



HM Government

Executive Summary: United Kingdom Labour Market Enforcement Strategy 2019/20

Director of Labour Market Enforcement

David Metcalf

July 2019



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of the Immigration Act 2016

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Executive Summary

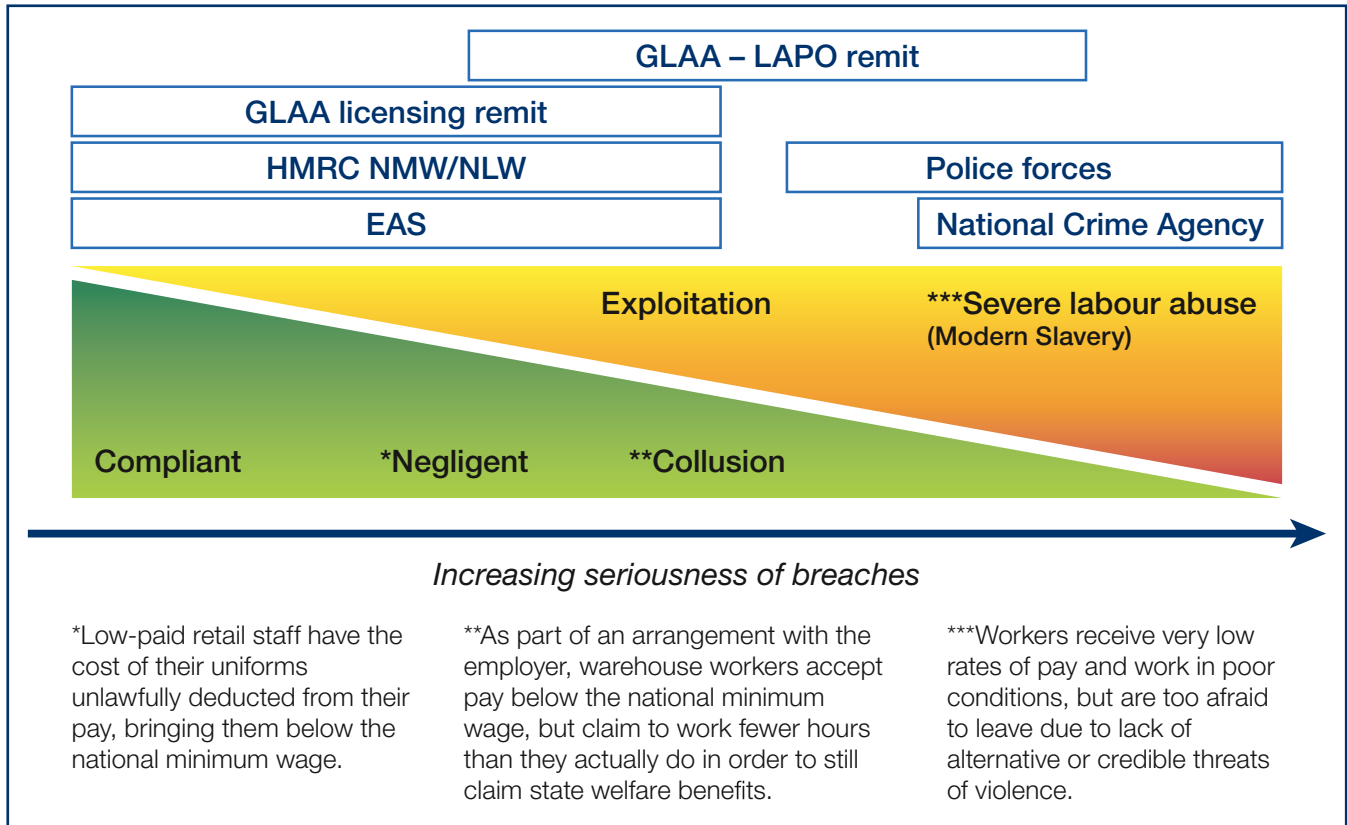
1. Introduction

This Executive Summary document provides an overview of the 12 broad recommendations that I make in my 2019/20 Labour Market Enforcement (LME) Strategy. Each of these recommendations is set out in the relevant sections below, alongside indicative timeframes for implementation for the bodies and/or departments responsible for taking these forward, subject to Government accepting these recommendations.

