

Comment on the UK National Reform Programme

Introduction

The Professional Contractors Group is the cross-sector representative body for freelance contractors and consultants in the UK. Its members operate their own one or two-person companies and provide their services to a range of clients. They work in IT, engineering, project management, financial services, oil and gas extraction, marketing and many other sectors.

The UK's freelance contractors and consultants are a highly skilled, highly flexible and highly mobile workforce. The UK's model of freelancing is uniquely sophisticated and, by affording companies the ability to acquire specialist skills on a flexible basis, offers the UK a meaningful competitive advantage, particularly in the knowledge-based industries on which its future growth depends.

PCG's members are among the 1 in 7 workers in the UK who choose to work for themselves in some way. They sit outside the traditional divide of employer and employee; as part of the "third way" of working, they are therefore often overlooked in the policy discourse, which remains dominated by the traditional dichotomy.

The invitation issued on July 5th 2006 for comments on the UK National Reform Programme, published to set out the UK's steps towards achieving the goals of the Lisbon Strategy for Jobs and Growth, requested comments in three particular respects:

- How you have worked with government to deliver the policies on which we are reporting in the NRP
- How you foresee working with government over the coming two years to take these reforms forward
- Specific examples of how your activities may have contributed to the objectives set out in the NRP

PCG offers comment below on points within the NRP that are relevant to freelancing in the UK, which will include comments addressing the first two points above. Comments addressing the third point will be included in the final section of this document.

Although PCG is glad to have the opportunity to comment on the NRP and believes that freelancing has a vital role to play in delivering the goals of the Lisbon Strategy, we feel bound to point out that the window during which comments have been invited is somewhat short. Notwithstanding that informal consultation has been undertaken in the months since the Programme's publication, the timescale for formal input is, at less than a month, unnecessarily tight when compared to, for instance, the standard consultation period of three months. This is doubly unfortunate given the emphasis placed on effective consultation as part of the very welcome work on better regulation carried out during the UK's presidency of the EU in 2005.

The NRP and ways of working

i) Flexible working

Section 4.2 of the NRP states: "a flexible and job-creating labour market is especially important for competing in today's increasingly global markets." PCG agrees wholeheartedly with this statement: the UK's freelancing model is the most developed in the EU and offers companies the ability to acquire skills on a flexible and cost-effective basis, while also allowing individual workers flexibility in their careers.

The NRP does not give full consideration, however, to the nature of jobs within this flexible labour market: too often it treats "jobs" as being synonymous with full-time permanent employment. Its emphasis on helping workers to find jobs also suffers from this bias, as does the reference to "key life cycle transitions" (4.10), which could just as easily include the transition from employment to self-employment or freelance working.

PCG would be happy to work with the government to consider how this can be incorporated within the NRP or future progress reports on its implementation: PCG already makes guidance on becoming a freelancer publicly available and offers further information to its members. We would like the government to consider promulgating similar guidance via its own official channels and re-shaping those channels where appropriate: for instance, www.businesslink.gov.uk does not provide such guidance at present, and it would clearly be inappropriate for its forthcoming counterpart www.employee.gov.uk to do so.

ii) Older workers

Section 2.29 of the NRP states: “Working longer will be an important part of the response to increased life expectancy,” and refers to the, “50 per cent Lisbon employment target for older workers.” Freelancing is an important part of this picture, as it is a key way for older workers to remain active within the labour market. The difficulties of finding a new job when aged over, say, 40, are notorious: many of the UK’s most skilled workers choose to tackle this problem by turning freelance. Over half of PCG’s members are aged over 45.

The NRP and business

i) The business environment

PCG welcomes the NRP’s statement (3.22) that, “the UK aims to be the best environment in the world for starting and growing a business.” The NRP’s recognition of the importance of the UK’s 4.3 million SMEs is also significant. The smallest of these firms include the independent consultancies established by freelance consultants and contractors, some of which develop from micro businesses to small businesses, but many of which employ only their owner-managers.

Indeed, Labour Force Survey data shows that 2.7 million of the UK’s SMEs are run by self-employed people without employees and that the proportion of firms with employees has actually been falling since c.1990. This trend should be acknowledged within the NRP and future government measures to implement the Lisbon Strategy.

The NRP identifies two particular respects in which the government is seeking to enhance the UK as a business environment: taxation and regulation. PCG works with the government on both issues. Regarding taxation, we maintain a strong relationship with both the Treasury and HMRC: for instance our input to HMRC on its guidance to inspectors regarding the tax treatment of pensions was reflected in the revised guidance published in April 2006. Regarding regulation we have contact with both the BRE and DTI on regulatory matters, for instance negotiating the inclusion of an opt-out in the Conduct of Employment Agencies and Employment Business Regulations 2003 for limited company contractors.

