Umbrella company market: call for evidence: CIOT and LITRG response

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The CIOT and LITRG have responded to HMRC's call for evidence on the umbrella company marketplace which invited views from stakeholders on the role that umbrella companies play in the labour market, and for views on the government’s understanding of umbrella company behaviours that are causing concern.

Umbrella companies are unregulated and there is a wide spectrum of operators. LITRG's 150 page report (www.litrg.org.uk/labour-market-intermediaries), published in March 2021, found a lot of good practice but outlined several major concerns, including around the use of disguised remuneration schemes to pay workers. Both the CIOT and LITRG think that although there is a place for well-run umbrella companies, it is right for the government to take appropriate action in this area to protect the rights of workers and protect exchequer revenues.

In their response, LITRG provided an update on the developments in the umbrella company marketplace since the publication of their earlier report. We flagged up reports from the trade press and the media indicating the continuation of potentially concerning practices by certain non-compliant umbrellas, such as disguised remuneration, issues with holiday pay, lack of transparency with pay rates, non-provision of payslips, cloning, mini-umbrellas, cyber-attacks and so forth. As highlighted by the CIOT in their response, there has been a substantial rise in the use of umbrella companies because of the introduction of the IR35/off-payroll working rules, so now would be an appropriate time for the government to get to grips with these issues!

The CIOT also listed several suggested actions to tackle the problem of disguised remuneration. These include improving awareness around avoidance schemes with

workers, using existing provisions to issue assessment to the non-compliant companies for a PAYE failure (as opposed to chasing the workers), transferring the liability/debt to other entities in the supply chain/their directors, and tackling the scheme promoters and enablers, etc. With regards to mini-umbrella companies, the CIOT said the key to tackling this kind of fraud is HMRC's Fraud Investigation Service investigating and prosecuting the criminals involved and publicising this widely.

The call for evidence was accompanied by a simple worker survey for those that did not want to send a formal written submission. As the departments running the call for evidence were keen to hear from a full range of voices, including those of workers who might prefer to give evidence orally, they also ran video calls with different populations of workers (from the ex-personal service company demographic to lower paid agency workers who have found themselves paid through disguised remuneration). Two such opportunities were facilitated by LITRG and TaxAid.

Both the CIOT and LITRG said in their responses that by listening to and understanding *the first-hand* experiences of those workers that have been affected, the government can form a targeted, robust and proportionate response to combat avoidance schemes; we believe that this is key.

More widely, the CIOT said that more could be done by HMRC to assist end clients and temporary work agencies to assess the bona fides of their labour supply chain where an umbrella company is involved, such as by introducing some kind of umbrella registration/validation scheme to enable them to verify umbrella companies more easily.

LITRG finished their response by saying that one practical response would be for HMRC to appoint someone senior to take overall responsibility for umbrella companies, enabling them to start to translate thoughts and ideas about how to tackle problematic umbrella companies into a tangible reality. Their remit should include developing an action plan to tackle non-compliant umbrella companies from a tax perspective. This should include the formation of a trusted, expert stakeholder group (which could include compliant umbrella companies) to help challenge and guide HMRC in this area and hold HMRC to account.

The CIOT's response can be found here: www.tax.org.uk/ref885

The LITRG response can be found here: www.litrg.org.uk/ref2613