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NATIONAL MINIMUM WAGE WORKERS: TRAVEL AND SUBSISTENCE EXPENSES SCHEMES

RESPONSE BY THE ASSOCIATION OF LABOUR PROVIDERS TO HM GOVERNMENT CONSULTATION

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Introduction

On 11th February 2010 HM Treasury published a consultation at www.hm-treasury.gov.uk/consult_minimumwage_expenses.htm entitled "National Minimum Wage workers: Travel and Subsistence Expenses Schemes". The introduction states: "This consultation looks at addressing the problem of the potentially exploitative arrangements which are implemented for some temporary workers paid at or near the National Minimum Wage (NMW). This consultation aims to develop the best solution to this problem and the Government welcomes feedback on the proposed changes to the NMW Regulations."

The ALP has over 250 labour provider members, all of whom supply workers at or around the national minimum wage and so will be directly affected by the outcome of this consultation. The Association therefore has a significant interest in the consultation.

Towards the end of 2008 HMRC/HM Treasury undertook a consultation on travel and subsistence allowances, [Tax relief for travel expenses: temporary workers and overarching employment contracts](#). The Government decided to leave the schemes untouched but to increase compliance activity. The outcome of the Consultation was reported on page 104 in the November 2008 [HM Treasury Pre-Budget Report](#) as follows:

5.104 Following the consultation *Tax relief for travel expenses: temporary workers and overarching employment contracts*, the Government have decided to leave the current rules unchanged. However, in the light of evidence from the consultation confirming poor levels of compliance in this area HMRC will refocus its efforts to ensure that the current regime is properly applied. If compliance does not improve, the Government may return to this at a later date.

The current consultation and hence this response only concerns the participation of NMW workers in travel and subsistence schemes; it specifically does not reconsider the tax and NICs issues of Travel and Subsistence Expenses Schemes in general.

The Consultation proposes a solution of amending the NMW Regulations as follows: "These would be amended so that expenses, which qualify for tax relief under the temporary workplace rules, would no longer count as pay for NMW purposes. This would

be the case whether or not the expenses are paid in accordance with a travel and subsistence scheme. One approach could be to amend Regulation 34 of the NMW Regulations so that references to “the worker’s expenditure in connection with his employment” include expenses related to the worker’s attendance at a temporary workplace.”

This would have the effect of making the operation of travel and subsistence schemes unworkable for workers paid at or around the national minimum wage. The operation of such schemes for workers paid at higher rates would be unaffected.

The Government estimates that of the 1.4 million UK temporary workers about 350,000 (25%) are paid at or near the National Minimum Wage and of these 90,000 are paid using a travel and subsistence scheme.

The consultation closes on 6 May 2010.

Executive Summary

- The ALP’s prime consideration is that any outcome from the consultation should enable a level playing field that allows fair competition for labour providers of all sizes and resources.
- It has been HM Revenue & Customs, as the authority which both issues dispensations and enforces NMW, that has been the cause of the unequal competitive trading situation that has arisen in recent years.
- Workers who participate in a Travel and Subsistence Expenses Scheme receive additional employment rights due to the requirement to be engaged on a contract of employment than temporary workers engaged on a contract for services.
- Workers paid at or around NMW who participate in a Travel and Subsistence Expenses Scheme receive a significant addition to their net take home pay where the HMRC interpretation that the amount sacrificed must not be greater than the level of qualifying expenses applies, compared to those workers not in a scheme.
- Workers paid at or around NMW who participate in a Travel and Subsistence Expenses Scheme have a substantial additional entitlement to Working Tax Credit compared to those workers not in a scheme.
- Certain contribution based benefits for workers at or around NMW may be impacted to their detriment by their participation in a Travel and Subsistence Expenses Scheme.
- On balance, the advantage for workers who receive the full financial benefit of their participation in a Travel and Subsistence Expenses Scheme appear to outweigh the risk to receiving certain contributions based allowances.
- The solution proposed in the consultation is flawed and does not appear to be workable.

- Any alternative solution should result in market conditions for Travel and Subsistence Expenses Schemes that allow fair competition for labour providers of all sizes and resources
- HM Government should review the responses to this Consultation; conduct a more detailed Impact Assessment on the workers affected, review the legal basis for its interpretation of allocation of financial benefits; review its proposal and issue a further more factually based Consultation.
- HM Government should act urgently on this matter.

