

ID	71
Type	CS
Name	
Email	
Respondent type	An individual
Which best describes you? - Other respondent type	
Representative type	Not Answered
Other representative type	
Organisation type	
Publication consent	Yes
Response contact consent	Yes
Where did you hear of this consultation?	GOV.UK alert
Other (please specify)	
Do you think workers typically receive pay during periods of annual leave or when they are off sick?	Yes
Please give reasons	Usually the employment contract states whether annual leave or sickness pay is covered
Do you think problems are concentrated in any sector of the economy, or are suffered by any particular groups of workers?	Yes
Please give reasons	Problems particularly occur for lower paid workers and employees from smaller companies
What barriers do you think are faced by individuals seeking to ensure they receive these payments?	These workers cannot afford the fees and costs of pursuing claims or afford to take time off work.
What would be the advantages and disadvantages for businesses of state enforcement in these areas?	The advantage would be that low paid workers would be able to make legitimate claims against their employers in accordance with UK Employment Law and it would discourage Employers from taking advantage of the current unfair system.
What would be the advantages and disadvantages for businesses of state enforcement in these areas?	
What other measures, if any, could government take to encourage workers to raise concerns over these rights with their employer or the state?	<p>The Government could put in place a requirement for a financial check on the Employer or Respondent to ensure that they have the means of paying the Employees unpaid wages raised by the Grievance or Employment Claim, prior to proceeding with the Employment Tribunal ET1 or the Tribunal Pre Hearing, since the Tribunal is a lengthy process and costly.</p> <p>This would encourage an Employee/Claimant to challenge their Employer, knowing that they are supported by the UK Law and their case will be heard and justice would be done.</p>

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

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Please give reasons	<p>Currently, upon ruling the Judgment, the Tribunal system actively encourages the Employee/Claimant to reach an 'out of court' ACAS settlement prior to the Remedy Hearing date.</p> <p>Upon, reaching and signing the ACAS Cot3 Settlement Agreement, the Employee/Claimant lose their Employment Rights (despite winning the claim and Judgment) as it takes it out of the Tribunal System. Consequently, the Employer is able to not honour the agreement and avoid any payments and the Employee/Claimant has no redress without then incurring further legal fees and court action.</p> <p>In my case, I won a Judgment for Unfair dismissal, Unlawful deductions in wages (5 months wages) and 'failure to inform and consult' and upon receiving the Judgment, the Judge advised an out of court settlement, which was reached and signed. At the time that the ACAS Cot3 Agreement was signed, (shortly afterwards it was revealed) the Employer/Respondent had substantial debts and had had for some time. When the Cot3 Agreement was not honoured, again I took legal advise and submitted an application to the high court for enforcement of the agreed payments. When the HCEO visited the Employer/Respondent's offices, an instalment schedule for payments was agreed. However, at the same time the Employer arranged the appointment of an Insolvency Practitioner and the Company was liquidated shortly afterwards. The Company Statement of affairs stated estimated debt of</p> <p>Even if I had proceeded to the Remedy Hearing and received the Tribunal Award, my former Employer (Respondent) would still have avoided the payments and proceeded with liquidation.</p> <p>Therefore, the Employment Tribunal resulted in 'empty justice' and there was no means for redress.</p> <p>Again, I took legal advise and the only recourse, would be to take further legal action in the courts which I was advised would be very costly (the costs, having already far exceeded the value of the claim) and even if I won, it would be still be very difficult to obtain payment.</p>

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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?	If the HMCTS enforcement improves user accessibility and support by a digital point of entry, it may encourage the process to be more transparent and prevent Employers being able to avoid payments due and make false misinterpretation regarding honouring the instalment orders. Also, it will help speed up the implementation of the HCEO process.
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?	If the HMCTS is digitally available, to the HCEO, this will speed up the enforcement process and the Judgment and records will be immediately online.
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?	The benefit will be that the process can be signed off digitally and speed up the process by a number of days.
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?	In my case, it would not have made any difference, whether I had taken the option to attend the Remedy Hearing or Sign the ACAS Cot3 Settlement agreement, the Employer/Respondent would have not honoured the payments and swiftly liquidated the Company a.
Do you have any further views on how the enforcement process can be simplified to make it more effective for users?	
When do you think it is most appropriate to name an employer for non-payment (issued with a penalty notice / issued with a warning notice/ unpaid penalty/ other)?	Issued with a penalty notice
Please give reasons	The most appropriate time would be to name an Employer for non payment upon issue of the penalty notice. However, currently upon receiving the award at a Remedy Hearing and ruling for payment within 42 days, the Employer/Respondent is able to arrange CVL and liquidation of the Company and therefore able to succeed to avoid payment of the monies due and the Employee has no means of redress without taking further legal action. Therefore, the 42 days allows this to happen.
What other, if any, representations should be accepted for employers to not be named	no known

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What other ways do you think government could incentivise prompt payment of employment tribunal awards?	A system of interest charges could be applied to prevent Employers delaying payments or avoiding payments altogether.
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 give reasons	If legislation sets out what types of breaches of employment law are considered an aggravated breach, the financial penalties imposed on the Employer may prevent the Employer from repeatedly breaching the employment laws. However, the financial penalty wi
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 give reasons	
Can you provide any categories that you think should be included as examples of aggravated breach?	See item 15. above.
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?	
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.	
How should a subsequent claim be deemed a "second offence"? e.g. broadly comparable facts, same or materially same working arrangements, other etc.	
Of the options outlined which do you believe would be the strongest deterrent to repeated non-compliance? a. Aggravated breach penalty b. Costs order c. Uplift in compensation	Uplift in compensation
Please give reasons	
Are there any alternative powers that could be used to achieve the aim of taking action against repeated non-compliance?	

