

Director of Labour Market Enforcement
Department for Business and Trade
1 Victoria Street
London
SW1H 0ET

8 September 2023

Dear Sir/Madam,

RE: Labour Market Enforcement Strategy 2024 to 2025: call for evidence

The CIPD is the professional body for HR and people development, with 160,000 members championing better work and working lives. Public policy at the CIPD draws on our extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers, to improve best practice in the workplace, to promote high standards of work and to represent the interests of our members at the highest level.

1. Improving the radar picture

Effective enforcement of employment rights has become more difficult to achieve, in our online, fast-moving and varied UK labour market. While the structure of employment has changed surprisingly little over the last two decades, the growth in employment overall over this period has seen increasing numbers of people working in low-paid, lower-skilled roles and in non-permanent employment. This has meant there is a growing cohort of working people with little bargaining power in the labour market who are most vulnerable to exploitation.

We would agree that certain groups and sectors are more likely to experience higher risk of labour market non-compliance, and agree with your overview in paras 1.1 and 1.2 about the sectors and groups of workers that are most at risk of experiencing labour market non-compliance. Further, our research shows it's low skilled/low paid/non-unionised workers, on the edges of the labour market, and those working in SMEs are among those most at risk of breaches of many aspects of employment legislation.

The challenges of enforcing employment rights, is particularly acute among smaller employers with non-compliance often a result of ignorance rather than deliberate action, either, because of a lack of resources or HR/legal expertise or both.

2. Improving focus and effectiveness

Research has suggested that many individuals have how low awareness of employment rights particularly those in low-paid and insecure employment. This poor awareness around aspects of employment law also extends to many small and medium sized businesses. CIPD has consistently called

on the Government, working with organisations such as Acas, Citizens Advice, trade unions and professional bodies, to run a high-profile ‘know your rights’ campaign, which would set out information on employment rights, as well as where to go if they have concerns or want to make a complaint. This could be supported by communications from Companies House and HMRC sending out clear guidance on core employment rights to every new business that registers and then completes its annual tax return.

Even when workers are aware of their rights, the data suggests that many employers are not being held accountable to their duty of care and that when individuals do submit a claim to an employment tribunal, they are likely to face a significant delay before their case is heard.

We believe that the UK’s enforcement framework is too heavily weighted on the responsibility of individuals to enforce their rights. Even when individuals do submit a claim to an employment tribunal they are likely to face a significant delay before their case is heard. We are concerned about the high level of tribunal awards that are left unpaid by employers - government commissioned research found that in England and Wales around a third of tribunal awards remained unpaid. [Acas](#) has reported limited awareness and understanding by claimants of their enforcement options in relation to the enforcement of the payment of tribunal awards. In their research only 26% of those eligible for the Fast Track payments scheme knew this was available to them. Acas argue that higher awareness of the available options could lead to higher levels of settlement payments.

We believe that the government should make the enforcement process simpler for employees and workers by taking direct enforcement action against employers who do not pay tribunal awards without the individual having to fill in extra forms or pay an extra fee to initiate additional court proceedings.

There are also deeper-seated issues affecting the awareness and confidence of workers to make a complaint that need to be addressed. Aside from lack of awareness of their rights, these include those who may be in fear of losing their jobs and/or being unsure of their right to work in the UK. A [Focus on Labour Exploitation \(FLEX\)](#) report shows that, while ‘gateways’ do exist for certain vulnerable groups (especially migrant workers), these may not be suitable for those in the most precarious situations. For example, advice lines can become inaccessible for those with poor language skills, and those who work irregular hours may not be able to access advice during opening hours.

We also believe that there is a strong case to amend the Employment Rights Act 1996 to allow independent, CIPD-qualified HR consultants to advise individuals on making and responding to employee relations allegations and claims and signing off settlement agreements in the same way that trade union representatives can. This would help ensure that all people submitting a complaint are fully aware of their rights.