The “level playing field” for Labour Providers

In recent years some labour providers have been able to gain competitive advantage through the operation of travel and subsistence schemes either directly or through an umbrella company for workers paid at or around the national minimum wage.

This has enabled these businesses to:

- Reduce their liability to employer’s national insurance contributions.
- Retain a proportion of the difference between expenses payments and salary sacrifice.
- Use this additional income to reduce charge rates to clients or to increase profits.

This has created market distortion; however it is normal market behaviour for business to seek such competitive advantage.

The Consultation introduction states: “Also, some businesses, for a number of reasons, are not able to implement such schemes. Such businesses suffer a competitive disadvantage compared to those businesses which do implement these schemes.”

This is quite correct. However, what is not made clear is that, as the authority which both issues dispensations and enforces NMW, it has been HM Revenue & Customs that has been the cause of this unequal competitive trading situation and has allowed the market distortion to continue by:

- Failing to provide a clear interpretation of whether the use of salary sacrifice in such arrangements reduced pay below NMW or not.
- Issuing very different dispensation arrangements which variously advantage or disadvantage labour providers who are operating in almost identical market situations.
- Not providing clarity regarding the arrangements for such schemes such that labour providers of all sizes and resources have the ability to operate comparable schemes.
- Not providing clarity regarding how umbrella companies can be regarded as the true employer of the workers when in many cases they have minimal engagement with the worker and whose contracts are obfuscatory.

- Failing to take adequate public compliance action regarding those businesses openly flouting tax and employment laws or granting levels of expenses significantly in excess of those genuinely incurred by the workers.

It would appear on the face of it that with some companies, HMRC has privately accepted that payments made under travel and subsistence schemes in respect of expenditure relating to the journey between home and a temporary place of work count towards NMW pay calculations. However, until now, there has been no open acceptance of this interpretation of the law. The Consultation document now partly clarifies the position but remains silent with regards to subsistence costs and other expenses such as workwear. This is an omission in the consultation.

The outcome of this consultation should be to provide market conditions with regard to Travel and Subsistence Expenses Schemes that allow fair competition for labour providers of all sizes and resources.

The Impact on Workers – Are Travel & Subsistence Schemes exploitative?

The substantive differences for temporary workers engaged by labour providers who operate Travel and Subsistence Expenses Schemes are:

- They are engaged on an overarching contract of employment rather than a contract for services giving additional employment rights to which “employees” but not “workers” are entitled.
- Their pay is impacted such that net take home pay is increased.
- Their pay is impacted such that taxable pay is reduced and consequently PAYE and NIC payments are significantly lower with consequential impacts on certain benefits.

Looking at each of these in turn.

Contractual arrangements - The main additional rights to which temporary workers employed on an overarching contract of employment are entitled over those engaged on a contract for services are as follows:

1. Disciplinary and grievance procedural cover by the Acas Code of Practice.
2. Mutuality of obligation created by a guaranteed minimum of 336 annual hours work offered and ongoing employment between assignments.
3. Statutory notice periods to terminate the contract.
4. Unfair dismissal protection rights after one year’s service.
5. Redundancy pay after two years’ service.
6. Enhanced terms accorded under the Agricultural Wages Order including Agricultural Minimum Wage Rates; Overtime Rates; Night Rates; Enhanced Holiday Entitlement; Agricultural Sick Pay.

7. Family rights – Maternity, paternity and adoption leave; Paid ante-natal visits; Maternity suspension pay and others.
8. Right to Statutory Sick Pay between assignments.

Additionally, the labour provider has an enhanced employer's liability for the health and safety of its temporary workforce and vicarious liability for the acts and omissions of those employees when they are on assignment.

Impact on net take home pay - the Consultation introduction states on this matter: "In addition, the cases that HMRC have seen suggest a worker participating in a travel and subsistence scheme is only very slightly better off in terms of take home pay. In some schemes, it is the Employment Business or umbrella company employing the worker who retains the largest part of any financial benefits, with only a small proportion of these being passed on to the worker."

The HMRC effectively resolves this issue as, for the first time within this Consultation, it openly states its position on how such deductions impact on NMW. HMRC states within the Consultation that the amount sacrificed must not be greater than the level of qualifying expenses incurred in the performance of the duties of employment under the temporary workplace rules. This clarification is welcome and it goes some way to creating a level playing field. However, there is a potential for this position to be challenged with the argument that the split of the benefit from any taxable allowance between employee and employer is a contractual matter to be negotiated by the parties.