I was appointed the first Director of UK Labour Market Enforcement (DLME) in January 2017, following the introduction of the Immigration Act 2016. My role was established to bring together a coherent assessment of the extent of labour market exploitation, identify routes to tackle exploitation and harness the strength of the three main enforcement bodies: HM Revenue and Customs National Minimum Wage (HMRC NMW), the Gangmasters and Labour Abuse Authority (GLAA) and the Employment Agency Standards (EAS) Inspectorate.

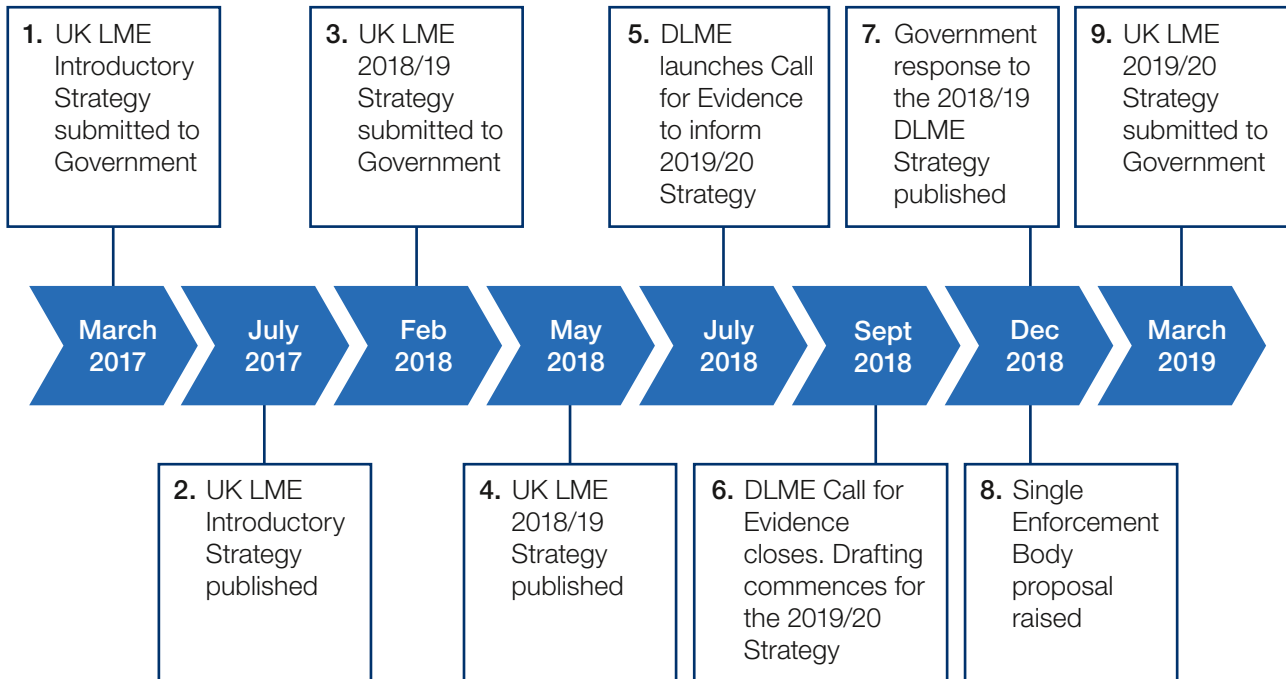
My remit spans the whole of the compliance spectrum, from relatively minor underpayment of NMW all the way through to serious labour exploitation within modern slavery.

Figure 1: The compliance spectrum



Under the terms of the Immigration Act 2016, I am required to deliver an annual (LME) Strategy. This document is my second full LME Strategy.