3. Better joined-up thinking

We very much welcome the work done by the Director of Labour Market Enforcement since the establishment of the role to improve the coordination of enforcement actions across the three bodies under its remit. However, we feel that deeper-seated reform is needed to develop a fully integrated enforcement system with the resources and infrastructure to significantly improve compliance and reduce exploitation in the labour market.

A well-resourced Single Enforcement Body

Creating a well-resourced Single Enforcement Body (SEB) could still be the key to improving the enforcement and protection of workers' health and rights and would offer greater opportunities for a more holistic and joined-up approach. However, its success to crack down on abuses in the labour market, protect employment rights and support employer compliance would hinge on whether it receives sufficient resources to do its job.

The UK currently has one of the worst resourced labour inspectorates in Europe and there is a strong need to significantly boost the number of inspectors and increase the number of proactive inspections of workplaces if any enforcement body is to be effective in enforcement mechanisms.

A SEB could also help to reinforce the individual enforcement of employment rights through the employment tribunal system and could take full responsibility for taking action against employers that fail to pay compensation to workers awarded by the court.

We also believe that to help tackle discrimination at work, the remit of a SEB should have responsibility for enforcing workers' rights under the Equality Act. This would have capacity to proactively investigate complaints and require employers to take action or face enforcement activity and potentially fines for non-compliance.

4. Improving engagement and support

Worker Status

In our 2020 policy and research paper: [Reforming employment status: Building a stronger foundation for employment rights](#), we suggest that the three categories of employment status undermine people's employment rights and cause confusion for both individuals and employers.

The number of self-employed has grown substantially over the past 20 years, with some employers possibly misclassifying them as this form of work. Up to 15% of self-employed are wrongly categorised at the moment, with the most vulnerable being most likely to be misclassified and denied their rights.

A key issue is the difficulty in defining who falls under which category, with a 'grey area' over how to distinguish between self-employed and worker status. We believe that by abolishing 'worker' status, it would improve employment rights for vulnerable workers and provide more certainty over employment status by aligning status for both tax and employment purposes at the same time.

5. Other points

Supporting the small business sector

We need to highlight in particular the challenges small firms face across all sectors in terms of awareness and compliance with employment regulation, and their need for better quality advice and business support in this area. This has considerable implications for the development of the UK's labour market enforcement strategy. [CIPD research](#) shows that a **high proportion of smaller firms are among those most at risk** of breaches of many aspects of employment legislation. For example,

small firms are more likely than larger firms to cite a number of obstacles to the successful implementation of employment regulation. For example, 49% cite a lack of resources as an obstacle compared to 44% of medium-sized firms and 41% of large companies. Similarly, 41% of small firms cite a lack of awareness of changes to legislation as a barrier to implementation, while just 32% of medium-sized companies and 27% of large organisations report this as a problem.

Therefore, there needs a greater focus on ensuring that smaller businesses - who are not talking to Acas, membership bodies or supply chains - are receiving quality business support via Local Enterprise Partnerships and Growth Hubs and to help improve enforcement of employment rights.

The CIPD's [People Skills pilots](#), run in 2017 with JP Morgan, suggested that SMEs find compliance with employment regulation more challenging than larger firms that have more resources and in-house HR teams and support. Improving the availability of good quality people management advice could

I hope this response is helpful. You will also find further information on all of these topics is available in our report, [Revamping labour market enforcement in the UK. The report explores](#) whether a more progressive approach to enforcement, based on a much greater focus on supporting businesses - particularly small firms - to comply, could support efforts to improve the quality of work and boost productivity more widely across the economy. It draws on a wide range of interviews with expert stakeholders including academics, employers and representatives from employer bodies and trade unions to consider these issues and make recommendations for improving the UK's system of labour market enforcement.

If there is anything further we can do to assist you then please do not hesitate to contact us.

Yours sincerely,



Ben Willmott
CIPD Head of Public Policy