particulars?

Yes/No/Don't know.

Q7 If yes, when did you receive the following in relation to starting paid work with your employer:

a) A written statement

Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

b) An employment contract or other employment particulars

Before paid work started/On the first day of starting paid work/Two days to a week after starting paid work/More than one week but less than two weeks after starting paid work/More than two weeks but less than a month after starting paid work/More than a month but less than two months after starting paid work/More than two months after starting paid work/Don't know/Not applicable.

Q8 If yes, was the information presented in a way that was easy to understand?

Yes, very easy to understand/ Yes, fairly easy to understand/ No, quite difficult to understand/ No, very difficult to understand/Don't know.

Section A: Written Statements – Questions for all

Q9 To what extent do you agree that the right to a written statement should be extended to cover permanent employees with less than one month's service and non-permanent staff?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

Please provide reasons for your answer.

Q10 The following items are currently prescribed contents of a principal written statement. Do you think they are helpful in setting out employment particulars?

a) The business's name

Yes/No/Don't know. If no, please explain why.

b) The employee's name, job title or a description of work and start date

Yes/No/Don't know. If no, please explain why.

c) If a previous job counts towards a period of continuous employment, the date that period started

Yes/No/Don't know. If no, please explain why.

d) How much, and how often, an employee will get paid

Yes/No/Don't know. If no, please explain why.

e) Hours of work (and whether employees will have to work Sundays, nights or overtime)

Yes/No/Don't know. If no, please explain why.

f) Holiday entitlement (and if that includes public holidays)

Yes/No/Don't know. If no, please explain why.

g) Where an employee will be working and whether they might have to relocate

Yes/No/Don't know. If no, please explain why.

h) If an employee works in different places, where these will be and what the employer's address is

Yes/No/Don't know. If no, please explain why.

Q11

Do you agree that the following additional items should be included on a principal written statement:

a) How long a temporary job is expected to last, or the end date of a fixed-term contract?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

b) How much notice the employer and the worker are required to give to terminate the agreement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

c) Sick leave and pay entitlement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

d) The duration and conditions of any probationary period?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

e) Training requirements and entitlement?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

f) Remuneration beyond pay e.g. vouchers, lunch, uniform allowance?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

g) Other types of paid leave e.g. maternity, paternity and bereavement leave?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

If you disagree that any of the above additional items should be included on a principal written statement, please provide reasons.

Q12

To what extent do you agree that the principal written statement should be provided on (or before) the individual's start date?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree

strongly/Don't know.

Q13 To what extent do you agree that other parts of the written statement should be provided within two months of their start date?

Agree strongly/Agree slightly/Neither agree nor disagree/Disagree slightly/Disagree strongly/Don't know.

Section A: Written Statements – Questions for individuals

Q14 Have you ever worked for an organisation that has not provided you with a written statement of employment particulars within 2 months of starting your job?

Yes/No.

Q15 If you answered yes to question 14, did you:

a) Consider lodging a complaint with an employment tribunal (even if you did not end up doing it)?

Yes/No/Don't know.

If no, please explain your reasons for this.

b) Pursue compensation?

Yes/No/Don't know/Not applicable.

If no, please provide your reasons for this.

Q16 If you answered yes to question 15b, were you successful in securing compensation for failing to receive a written statement within 2 months of starting your job?

Yes/No/Don't know/Not applicable.

If no, please provide a reason for your answer.

Q17	<p>If we introduced a standalone right for individuals to bring a claim for compensation where an employer has failed to provide a written statement, what impact do you think this would have? Please consider the impact on:</p> <ul style="list-style-type: none"> a) Individuals b) Employers c) The Tribunal Service
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Section A: Written Statements – Questions for all

Q18	<p>Which of the following best describes your awareness of the Acas guidance on Written Statements?</p> <p>I have not heard of the Acas guidance/I am aware of the Acas guidance but do not know much about it/I am aware of the Acas guidance and have some knowledge of what it says/I have a good knowledge of the Acas guidance/Don't know.</p>
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Q19	<p>If you have some knowledge of the Acas guidance on written statements, how helpful did you find it?</p> <p>Have not used/Very helpful/Quite helpful/Not very helpful/Not helpful at all.</p> <p>Please provide reasons for your answer.</p>
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Section B: Continuous Service

Q20	<p>What do you think are the implications for business of the current rules on continuous service?</p>
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Q21	<p>If you are employed, or represent employees what are the implications for you or those you represent of the current rules on continuous service?</p>
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Q22	<p>Do you have examples of instances where breaks in service have prevented employees from obtaining their rights that require a qualifying period?</p> <p>Yes/No/Don't know.</p> <p>If yes, please provide examples.</p>
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Q23	<p>Do the current rules on continuous service cause any issues in your sector?</p>
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Yes/No. Please specify your sector and explain your answer.

