

Response ID ANON-D3DV-X6NH-N

Submitted to **Good Work: the Taylor Review of Modern Employment Practices - Consultation on enforcement of employment rights recommendations**
Submitted on **2018-03-27 16:07:29**

About you

What is your name?

Name:

What is your email address?

Email:

Which best describes you?

Other

If other, please specify :

Employee and trade union convener

☒ **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?

No

(optional) How did you hear about this consultation?

Where did you hear of this consultation?:

☒ Email from elsewhere

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:

Statutory rights and employer schemes

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.:

There are whole sectors where pay and terms and conditions are poor and where people are unable to easily exercise their employment rights such as the care sector, the hospitality and retail sector, and for young people.

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.:

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

Advantages:

The existence of enforcement is important because it helps prevent the worst abuses and can be used if an employer treats people in an unacceptable way.

Lots of research has shown that when people are treated well, supported, developed etc they perform better and businesses reap the reward.

Disadvantages:

Very complex and always having to be tested through case actions because so few UK businesses naturally see the benefits of paying and treating their employees fairly. The recent changes which have reduced access to legal aid for employees has not helped further enforcement and has let bad employers know no one will come after them.

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.:

Make it a legal obligation for all employers to provide employees with a copy of their contract and employee handbook which outlines the employer's policies and procedures within 14 days of their commencement date.

Whenever an employer wishes to alter a significant term or condition employees should then be entitled to a written communication which is a variation to an existing contract.

Time needs to be tightened - employers taking on staff often begin reducing rights and pay from the day after people have transferred and this is unfair and often causes significant reductions in pay and treatment.

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 should be simple enough so that an individual could have a fair chance of winning without legal representation.

The timescales and involvement of ACAS makes disputes and complaints very complicated. This also needs to be simplified to address the real imbalance for employees.

There should be a body which enforces judgements against employers who fail to follow up on the advice of a tribunal and there should be provision for legal re-instatement for people who are dismissed unlawfully and unfairly.

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.:

Keep it simple and remember that not everyone has digital access.

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.:

Keep it in plain English so that a lay person can bring their own complaint and not require the special and costly involvement of solicitors.

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.:

See above

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.:

Yes in general

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.:

Make it fairer and ensure employers understand that unacceptable behaviour is not condoned.

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.:

Pending the outcome of cases.

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

Please type your response in the box below.:

Use of Bailiffs which can be used for people who can't afford Council Tax so businesses should not get any level of more favourable treatment where they fail to pay.

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?

JS

Please explain your answer:

Otherwise the law has no teeth

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.:

Discrimination, harassment and bullying, unfair and unlawful dismissal, failure to make reasonable adjustments for disabled people, assault by a third party where an employer has failed to take reasonable steps to protect the employee.

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.:

No views on this other severity and where company's record is very poor.

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.:

Failure to improve policies, practices and to act upon the courts advice

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.:

What would be reasonable for the employee to bring

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:

Also naming and shaming

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.:
Imprison the directors?