

Subject: FW: Joint-Employment model - Employment Agencies Act 1973 - response to People Group from
Date: GMT Tuesday 8 March 2022 at 16:19
From: "Keeler, Steve (BEIS)" <Steve.Keeler@beis.gov.uk>
Attachments: image001.png, image001.png

Subject: Joint-Employment model - Employment Agencies Act 1973 - response to People Group from EAS

[External Email]

Dear Terry, Mark

I am writing to you to set out our view of the joint employment arrangement that People Group operate with "employment business" and the employment of temporary work-seekers. I am sorry for the delay in writing to you on this topic.

I would like to thank for submitting examples of the documentation that People Group use and for your time when we met with you and your legal advisor, Kevin Barrow.

We understand that a joint employment model can allow a small, or mid-sized employment business, to set up a joint venture/collaboration with People Group. Such a collaboration may well provide such employment businesses with HR and payroll compliance or support as well management of cashflow.

We have carefully considered this process and your documentation. In principle, our view is that a "joint employment" arrangement is not contrary to the provisions of **section 13(2)** of the Employment Agencies Act 1973 (which defines employment agency activity); or **section 13(3)** of the 1973 Act (which defines employment business activity).

It would seem from your documentation that a joint employment arrangement can be used in general employment relationships and also where an employment business is involved in providing work-finding services. I also take on board your view that joint employment works and that your contracts and relationships demonstrate that both "employers" are equally (jointly and severally) liable in relation to providing employment rights and compliance (including the 1973 Act and the Conduct of Employment Agencies and Employment Businesses Regulations 2003).

Whilst the joint employment model, based on the evidence we have seen, is not contrary to the 1973 Act, it does, in our view, appear to potentially provide a layer of confusion for work-seekers. There are also concerns on how joint employment arrangements comply with the regulations, in particular **regulation 13A** (the issue of Key Information Documents (KID)) and **regulation 14** and **regulation 15** (agreeing terms with work-seekers).

In consideration of the information that you have supplied to us, it seems that a work-seeker might approach an employment business in order to be found work. The next steps appear to be: -

- That employment business would need to issue a KID and agree terms with the work-seeker before providing any work-finding services to that work-seeker.
- The employment business finds the work-seeker a temporary job.
- The employment business offers the work-seeker a "joint employment" contract.
- Up until that point People Group are not providing any work finding services to that work-seeker and does not have to comply with the Act or Regulations.
- If the work-seeker agrees to the joint employment arrangement (joint responsibilities) both employers would be liable to comply with the employment business provisions of the Act and Conduct Regulations.
- This would include issuing a revised KID and revised terms and conditions and explaining why the earlier documents have been superseded.

The position appears that People Group and an employment business will jointly employ a work-seeker and that there will be circumstances in which People Group and an employment business can jointly act as an employment business. This is once they have jointly employed a work-seeker and the employment business, or the employment business and People Group jointly assign the jointly employed work-seeker to a hirer.

If it is the intention in nearly all cases to jointly employ a work-seeker, and that model requires a two stage

process which appears clunky, or which requires repeating the process, this potentially will confuse work-seekers.

I would be grateful if you could explain the contractual arrangements and supply me with examples of the joint employment agreement with hirers to whom work-seekers will be supplied to; a copy or example of an employment assignment schedule; and explain how it relates to People Group's relationship with a hirer.

I think that because, upon jointly employing a work-seeker that both People Group and an employment business both agree to provide work-finding services and to supply a work-seeker to a hirer, they have either become a new joint employment business requiring the KID and **regulation 14** and **15** procedures to be started anew, or People Group not having provided work-finding services to a work-seeker before, is "first providing" work-finding services and so must comply with **regulation 14** itself.

I would be grateful if People Group could provide an example of the KID and the regulation 14 documentation, including any variations, and to explain how they comply with regulation 13A(3)(c) and regulation 14(1)(c) by reference to regulation 15(a), and 15(c) to 15(f) and regulation 13A(13) and (15). I attach these regulations in full in the attached document.

You did provide us with a redacted joint employment contract. It appears to set out that both employers accept full responsibility for all their duties and responsibilities associated with the work-seeker's status as joint employment employers. It also sets out the primary responsibilities of both parties. At §12.2 it directs work-seekers to the "umbrella account manager". It should be clear to work-seekers that they are jointly employed; that both employers are jointly responsible to him or her; which of the joint employers leads on what; and who to contact in the event of a grievance. The only indicator of the relationship between both employers is §1.2.2 and 1.2.2.1 and 1.2.2.2.

It would be helpful to have a copy of a contract between People Group and an employment business.

Our role is to seek compliance with the Employment Agencies Act 1973. Our view of the joint employment model used by People Group is set out in this email, and based on documentation that you have supplied to us. If a work-seeker complained to us about their employment arrangements and this indicated a lack of transparency or a breach of the 1973 Act we would need to investigate further. Similarly, if we were carrying out a targeted operation of inspections we may need to inspect records of both employers to ensure compliance with the 1973 Act.

I would add that this is our regulatory view of your services and documentation and should not be considered as legal advice on the joint employment model. Ultimately it is a matter for the Courts to determine whether the law applies based on the facts that are presented to them.

I hope this is helpful in setting out our view.

Regards

Steve



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