Figure 2: Timeline of DLME milestones

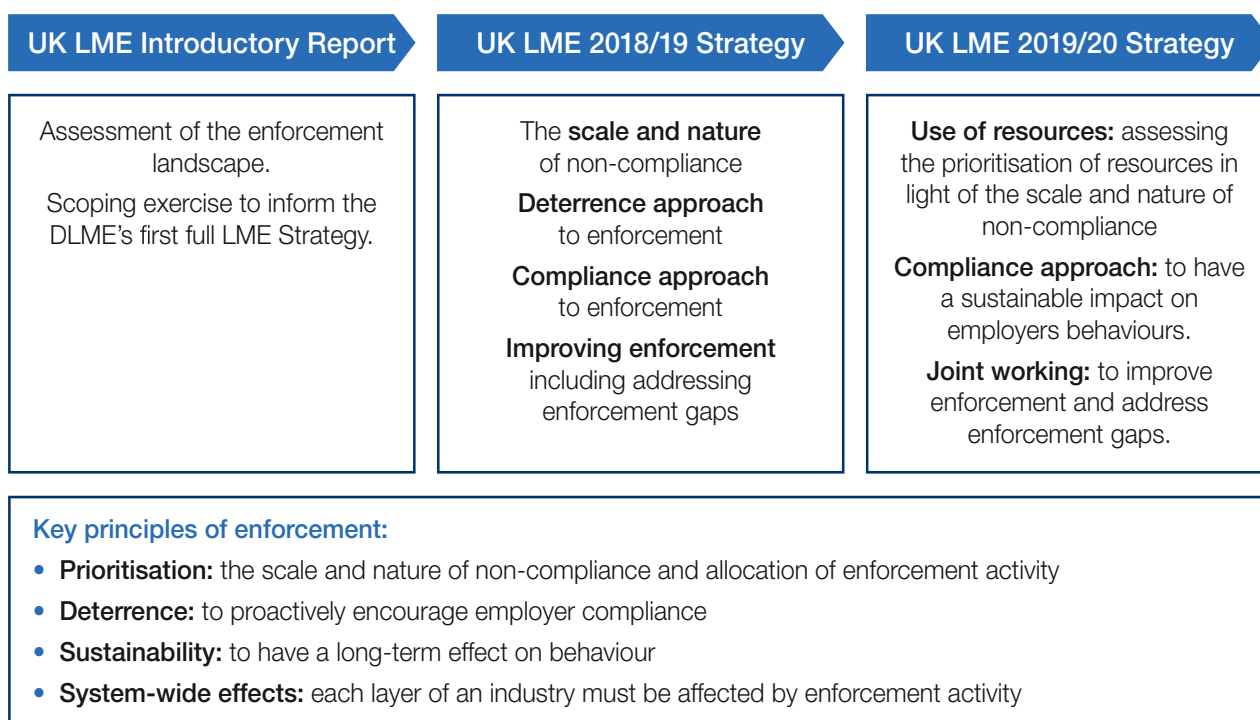


1.1 The 2019/20 UK Labour Market Enforcement Strategy

The requirement to deliver an annual LME Strategy necessitates a careful balance between setting a direction of travel that is largely consistent over time yet being flexible enough to give sufficient attention and weight to new and emerging issues in labour market enforcement.

This is what I have aimed for with this year's Strategy (see Figure 3 below). Whereas my 2018/19 Strategy was higher level, focusing on broader issues and principles, this 2019/20 Strategy is more technical in approach.

Figure 3: Content of DLME Strategies to date



In summer 2018 I issued a Call for Evidence to inform this 2019/20 Strategy. It elicited 32 written submissions. My Office and I also held around 50 stakeholder meetings across England, Wales and Northern Ireland and four sector-specific roundtables to garner further input, before sifting all this evidence in autumn 2018 to form the foundations of this report.

A draft of this Strategy was therefore well advanced, when, in December 2018, the Government announced its intention to consult on the idea of a **single labour market enforcement body** in 2019. A possible move towards a single body deserves careful thought and consideration, with a clear set of aims, a thorough trawl of the evidence and a solid understanding of the costs and benefits. While I touch on some of these fundamental questions in this Strategy, my intention is to respond comprehensively to the Government's consultation once it has been launched.

This Strategy considers enforcement within the context of the *current* enforcement system, that is HMRC NMW, GLAA and EAS, although it does highlight where some of the recommendations I make should be considered further as part of the discussion around creating a single enforcement body.