Looking at the impact on take home pay using the newly public HMRC position and the example at paragraph 3.9 Box 3.A within the Consultation of a worker who participates in a Travel and Subsistence Expenses Scheme.

Gross pay – 40 hours @ £5.80	£232.00
Salary Sacrifice	£ 95.00
Taxable pay	£137.00
PAYE	- £2.40
NI	- £2.97
Travel Expenses	+ £95.00
Net Pay	£226.63

Comparing this to a worker who does not participate in a Travel and Subsistence Expenses Scheme:

Gross Pay – 40 hours @ £5.80	£232.00
PAYE	£ 21.50
NI	£ 13.42
Net Pay	£197.08

The weekly difference in take home pay is £29.55. This is a significant enhancement in net take home pay for workers earning NMW.

The increase in net pay of £29.55 per week contributes substantially to the travel and subsistence costs to the worker of working at a temporary workplace.

On a separate but relevant point, under schemes where the Employment Business or umbrella company employing the worker retains part of any financial benefits and the worker plans to work in the UK for part of a year only then the worker may be financially better off to remain outside of such a scheme and claim a tax refund on return to their home country. This, of course, will be significantly affected by the receipt of Tax Credits and any cost in reclaiming the tax refund.

Impact on Benefits - The Consultation introduction states: "The reduction in their pay for tax and NICs purposes in return for the payment of tax and NICs free travel expenses can adversely impact on NMW workers' access to earnings-related contributory benefits."

The Consultation does not pay due regard to all the benefits available to workers and the variable impact on access to these benefits of participation or exclusion from travel and subsistence schemes in varying circumstances.

The "lower earnings limit", currently £97 per week, is the minimum level of weekly earnings on which a person is treated as paying National Insurance contributions for benefit purposes. The "primary threshold", currently £110 per week, is the minimum level of weekly earnings on which an employed person pays National Insurance contributions.

Travel and Subsistence Expenses Schemes reduce taxable pay to deliver the allowable tax relief to workers. With such schemes there is no benefit in sacrificing pay below the lower of NI-able pay and the personal allowance. For workers participating in Travel and Subsistence Expenses Schemes pay is higher than "lower earnings limit" and thus they are treated as paying National Insurance contributions for benefit purposes.

A person's entitlement to Child Tax Credits and Working Tax Credits is based upon his/her level of taxable earnings. Those workers who participate in a Travel and Subsistence Expenses Schemes, as well as receiving higher net take home pay, are also entitled to substantially higher Working Tax Credits. In the example provided in the Consultation at paragraph 3.9 Box 3.A (see above) the worker's entitlement to Working Tax Credits increases by over £36.50 per week if they are in a Travel and Subsistence Expenses Scheme compared to those who are not.

The cessation of an NMW worker's ability to participate in a Travel and Subsistence Expenses Scheme where they receive all the financial benefit of the scheme would, using the figures in the Consultation, reduce the worker's incomings by close to £70 per week taking into account net take home pay and tax credit. A substantial drop.

As well as the Tax Credit being reduced by the proposed change, other benefits that will be reduced include Council Tax Benefit, Housing Benefit and Income Support.

The "qualifying earnings factor" QEF - is the minimum level of taxable earnings on which a person must have paid, been treated as having paid, or been credited with National Insurance contributions in a tax year in order to make it a qualifying year for basic pension. The QEF is 52 times the weekly "lower earnings limit" which is £5,044 per annum. A person needs 30 qualifying years in their career to qualify for a full pension.

Workers participating in Travel and Subsistence Expenses Scheme pay would need to work additional weeks in order to make it achieve a qualifying year for basic pension. In the example provided in the Consultation at paragraph 3.9 Box 3.A (see above) the worker

in a Travel and Subsistence Expenses Scheme would need to work 37 weeks whereas the worker not in a scheme would need to work 23 weeks to achieve a qualifying year.