Much work remains to be done in both areas, however, and this response will consider each in turn.

ii) Taxation

The NRP points to some positive developments in the taxation system in recent years, such as the flat-rate VAT scheme and its recent further simplification, which PCG welcomes, and R&D tax credits, which are a good scheme, but little-used by the many companies staffed only by their owner-managers. And although the NRP mentions the reduction in corporation tax for small companies from 23% in 1997 to 19% in 2002, it neglects to mention the short-sighted introduction at the same time of a 0% rate for the first £10,000: the wholly foreseeable rush to incorporation by many self-employed workers obliged the Chancellor to abolish this new tax band almost immediately after its introduction.

Despite the sound measures referred to in the NRP, the tax system in the UK has become unacceptably complicated for small businesses over the last decade or so. This acts as a disincentive for the formation of new companies and also increases costs for small firms, who have to spend more on professional advice and, in the case of some taxes, can end up paying tax they do not actually owe because the law is so complex that they cannot tell they do not owe it. Numerous examples can be given.

- The “intermediaries legislation” IR35 has proved so complex that of 1,254 contested cases of which PCG is aware, only 3 resulted in tax being found to be owed under the legislation; no figures exist for the cost to the government of this high failure rate, nor how many companies have paid tax they did not actually owe without contesting the Revenue’s assessment, nor of the extra cost to businesses having to pay for professional advice just to be sure whether or not they owe the tax. PCG warned the government that the tax was unworkable, and it has indeed proved an expensive failure.
- The proposed new Construction Industry Scheme has already proved so complex and so controversial that the government has delayed its introduction for 12 months; concerns remain about its workability in many quarters.
- Proposed new powers for HMRC would allow tax inspectors to change tax returns without consulting the taxpayer; HMRC has also expressed a desire to be able to penalise taxpayers for “obstructing” an investigation: these powers, if implemented, could create an extremely hostile environment in which the tax authorities will pressure businesses to pay whatever money they see fit, even though, if IR35 is anything to go by, they may be quite wrong to think that the business actually owes it.

PCG will continue to work with HMRC and HMT to enhance the clarity of the system and iron out any flaws in new proposals.

iii) Regulation

PCG agrees with the five principles of better regulation set out in the Hampton Report and reproduced in section 3.30, and continues to offer input to the reforms and processes carried out under the better regulation agenda.

It is PCG’s analysis that the key issue still to be tackled as part of the better regulation agenda is the assessment of regulations’ impact after their implementation. The extent to which RIAs have now become entrenched methods for examining the likely impact of proposed regulations and legislation is impressive, but their conclusions ultimately remain educated guesswork. Although, as the NRP points out, they are required to set out details of the post-implementation review, too few do this and too often the follow-up is inadequate.

PCG would like to see a full Post-Implementation Impact Assessment process made mandatory for all new legislation and regulations: this must occur after a fixed time, perhaps three years, and must be as entrenched in the system as the current RIAs. This exercise must assess the full extent of costs and benefits to businesses, consumers and other groups; changes to the legislation or regulations must be implemented in instances when the costs and benefits have not been in an appropriate proportion. A set of criteria against which the success of the measure can be gauged in the PIIA should be included in the RIA.

PCG will put forward these ideas in more detail in its response to the BRE consultation on improving RIAs, launched on July 24th 2006.

PCG activities contributing to the objectives of the NRP

As has been seen already, the continued vitality of the UK’s freelancing model will be a vital component in meeting the Lisbon goals. PCG is committed both to safeguarding and developing this way of working further and also to promoting its benefits to other EU member states. It has therefore developed a range of services, initiatives and projects to these ends.

PCG offers extensive guidance on beginning a career in freelancing, which is publicly available. More detailed guidance on specific tax and legal issues is available to members. PCG also facilitates the provision of specialist services such as insurances and advice to members.

PCG has also developed a range of initiatives which enable freelancers to enhance their value proposition to clients, known as the “quality family”.

- PCG (QS): Quality Systems is the first ISO:9001 certification scheme developed specifically for small businesses; it allows small firms to obtain full UKAS-accredited certification at a fraction of the usual cost, opening up contract opportunities that would not otherwise be available. PCG held a presentation of the initiative in the European Parliament in November 2005 and has an ongoing dialogue with the SME standards body NORMAPME.
- PCG (QP): Quality People is a background checking scheme whereby the freelancer’s CV is verified independently, providing a ready-made background verification “passport” which can be presented to potential clients, assuring them of the contractor’s bona fides without the need for further checks.
- PCG (QA): Quality Accountant is a scheme by which accountants who specialise in supplying services to freelancers have their expertise independently checked and certified; freelancers can be confident that accountants displaying the PCG (QA) kitemark will have a thorough understanding of the intricacies of their way of working.

Standard template contracts are also available from PCG’s website. PCG has worked with both the Recruitment and Employment Confederation and the Association of Technology Staffing Companies to develop standard contracts for use by their member agencies. In 2004, PCG launched an Approved Contract scheme: contracts bearing its kitemark are verified as being commercially and legally sound.

PCG therefore works with a wide variety of partners to improve standards across all aspects of freelancing in the UK. It is PCG’s aspiration to make it as easy as possible to pursue a career in freelancing to a high professional standard and thereby further enhance the value of freelancing to the economies of the UK and the EU.