Building on my previous work, the 2019/20 Strategy considers three cross-cutting themes in greater detail: **use of resources**; the **compliance approach to enforcement**; and the **role of joint working** between the enforcement bodies and beyond. This was supplemented by more in-depth examination of the nature of non-compliance in three of the sectors identified by my Office in 2018/19 as being at greatest risk of labour exploitation: hotels, restaurants and warehousing.

Strategy Part One

2. Strategic intelligence assessment

The role of the DLME's Information Hub, as set out in the Immigration Act 2016, is to “gather, store, process, analyse and disseminate information relating to non-compliance in the labour market”. As in my 2018/19 Strategy, the Information Hub has produced a strategic intelligence assessment, providing an overview of current labour market enforcement issues and potential future threats. The assessment is based on information shared by the enforcement bodies, stakeholders and partners, providing a holistic view across the spectrum of non-compliance and exploitation. This ranges from non-payment of the NMW resulting from technical errors or misinterpretation of guidance, to deliberate non-compliance and, in the most severe cases, modern slavery.

The sectors contained within this year's strategic intelligence assessment are largely consistent with those identified as key risks in the 2018/19 Strategy. There have, however, been a few notable changes to how we have assessed the threat:

- Hospitality covers a range of service sectors, most prominently hotels, restaurants and cafés. The latter two were previously assessed separately alongside fast food. However, the threats are now assessed to be more in line with those seen in the wider hospitality industry.
- Intelligence assessments during the year indicate that the threat linked to warehouses and distribution centres is inherently different to that seen in factories. The latter has therefore been removed and assessed separately.

The table below presents a high-level view of the key risks, ranked in order of decreasing severity, which emerged from the most recent assessment.

Table 1: Sectors identified as key risks of labour exploitation

Sector	Threat description
Car washes	Vulnerable workers are being exploited, in some cases indicative of modern slavery. Many more in the sector are also not receiving NMW.
Agriculture	Vulnerable workers are being exploited, in some cases indicative of modern slavery. Many more in the sector are also not receiving NMW.
Care	Many workers in the sector are not receiving NMW.
Construction	Vulnerable workers are being exploited, in some cases indicative of modern slavery. Workers in informal construction, such as home improvement projects, are also not receiving NMW.
Hospitality	Vulnerable workers are being exploited, in some cases indicative of modern slavery. Many more in the sector are also not receiving NMW.
Shellfish gathering	Unlicensed activity and illicit gathering from closed beds present opportunities for exploitation to occur.
Nail bars	Vulnerable adults, and in some cases children, are being exploited. In some cases, this is indicative of modern slavery.
Poultry and eggs	Some workers in the sector are not receiving NMW. Two major poultry suppliers have had licences revoked by GLAA during the past year.
Warehouses and distribution centres	Vulnerable workers are being exploited, in some cases indicative of modern slavery. Many more workers in the sector are not receiving NMW.

3. Prioritisation of enforcement resources to protect the most vulnerable workers

The principal focus for each enforcement body is the worker and how their rights can be protected under the legislation.

Assessing whether the bodies are delivering on these objectives requires three essential pieces of information:

- **understanding the issue by identifying the degree of non-compliance** and how it manifests itself;
- **prioritising and targeting enforcement resources** to those areas of non-compliance that are deemed to be most at risk; and
- **monitoring and evaluating enforcement priorities and actions** to understand whether they are successful or not.

Considering the evidence, I conclude that **all three bodies still have some way to go to fully align their activities with their underlying remit**. Success is measured in terms of more cases, more workers assisted and more money recovered, with **no sense of how their efforts are contributing more broadly to tackling the fundamental issue at hand: reducing employer non-compliance and thereby improving the lot of workers overall**. Similarly, the bodies – and their sponsoring departments – could do more to understand whether the interventions they are making are indeed the right ones.

For HMRC NMW, my assessment is that **too much resource is being focused on the lower hanging fruit**. Although total arrears identified and numbers of workers assisted reached record levels in 2017/18, this was primarily due to 10 ‘big’ cases where average arrears per worker

was only £64, suggesting more ‘technical’ NMW breaches were being picked up.¹ Closed case volumes are well below levels seen a decade ago, despite a significant increase in resources in recent years.