Thus in certain cases workers may be disadvantaged, i.e. in the example above where the worker who participates in a Travel and Subsistence Expenses Scheme works over 23 but less than 37 weeks would miss out on a qualifying year compared to a worker not in a scheme. The extent to which this is a real problem should be countered with the practice that most workers would only undertake work at a temporary workplace within a Travel and Subsistence Expenses Scheme for a limited period and this is unlikely to impact on their 30 qualifying years. It should also be noted that persons are also treated as paying National Insurance contributions for benefit purposes when receiving jobseeker's allowance, statutory sick pay, statutory maternity pay, statutory adoption pay and working tax credits.

The same conditions with regard to the qualifying earnings factor apply to the "low earnings boost" for the additional State Pension, or State Second Pension.

Contribution based Job Seekers Allowance is based on National Insurance paid in the last two tax years and consequently workers in Travel and Subsistence Expenses Scheme are less likely to be entitled to this. However, Income based Job Seekers Allowance is paid if the worker has not paid enough National Insurance contributions and this is the allowance which workers in Travel and Subsistence Expenses Scheme would claim. The two allowances are the same at £51.85 for those aged 16 – 24 and £65.45 for those aged 25 or over.

Such Schemes reduce pay for the calculation of Statutory Maternity Pay entitlement. It is understood that, where properly managed, organisations that operate Travel and Subsistence Expenses Schemes implement arrangements so that pregnant workers opt out of the Scheme prior to the calculation period for SMP.

The solution being proposed and its impact

The Consultation proposes, at paragraph 4.2, a solution of amending the NMW Regulations as follows: "These would be amended so that expenses, which qualify for tax relief under the temporary workplace rules, would no longer count as pay for NMW purposes. This would be the case whether or not the expenses are paid in accordance with a travel and subsistence scheme. One approach could be to amend Regulation 34 of the NMW Regulations so that references to "the worker's expenditure in connection with his employment" include expenses related to the worker's attendance at a temporary workplace. "Temporary workplace" could then be defined in accordance with the definition contained in S339 ITEPA 2003."

Whilst on face value this seems a fairly straightforward amendment it is in fact complex to interpret and it would appear that its impact will be much more significant than is intended by the proposal within the Consultation.

The relevant law to examine is Regulations 31 and 34 of the NMW Regulations:

Reductions from payments to be taken into account

31. - (1) The total of reductions required to be subtracted from the total of remuneration shall be calculated by adding together-

(f) any money payment paid by the employer to the worker to meet a payment by the worker that would fall within regulation 34(1)(b) (payments by workers on account of expenditure in connection with their employment to persons other than their employer) but for the worker's payment being met or designed to be met by the employer;

(h) any payment made by or due from the worker in the pay reference period falling within regulation 34;

Payments made by or due from a worker to be subtracted under regulation 31(1)(h)

34. - (1) The payments made by or due from the worker required to be subtracted from the total of remuneration by regulation 31(1)(h) are-

(a) any payment due from the worker to the employer in the pay reference period on account of the worker's expenditure in connection with his employment;

(b) any payment paid in the pay reference period on account of the worker's expenditure in connection with his employment to the extent that the expenditure consists of a payment to a person other than the employer and is not met, or designed to be met, by a payment paid to him by the employer;

The solution proposed would seem to mean that any payment made by any worker to either the employer (clause 34(1)(a)) or any third party (clause 34(1)(b)) relating to attendance at a temporary workplace will, in the calculation of NMW, be subtracted from NMW.

This would have the effect of redefining NMW as £5.80 plus the costs of travel and subsistence related to the worker's attendance at the temporary workplace.

Using Example A in the consultation document, the expenses related to the worker's attendance at a temporary workplace are £2.38 per hour (£95 divided by 40). Thus, applying the solution proposed in the Consultation Document, the hourly rate required to be paid by the employer to meet NMW is £8.18 (£5.80 plus £2.38).

The impact of this proposed amendment is not limited to workers who participate in a travel and subsistence schemes. It would apply to every single employer of workers paid from NMW up to a figure around £9 per hour who are site based or whoever work at a temporary workplace.

All employers would be required, in order not to be paying below NMW, to pay such workers £5.80 per hour and the worker's individual expenses related to the attendance at a temporary workplace. The solution proposed does not set any limit on the expenses so the solution creates a situation where the more the worker incurs the more that will need to be reimbursed by the employer as a statutory duty under regulation 34(1)(b).

