

## Response ID ANON-D3DV-X6N6-3

Submitted to **Good Work: the Taylor Review of Modern Employment Practices - Consultation on enforcement of employment rights recommendations**  
Submitted on **2018-02-10 15:50:47**

### About you

**What is your name?**

Name:

**What is your email address?**

Email:

**Which best describes you?**

An individual

**If other, please specify :**

**If you represent employers' or employees'/workers' interests, are you:**

Not Answered

**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, but without identifying information

**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?:**

Linked In

**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:**

I believe that they generally do, as I believe Employers of the majority of people do the right thing.

However, I am very aware, that there are many people who are exploited by Employers because they don't know their rights or don't know how to raise the discussion.

There are also a large number of Workers who aren't deemed to be Employees - for example Nannies / Au Pairs.

I often, approx. once a month refer people to acas or another organisation to get better information.

**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.:**

From my perspective, the problems are focused around those from minority and under-represented groups - BME, LGBT+ ect.

There is also a class issue, with those who have accents from poorer or less glamorous locations, being overlooked by employers who offer better benefits (or comply with the law), and therefore being pushed into bad employers.

They don't want to rock the boat and therefore won't speak up.

There is a group effect where everyone they work with is grateful to just have a job, they create a pride in their resilience and tell everyone else to keep their head down and bad employers benefit from the strong work ethic of those they exploit

### **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.:**

Education of their rights

Education in having difficult conversations

Disposable time & income to deal with the issue - it takes seconds for someone to violate your rights and years to fight it in court (covering out of pocket expenses and reduce income)

A watch-dog with teeth so when issues are raised something actually happens.

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

#### **Advantages:**

An even playing field - why should some business obey the law, and others get free labour from exploited workers.

Reduced tax - if Companies paid their workers correctly there would be less benefits and strain on services like the NHS.

Pride & Recognition - Clients & the public talk badly about Companies that exploit their workers or force them onto benefits. There is already positive recognition for companies who moved to the living wage earlier than required.

#### **Disadvantages:**

Paperwork

Often audits are completed by Junior staff as a tick-box exercise and you spend ages explaining that you are inside the box or do comply, because they don't have the expertise.

Bad companies would need to close (Its a disadvantage to them, but I don't see the down side for the UK)

### **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.:**

Take action in a timely manner

Teach kids their rights in schools

Ensure people from less wealthy areas and industries have access to both holding difficult conversations and the vocabulary to express themselves. It's amazing how quickly employers change their tune when an employee uses the correct jargon & terminology.

### **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:**

Because we are punishing the Employee.

It takes 2 seconds to exploit an employee, and years for they to drag it through tribunals and courts.

It's not rocket science, either the Employee is receiving the correct wages & benefits or they aren't. Make it easy and resolve it quickly.

### **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.:**

Don't have hundreds of log-in codes & passwords.

Ask questions in plain English, and only ask what you need to define if its worth investigating - the average member of the public should need a degree in Law to fill out the form.

Use software that responds to the users information (like a chatbot) to ask relevant questions & tease of the information required.

There needs to be a way to allow confidentiality for individuals while identify class-action / repeat offenders.

People not understanding their rights goes in both directions - underestimating & over estimating. Hold Webinars (live not recorded) or information nights to help people understand their rights and assess if they should be filling in the form at all. Get questions submitted in writing so they can be anonymised and not cause further issues.

This will get hardest in the Gig & Zero Hours industries. People need to understand whether they are actually employed, self-employed or 'ill-defined' (e.g. nannies).

**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.:**

Let employers opt-in to show they are doing the right thing.

This will start to narrow the field, and then you will have more resources.

There also needs to be clarity for Zero Hours Contracts & Gig economy workers. They are the most likely to work long hours for less than minimum wage and then not be able to define it as big corporations use legal teams to define the contracts and include hedged clauses.

**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.:**

Submission (Clear English, responsive to answer, short & concise)

Status updates - what's happening, and how can the Employee get more information

Education / Explainer videos - People feel empowered when they understand what is happening. As well as education on their rights, explain what you are doing the background so they know you are doing something.

There still needs to be some face to face / human interaction, but minimise this. Assume people were telling the truth the first time and don't ask the same questions repetitively. Instead clarify if it's still the same, if anything has changed.

Employees should be able to opt in for how they receive information of the outcome. They have probably had to change employer after contacting you or are on long term sick, let them choose how they receive results & conclusions.

**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.:**

Give the Employment Tribunal power to enforce themselves. Otherwise it's double handling.

If not, let the tribunal decide on where they go for enforcement. They will know from experience if it needs to go to the high court or not.

**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.:**

Punish the actually Managers & Directors who exploit their workers.

It's not about the 'Company' it's the decision makers within it, too often they slip away and leave someone else holding the problem.

Also, stop NDAs on Compromise & Settlement agreements. It makes it harder for the government to spot the patterns

**Establishing a naming scheme**

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

Unpaid penalty

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

After an unpaid penalty. I believe in punishing those who do the wrong thing, but those who are trying to comply need time to do so. Naming & Shaming people too early leads to public back-lash and then a domino effect.

Warnings are too early, it could have been a misunderstanding or a retro-dated response to the Gig / Zero Hours debate. Employers need time to adjust.

**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.:**

If there is a genuine reason for the unpaid fine - ie economic hardship.

It's easy to crucify the generic 'bad employer' but the reality is during the recession, many small businesses were doing everything they could to comply & stay

afloat in the hope they wouldn't have to close and fire they staff.

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

**Please type your response in the box below.:**

Charge interest

Monitoring / Audits from employment tribunal til 6 months after the fine paid. The faster they pay, the shorter the monitoring period.

**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:**

Yes - but the definition needs to be clear and not create more loop holes.

**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:**

This is an either / or question, not Yes or No.

**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.:**

**18 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.:**

Employees shouldn't have to re-live & be punished everytime and ex-employer breaches.

If the same claimants are in both breaches, then they should. If it's new claimants, an official rep from the old can should.

**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.:**

The Mangers / Directors - even if they move companies!

If it's the same offense for the same version of the law - ie not if the law has been updated

Don't make this purely about Employees / claimants.

In other parts of the law a serial offender is defined by the offender breaking the law, not if they have the same victim.

**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.:**

Comparable facts

Methodology of offense - ie are they systematically trying every loop hole

Comparable impact on Employees - regardless of how they did it, what are the negative impacts on others

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

Aggravated breach penalty

**Please explain the reasons for your answers:**

While the penalty should increase for each breach, it shouldn't automatically go to employees impacted.

**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.:**

Social Service - make the Managers / Directors work for free and contribute to the society they are exploiting and taking from.