There is clearly a trade-off here: intervening in larger, more complex cases to assist greater numbers of workers also entails **the risk that more serious non-compliance affecting a smaller number of workers is not being tackled sufficiently**. I would therefore like to see a realignment of resourcing towards these greater risks, coupled with **a culture of monitoring and learning to improve enforcement efforts over time**. I believe the recently revised Service Level Agreement between the Department for Business, Energy and Industrial Strategy (BEIS) and HMRC NMW is a step in the right direction, although it will need to be properly reviewed in due course.

For GLAA, stakeholders raised concerns about too great a focus on its modern slavery remit. I share these concerns and wish to see stronger evidence for my next Strategy about how risks in two of its four regulated sectors – shellfish gathering and agriculture – are being managed.

I endorse the previously announced plan by Government to review GLAA licensing fees. Full financial self-sufficiency needs to be regained as soon as possible and I find it unacceptable that the taxpayer is footing half of this bill at the moment.

It is too soon to fully assess the impact the GLAA Labour Abuse Prevention Officers (LAPOs) are having. GLAA should be praised for recruiting and training its cadre of LAPOs, but inevitably they only reached full complement by autumn 2018. For now, I concur with the recent assessment by HM Inspectorate of Constabulary and Fire and Rescue Services which recommended that GLAA strengthen its capabilities and organisational development. Like them, I would hope to see a marked increase in modern slavery prosecutions going forward as the full number of LAPOs become operational. Their contribution will be vital as referrals for labour exploitation now exceed those for any other category of modern slavery.

For EAS, over the past 10 years, the (increasing) volume of agencies and agency workers has been going in the opposite direction to the (decreasing) level of enforcement resources. The extra inspection capacity (five further officers) agreed last year does not go far enough: much more resource is needed in order for EAS to do its ‘day job’. Now that EAS is also taking on enforcement of those working through intermediaries (umbrella companies), plus the emerging risks from online and app-based recruitment, this has led me to conclude that EAS resourcing needs to be doubled from its 2018/19 levels.

A core message running throughout this Strategy is that much more should be done to research the **scale and nature of non-compliance** (one of my obligations under the Immigration Act 2016) and to robustly **evaluate the impact of the work of the bodies**. The scoping studies I commissioned in 2018 suggest a way forward here and I now look to Government to support further work. Building the evidence base in this way can facilitate better decision-making at both a policy and enforcement level and, ultimately, lead to a strengthening of worker protections in the UK.

The three enforcement bodies rely to a varying extent on **individual complaints rather than proactive investigations**. The fact that rates of union membership and collective bargaining have declined considerably in recent decades means that **the role of the worker is now central to the enforcement of labour laws**. There has been a marked shift to a model of employment rights being predominantly enforced on an individual rather than collective basis.

In such a landscape, it is paramount that all workers are:

¹ While I recognise that employment regulations make no distinction between types of breaches, I will refer to infringements relating to errors in accounting for, interpreting and calculating the more technical and complex aspects of the NMW regulations (e.g. deductions from pay, accommodation offset, uniform payments, etc.) as ‘technical breaches’. Often, but not always, these types of breaches will be unintentional.

- aware of and up to date with the employment rights and legal protections afforded to them;
- able to recognise where the law has been breached with regard to their own employment; and
- aware of the channels to seek advice and redress for any violations.

Building upon the recommendations around promoting worker rights in my 2018/19 Strategy, accepted by the Government in December 2018, I believe that more can be done to provide clear and accessible information to the most vulnerable workers.

The focus of the bodies should be on **ensuring that workers have both the available information and the opportunity to voice their concerns directly**, but it is also important to make provision in the system for complaints and information provided through third party or anonymous sources.

Furthermore, it is important that **workers are not deterred from raising a grievance with their employers and have adequate support to be able to do so**. I believe that it is also important **for employers to address multiple grievances where appropriate**, to help neutralise the balance of power in the worker–employer relationship and address issues in the most efficient means possible.