The solution proposed also creates an anomaly. Using Example A again where expenses are £2.38 per hour, then in order to pay NMW any worker paid between £5.80 and £8.18 per hour needs to receive £8.18 per hour as a minimum. Thus a worker paid at £5.80 per hour will need to receive the full £2.38 per hour in tax free expenses to meet the NMW. However a worker paid at £8.18 would not need to receive any tax free expenses for travel and subsistence for the NMW to still have been complied with.

The anomaly created is that the take home pay of the worker at £5.80 exceeds that of the worker on £8.18 because the worker on £5.80 is receiving the balance as tax free expenses, whereas the worker on £8.18 is taxed on all his pay. As well as being anomalous this will also eradicate pay differentials in any business employing site based workers paid from the NMW to £9 per hour.

The Consultation Document proposes that “Temporary workplace” be defined in accordance with the definition contained in S339 ITEPA 2003”. S339 ITEPA 2003 states (5) A place is not regarded as a temporary workplace if the employee’s attendance is (a) in the course of a period of continuous work at that place (ii) comprising all or almost all of the period for which the employee is likely to hold the employment.

The proposal therefore affects workers on a contract of employment but excludes workers on a contract for services as in their case each assignment is separate and distinct and each workplace is not a temporary workplace.

Employed workers will be entitled to NMW plus travel and subsistence costs yet workers on contracts for service will only entitled to NMW. The proposal therefore creates a differential structure for the NMW. A worker doing the same job, if moved from an employment contract to a contract for services has fewer employment rights and now a lower NMW rate.

The impact of this proposal can be summarised as:

- All employers of workers paid from NMW up to around £9 per hour who are site based or whoever work at a temporary workplace will be affected.
- Many employers will not be able to absorb the additional cost. Labour providers most certainly will not be able to.
- The options available to such employers will be to absorb the additional cost or pass it onto their clients, to cease trading or transferring workers away from employment contracts onto contracts for services.
- Such changes will take considerable time to plan for in terms of strategic approach, evaluation of financial implications and implementation of systems and processes such as detailed daily travel and subsistence costs tracking by worker.
- The majority of businesses that will be impacted have not been consulted or made aware of the proposed change.
- The impact assessment is inadequate.
- The solution proposed in the consultation is flawed and does not appear to be workable.

Unfortunately the Consultation goes into no depth at all regarding the solution proposed. There are no caveats or fuller expansion of regulations to further qualify or clarify this amendment. Potentially, regulations could be drafted which qualify or limit the proposed amendment. These cannot be commented upon as they have not been put forward and if this is the intention then these should be considered in a further consultation.

Questions for consultation

Question 1: The Government believes that amending the NMW Regulations to exclude expenses which relate to travel to a temporary workplace from counting towards NMW pay is the best approach in dealing with this problem. Are there alternative approaches which

would achieve the same outcome and which you believe that the Government should consider? If so, then please give details of these.

The “problem” as it is stated in the consultation is of “National Minimum Wage (NMW) workers being able to participate in travel and subsistence schemes” because:

1. “These schemes are potentially exploitative – by participating in a salary sacrifice arrangement, the worker’s access to earnings-related contributory benefits may be adversely affected. The worker benefits little.”
2. “The Employment Business or umbrella company benefits significantly, enabling them to obtain a competitive advantage against those business who do not operate such schemes.”
3. There is a risk to the Exchequer in relation to these schemes.

The “solution” being proposed is to amend the NMW Regulations so that expenses, which qualify for tax relief under the temporary workplace rules, would no longer count as pay for NMW purposes.

As outlined in the previous section in this response, this proposal as put forward, without qualification or limitation appears flawed.

Firstly, in response to the Consultation Question 1 it is necessary to consider whether the solution proposed is effective in dealing with the three elements of the “problem”?

1. Worker exploitation

The solution would impact workers who participate in a Travel and Subsistence Expenses Scheme as follows:

- Net take home pay for workers at or around NMW will fall. This would affect workers on pay rates up to approximately £9 per hour because the proportion of a worker’s gross salary which could be sacrificed would be limited to the difference between their gross hourly rate of pay and NMW.
- Entitlement to Working Tax Credits and other benefits for such workers will fall significantly.
- The combined fall in incomings where the worker receives all the financial benefit of the scheme would, using the figures in the Consultation, be close to £70 per week.
- Some workers in certain circumstances would have improved access to certain earnings-related contributory benefits.
- On balance, the advantage for workers who receive the full financial benefit of their participation in a Travel and Subsistence Expenses Scheme appear to outweigh the risk to receiving certain contributions based allowances.
- By impacting on lower paid workers, the solution would appear to disproportionately affect female and migrant workers.