Q24 We have committed to extending the period counted as a break in continuous service beyond one week. What length do you think the break in continuous service should be?

2 weeks/3 weeks/One month/6 weeks/Other - please specify.

Please provide your reasoning.

Q25 Do you believe the existing exemptions to the break in continuous service rules are sufficient?

Yes/No/Don't know.

If no, do you have views on additional circumstances that should be added?

Q26 We intend to update the guidance on continuous service, and would like to know what types of information you would find helpful in that guidance? (Select all that apply)

Real examples from case law/Signposts to further information/Information on what to do if you feel your employer has not complied with the legislation/Other - please specify.

Section C: Holiday Pay

Q27 Do you think that the government should take action to change the length of the holiday pay reference period?

Yes/No/Don't know.

If no, explain your answer.

Q28 If you answered yes to Q27, should the government:

a) increase the reference period from the current 12 weeks to the 52 weeks recommended in the review?

Yes/No/Don't know.

b) Set a 52 week default position but allow employees and workers to agree a shorter reference period?

Yes/No/Don't know.

c) Set a different reference period

Yes/No/Don't know.

If yes, please specify.

Q29 What is your understanding of atypical workers' arrangements in relation to annual leave and holiday pay?

For example:

a) Are they receiving and taking annual leave?

Yes/No/Don't know.

b) Are they receiving holiday pay but not taking annual leave?

Yes/No/Don't know.

c) Do you know of any other arrangements that are used?

Please explain your answer.

Q30 How might atypical workers be offered more choice in how they receive their holiday pay?

Please provide examples including how worker's entitlement to annual leave could be safeguarded so they are not deterred from taking leave.

Section D: Right to Request

Q31 Do you agree that we should introduce a Right to Request a more stable contract?

Yes/No/Please explain your reasons.

Q32 Should any group of workers be excluded from this right?

Yes/No/Please explain your reasons.

Q33	Do you think this will help resolve the issues the review recommendations sought to address?
	Yes/No/Please explain your reasons.
Q34	Should employers take account of the individual's working pattern in considering a request?
	Yes/No/Please explain your reasons.
Q35	Should there be a qualifying period of continuous service before individuals are eligible for this right?
	Yes/No/Please explain your reasons.
Q36	What is an appropriate length of time the employer should be given to respond to the request?
	1 month/2 months/3 months/more than 3 months.
Q37	Should there be a limit on the number of requests an individual can submit to their employer in a certain period of time?
	Yes/No.
	Please explain your reason for this and include a suggestion of what an appropriate limit might be and why.
Q38	When considering requests, should Small and Medium Enterprises (SMEs) be included?
	Yes/No/Don't Know.
	If yes, do you think they should have any dispensations applied e.g. longer to respond?

Section E: Information and Consultation of Employees Regulations (2004) (ICE)

Q39 Are there formal provisions in your workplace for informing and consulting employees about changes that may affect their work?

Yes/No/Don't know.

If **yes**, were these provisions:

- requested by employees?
- initiated voluntarily by the employer/ manager?

Q40 *For employees only*

Have you ever requested Information and Consultation of Employees (ICE) provisions in your workplace?

Yes/No.

If **no**, please describe why you have not made a request for ICE provisions. Please select all that apply:

- My workplace has less than 50 employees, and so does not qualify for ICE regulations
- There were not enough employees wanting to make a request to meet the required 10% threshold
- It was too complicated/ difficult to make the request
- I was not aware of the ICE regulations
- I don't believe that the ICE regulations would make a difference to my working conditions
- Other – please explain

If you answered yes, did this lead to positive outcomes for you at work?

Yes/No/Don't know.

Please explain your answer.

Q41 How might the ICE regulations be improved?

Q42	Should the ICE regulations be extended to include workers in addition to employees?
	Yes/No/Don't know.
	Please explain the reasons for your answer.
Q43	In your opinion, should the threshold for successfully requesting ICE regulations be reduced from 10% of the workforce to 2%?
	Yes/No/Don't know.
	Please explain your answer.
Q44	Is it necessary for the percentage threshold for implementing ICE to equate to a minimum of 15 employees?
	Yes/No/Don't know.
	Please explain your answer.
Q45	Are there other ways that the government can support businesses on employee engagement?
Q46	How might the government build on the expertise of stakeholders such as Investors in People, Acas and Trade Unions to ensure employees and workers engage with information about their work?
Q47	What steps could be taken to ensure workers' views are heard by employers and taken into account?
Q48	Are there other ways that the government can support businesses on employee/worker engagement?