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Prioritisation of enforcement resources to protect the most vulnerable workers					
1. All three bodies should develop a better understanding of existing and emerging labour market non-compliance threats and better align their resourcing to tackle these.					
BEIS/Home Office	a. I recommend that Government support me in meeting my obligations under the Immigration Act 2016 by providing the necessary investment to undertake robust research in 2019/20 into measuring the scale and nature of non-compliance in the labour market.				Yes – fundamentally
HMRC NMW/BEIS	b. I recommend that, regarding HMRC NMW's prioritisation of cases, HMRC NMW/BEIS focus their enforcement efforts further along the non-compliance spectrum, thereby seeking to tackle more serious cases.				Yes
HMRC NMW	c. I recommend that HMRC NMW review the role and effectiveness of its strategic intelligence functions with a view to integrating with, and thereby strengthening, its risk modelling and hence improving the effectiveness of targeted enforcement.				Yes
GLAA	d. In time for my 2020/21 Strategy, I recommend that GLAA provide stronger evidence of managing risk in the shellfish gathering and agriculture sectors. GLAA should also undertake more unannounced visits of labour providers across the regulated sectors as a whole to identify unlicensed operators.				No
BEIS/EAS	e. I recommend that BEIS lead a comprehensive review of the threat to labour hire compliance from online and app-based recruitment. This should build on the work carried out to date by EAS and SAFERjobs, but involve other partners (for instance, drawing on data analytics expertise and wider government interests in online policy). This review should be completed by the end of 2019 with findings to feed into my 2020/21 Strategy.				No
2. All three bodies need to better understand how their interventions impact on reducing labour market non-compliance.					
All bodies with DLME	a. Following this first phase of work to evaluate the impact of the work of the labour market enforcement bodies, I recommend that all three bodies commence a programme of evaluation work, beginning with discrete evaluation of specific compliance and enforcement interventions in the short term, with a view to considering wider impact evaluation in the longer term once better measures of labour market non-compliance have been developed.				Yes
BEIS	b. The deterrent effect of the current NMW penalty multiplier should be assessed and I recommend that BEIS commission an independent evaluation to report by the end of 2019. This could potentially lead to a reconsideration of the case for supporting the raising of penalties in the future and/or increasing enforcement resources across all three labour market enforcement bodies.				Yes

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Prioritisation of enforcement resources to protect the most vulnerable workers					
3. In terms of resourcing for the three bodies:					
BEIS	<p>a. I recommend that EAS resourcing in 2019/20 be at least doubled from its current staffing levels:</p> <ul style="list-style-type: none"> to effectively carry out its business-as-usual work; to provide a dedicated analysis resource to maximise the benefits of its new case and intelligence management system; and to properly undertake the additional enforcement work given the expansion of EAS's remit to enforce umbrella companies. 				No
HMRC NMW	b. I recommend that HMRC's funding for NMW enforcement be increased in line with inflation and that, from 2019/20, HMRC NMW better demonstrate the cost-effectiveness of its suite of triaging interventions.				No
GLAA	c. I recommend that funding for GLAA also be increased in line with inflation. Furthermore, GLAA should achieve financial self-sufficiency for its licensing scheme by the end of 2022.				No
4. I recommend that the enforcement bodies continue to improve awareness of worker rights and complaints channels.					
All bodies	a. I recommend that the three bodies further develop strategies to target and improve the awareness of employment rights, particularly for vulnerable, at-risk and hard-to-reach communities.				No
BEIS/HMRC NMW	b. I recommend that BEIS and HMRC establish and promote an information-sharing protocol for third party information.				No
BEIS	c. I recommend that Acas (the Advisory, Conciliation and Arbitration Service) may wish to review the statutory Code of Practice on grievance procedures, in consultation with key stakeholders, to create practical guidance for collective as well as individual grievance processes.				No

4. Helping employers get it right

I considered the compliance approach as part of my 2018/19 Strategy, which broadly reflected the concerns of stakeholders regarding guidance and interactions with the three enforcement bodies within my remit. I am pleased that the majority of the compliance recommendations were accepted by the Government in December 2018. More, however, needs to be done to build upon this.

Compliance theory centres on the premise that a primary approach for improving compliance with the law is to educate employers about their legal obligations by providing adequate information and assistance. By **clearly communicating what is expected of employers and providing detailed advice and guidance on how to fulfil their duties**, it should become almost impossible for an employer to ‘accidentally’ breach the law.

