

Response ID ANON-D3DV-X6NQ-X

Submitted to **Good Work: the Taylor Review of Modern Employment Practices - Consultation on enforcement of employment rights recommendations**
Submitted on **2018-05-03 09:04:49**

About you

What is your name?

Name:

What is your email address?

Email:

Which best describes you?

Other

If other, please specify :

Charity

☐ You represent employers' or employees'/workers' interests, are you:

Charity or social enterprise

If other, please specify :

If you are an employer, how would you classify your organisation?

Please type your response in the box below.:

Are you happy for your response to be published?

Yes

Would you like to be contacted when the consultation response is published?

Yes

(optional) How did you hear about this consultation?

Where did you hear of this consultation?:

☐ J.V.UK alert

Other (please specify):

State-led enforcement

1 Do you think workers typically receive pay during periods of annual leave or when they are off sick?

Yes

Please give reasons:

2 Do you think problems are concentrated in any sector of the economy, or are suffered by any particular groups of workers? If yes, please specify which sectors/ groups and give reasons.

Yes

Please type your response in the box below.:

Agency workers; seasonal/temporary work; low pay sectors

3 What barriers do you think are faced by individuals seeking to ensure they receive these payments?

Please type your response in the box below.:

Job insecurity, ie concerns that they could lose the job if they pursue their rights; ignorance regarding rights

4 What would be the advantages and disadvantages for businesses of state enforcement in these areas?

Advantages:

It would be advantageous as it would produce a level playing field

Disadvantages:

5 What other measures, if any, could government take to encourage workers to raise concerns over these rights with their employer or the state?

Please type your response in the box below.:

A system whereby there are clearer penalties for non-compliant employers would be helpful, together with more effective and advertised enforcement, so that all parties are aware that the rules must be complied with

Enforcement of employment tribunal awards

6 Do you agree there is a need to simplify the process for enforcement of employment tribunals?

Yes

Please give reasons:

It is too easy for employers to not pay, and get away with it. The costs and the difficulties of the process are part of this

7 The HMCTS enforcement reform project will improve user accessibility and support by introducing a digital point of entry for users interested in starting enforcement proceedings. How best do you think HMCTS can do this and is there anything further we can do to improve users' accessibility and provide support to users?

Please type your response in the box below.:

There must be consideration of the fact that some individuals will not find digital processes accessible, eg those who are unfamiliar or who do not have easy access to the internet. Also, if there are still costs involved for the individual, this will put off some of the users who will understand there is no guarantee that these costs will be recouped

8 The HMCTS enforcement reform project will simplify and digitise requests for enforcement through the introduction of a simplified digital system. How do you think HMCTS can simplify the enforcement process further for users?

Please type your response in the box below.:

There must be consideration of the fact that some individuals will not find digital processes accessible, eg those who are unfamiliar or who do not have easy access to the internet. Also, if there are still costs involved for the individual, this will put off some of the users who will understand there is no guarantee that these costs will be recouped

9 The HMCTS enforcement reform project will streamline enforcement action by digitising and automating processes where appropriate. What parts of the civil enforcement process do you think would benefit from automation and what processes do you feel should remain as they currently are?

Please type your response in the box below.:

The issues are that awards are left unpaid and it is costly to enforce. It is unclear how 'digitising' and 'automating' will address these issues

10 Do you think HMCTS should make the enforcement of employment tribunals swifter by defaulting all judgments to the High Court for enforcement or should the option for each user to select High Court or County Court enforcement remain?

Please type your response in the box below and explain your answer.:

11 Do you have any further views on how the enforcement process can be simplified to make it more effective for users?

Please type your response in the box below.:

Making the debt enforceable by the crown/a government agency would be helpful, so that unpaid awards are pursued directly on behalf of the Tribunal

Establishing a naming scheme

12 When do you think it is most appropriate to name an employer for non-payment?

Issued with a penalty notice

Please give reasons for your answer and if other please specify:

13 What other, if any, representations should be accepted for employers to not be named? Please give reasons.

Please type your response in the box below.:

14 What other ways do you think government could incentivise prompt payment of employment tribunal awards?

Please type your response in the box below.:

Making the debt enforceable by the crown/a government agency would be helpful, so that unpaid awards are pursued directly on behalf of the Tribunal

Awards and penalties at employment tribunal

15 Do you think that the power to impose a financial penalty for aggravated breach could be used more effectively if the legislation set out what types of breaches of employment law would be considered as an aggravated breach?

Yes

Please explain your answer:

16 Is what constitutes aggravated breach best left to judicial discretion or should we make changes to the circumstances that these powers can be applied?

Yes

Please explain your answer:

17 Can you provide any categories that you think should be included as examples of aggravated breach?

Please type your response in the box below.:

Employment status

When considering the grounds for a second offence breach of employment status who should be responsible for providing evidence (or absence) of a first offence?

Please type your response in the box below and explain your answer.:

19 What factors should be considered in determining whether a subsequent claim is a 'second offence'? e.g. time period between claim and previous judgment, type of claim (different or the same), different claimants or same claimants, size of workforce etc.

Please type your response in the box below.:

20 How should a subsequent claim be deemed a "second offence"? e.g. broadly comparable facts, same or materially same working arrangements, other etc.

Please type your response in the box below.:

21 Of the options outlined which do you believe would be the strongest deterrent to repeated non-compliance?

Uplift in compensation

Please explain the reasons for your answers:

To go to the claimant

22 Are there any alternative powers that could be used to achieve the aim of taking action against repeated non-compliance?

Please type your response in the box below.:

