

## BSA submission to the Red Tape Challenge Employment Law

### Introduction

1. The BSA - Business Services Association - is the trade body that represents companies, and their advisors, delivering outsourced and business services across the private and public sectors.
2. BSA members are involved across the full range of public service provision - including health, education, defence, environmental, waste management, housing and other local services, IT and digital services, security and transport. A list of our members is enclosed with this submission.
3. Full members have a combined worldwide turnover of c.£70 billion and employ around two million people. In the UK the combined turnover is c.£16.5 billion and c.365,000 people are employed across the country.
4. The BSA welcomes the government's red tape challenge and ambitions to reduce the regulatory and administrative burdens facing industry. We responded to the government's review of environmental regulation and are pleased to make further contributions on employment law.
5. The red tape challenge has divided employment law into the four subsections, and we shall deal with each in turn in this response where we feel we have a contribution to make.

### Taking people on

6. The red tape challenge has identified Immigration Orders as an area to be considered. We have no specific comments to make about the wording of current regulations, but members have raised concerns regarding the guidance issued by the UK Border Agency. All UKBA guidance is issued through their call centre and not put in writing. There are fears that this advice may not always be correct.
7. We are aware that the government is likely to review TUPE in the coming months and with this in mind we do not wish to comment too heavily on possible reforms. However with specific reference to immigration orders, it would be useful if immigration checks required under TUPE were carried out by the transferring organisation as part of the statutory information to be provided 14 days prior to transfer. This would help reduce the cost of transferring staff and ensure that any anomalies regarding immigration status were resolved before the transfer took place.

### Managing staff

8. Workplace disputes remain the biggest challenge for many of our members. While we welcome the government's ambition to reform the Employment Tribunal System to reduce vexatious claims being brought against employers, we have concerns that the recent set of reforms may not have the desired outcome nor will it discourage the use of no-win-no-fee cases which often encourage increasingly complex cases. We are concerned that the higher threshold for bringing an employment dispute may, in some cases, encourage claimants to include additional minor complaints in order to justify the upfront costs.

9. We recognise that in many cases, better people management by employers will help reduce vexatious cases and help to resolve disputes more quickly and amicably. Such engagement would in many cases be aided by a more informal dispute resolution process that encouraged open dialogue between the various parties.
10. To help support the application of the various Employment Acts, we would recommend introducing a consolidation act to bring all the various enactments into one place. This would help reduce the time and cost involved in tracing the various lines of legislation, as has been the case with the Equality Act.
11. With regards to trade unions, we would encourage the government to tighten up the balloting regulations. Recent case law has somewhat weakened a company's ability to challenge inconsistencies in the balloting procedure unless they are significant enough, and the cost of taking out an injunction is now very considerable. We would also advise increasing the notice of industrial action beyond the current 7 days period and require more information to be submitted as part of notifications for action as current rules mean the information submitted is far too vague.

#### **Letting people go**

12. We would recommend repealing the HR1 process. It is largely ignored and is seen by many as a waste of time. Moreover, our members have reported real challenges trying to engage with officials on lodging an HR1 because of limited office hours, which is proving a real disincentive for industry.
13. Our members have reported difficulties calculating length of service in the public sector where employees have moved around different locations. It can often be difficult to verify where they have worked and to demonstrate continuity of service. While we have no suggestions of the kind of model that could be introduced, we would encourage the government to consider options for simplifying reporting matters of this nature.

#### **Compliance and enforcement**

14. The Conduct of Employment Agencies has been identified as one area that is considered to be a waste of time for industry and bringing no additional benefits to hiring organisations or perspective employees. We would advocate these regulations be repealed.