- In the temporary work space labour providers who operate such schemes would revert to engaging workers on contracts for services rather than employing workers on the overarching contracts of employment required to operate a scheme.

2. Competitive Advantage

- The solution proposed would have the effect of making the operation of travel and subsistence schemes untenable for labour providers who provide work for workers paid at or around the national minimum wage.
- The solution however creates a differential NMW structure. Employed workers will be entitled to NMW plus travel and subsistence costs yet workers on contracts for service will only be entitled to NMW.
- Therefore labour providers who offer their workers enhanced employment status will be at a competitive disadvantage to those employing workers on a contracts for services. All labour providers would move to contracts for services.
- Labour providers who engage workers on contracts for services will be at additional risk of employment status claims due to the significantly enhanced reward emanating from a successful claim.

3. Exchequer Risk

It is not clear from the Consultation what is meant by a “risk to the Exchequer”. It would not appear to be reduced tax take through Travel and Subsistence Expenses per se as the following the 2008 consultation, “*Tax relief for travel expenses: temporary workers and overarching employment contracts*” the Government decided to leave the rules unchanged.

Secondly with regard to Consultation Question 1, is the issue as to whether there “*are alternative approaches which would achieve the same outcome and which you believe that the Government should consider?*”

As stated previously, the ALP’s prime consideration is that the approach taken ensures a level playing field that allows fair competition for labour providers of all sizes and resources.

One alternative approach proposed as a solution to creating a level playing field is that:

- HMRC produce clear, openly available rules, criteria, templates etc. for the operation of Travel and Subsistence Expenses Schemes at or around minimum wage.
- Such rules, criteria, templates etc. enable labour providers of all sizes and resources to operate such schemes with minimal implementation costs.
- Such schemes should:
 - Not sacrifice pay below the lower of the primary threshold and the personal allowance

- Ensure that holiday pay is not sacrificed.
- Deliver the full financial benefit to workers.
- Be equal to all labour providers in terms of the dispensation arrangements offered.
- Be clear about the employment arrangements of umbrella companies.
- Be clear about whether a labour provider may claim up to the dispensation / scale rate for workers or only actual costs incurred.
- Be optional – within the requirements of a salary sacrifice arrangement.
- Require clear written explanation to be given to workers in a comprehensible form outlining the potential impact on their benefits and likely improvement to net pay and Tax Credits.
- Require individual workers to confirm in writing on a document that demonstrates they have considered the potential impacts and benefits for their own particular case and have made an informed decision.
- Be effectively and publicly enforced by the GLA; HMRC Labour Provider Compliance Unit and HMRC NMW Compliance team.

Question 2: Will amending the NMW Regulations in this way adversely impact on NMW workers in a way that we have not anticipated? If so, please provide details.

The ALP has outlined the impacts on NMW workers throughout this response. As many of these impacts have not been referred to or explained in the Consultation it would seem that they have not been anticipated.

Question 3: What are your views on the potential implementation date of 1 October 2010, if the proposed changes to the Regulations are adopted?

In light of the responses to this consultation, HM Government should consider in more detail the actual impact of its proposed solution on workers paid at or around NMW; reconsider its proposed solution and consult further.

Any outcome to this next consultation should enable a level playing field that allows fair competition for labour providers of all sizes and resources.

This matter is of great importance to ALP members and HMT/HMRC should address this urgently.

Question 4: What would be the impact of changes to Regulations on administrative processes and costs to business?

All employers of workers paid from NMW up to around £9 per hour who are site based or who ever work at a temporary workplace will be affected and such changes will take some

considerable time to plan for in terms of strategic approach, evaluation of financial implications and implementation of systems and processes.

Question 5: Do you have any comments on the accompanying Impact Assessment?

The Impact Assessment is inadequate:

- It has not considered that the proposed solution affects all employers of workers paid from NMW up to around £9 per hour who are site based or who ever work at a temporary workplace.
- It has not considered the impact on all the benefits to which low paid workers are entitled and which will be affected by this change.
- It has not considered in sufficient detail the differential impact the amendment will have on women and migrant workers.