As I set out in my 2018/19 Strategy, there is a trade-off between the level of enforcement resources (and the ensuing likelihood of an inspection for each employer) and the size of the financial penalty that an employer might face if found to be non-compliant. Noting the Government’s rejection of my 2018/19 recommendation to increase civil penalties at this time, it would seem logical that greater emphasis must be placed on increasing efforts and resource to facilitate greater compliance in the meanwhile. Bolstering the guidance and support offered to employers should also reduce the number of inadvertent breaches and free up resources to be used in targeted enforcement in order to tackle more serious non-compliance.

A focus on compliance and education is key throughout the process of enforcement and **this strand of work should be considered a priority for the three bodies**. This section will consider how to bolster the compliance strand of HMRC NMW, GLAA and EAS, along with their sponsoring departments BEIS and Home Office, to better support and educate employers.

The three main themes considered in this section are:

- **improving the guidance to clarify the regulations**, including considering a review of the available guidance to improve the support offered to employers, labour providers and employment businesses. This section covers gaps in the guidance for various ‘technical’ areas of the regulation;
- the **approach taken by enforcement officers**, including how to improve the consistency of their interpretation and application of the law, providing greater clarity and transparency for employers; and
- **supporting business compliance through awareness-raising and education**, including the promotion of changes to the regulations, awareness-raising campaigns and better targeting of educational messaging aimed at employers.

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Helping employers get it right					
5. The three bodies should conduct a full review of the guidance to clarify the regulations and improve the support offered to employers, labour providers and employment businesses.					
All bodies	a. I recommend that the three enforcement bodies look to produce and update their guidance in closer collaboration with trade associations and trade unions.				No
All bodies	b. I recommend that the three bodies do more to coordinate the guidance and subsequent messaging between themselves, where there is overlap of issues.				No
All bodies	c. I recommend that the three enforcement bodies draw upon examples of good practice beyond their remit to consider introducing a toolkit of interactive online compliance tools and additional guidance resources.				No
BEIS	d. I recommend that BEIS review and consolidate guidance on NMW/NLW with HMRC enforcement to create a single, comprehensive and overarching guidance document. An evaluation of the impact of this guidance should be undertaken two years from its introduction.				No
HMRC NMW/BEIS	e. I recommend that HMRC and BEIS focus on sector-specific naming rounds coupled with an education campaign to maximise the impact of naming and to raise awareness. At the same time, in order to expose the most serious NMW/NLW infringements, the cut-off for naming should be on the basis of average arrears per worker per employer and the threshold set at average arrears in excess of £500.				No
HMRC NMW/BEIS	f. I recommend that BEIS, with input from HMRC enforcement, produce supplementary sector-specific advice booklets for those sectors where trends of certain types of breaches emerge or where the regulatory landscape is particularly complex (i.e. such as issues around uniform deductions within retail and hospitality, pay averaging, salary sacrifice, etc.).				No
6. HMRC NMW should improve the consistency of its caseworkers' interpretation and application of the NMW regulations by:					
HMRC NMW	a. Providing additional training on how to interpret and apply the legislation, particularly for emerging problem areas for underpayment, such as uniform deductions.				No
HMRC NMW	b. Reviewing and improving the internal operational guidance offered to caseworkers by the Professionalism, Learning and Guidance team (PLG) as the first point of contact to clarify the regulations and operational application. This should be carried out in tandem with the review of external guidance for employers.				No
HMRC NMW	c. Conducting independent audits of a sample of enforcement activity to ensure that application of the regulations and outcomes are consistent. This could build upon the PLG's current work to conduct quarterly moderation on Key Stage Indicators for the NMW Management Board. Audit findings should be used to inform and improve internal operational guidance.				No

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Helping employers get it right					
HMRC NMW	d. Assigning caseloads to inspectors by specialism to develop sector- and issue-specific expertise, as far as is practicably possible within resourcing constraints, to improve the quality of interactions and achieve better consistency.				No
7. I recommend that BEIS review and consult on the following sections of the NMW regulations, to consider issues regarding their practical application and operation.					
BEIS	a. Record-keeping requirements: to set out the minimum requirements needed to keep sufficient records and to extend the time period for which employer records must be kept, to align with the period of liability under the National Minimum Wage Act 1998.				No
BEIS	b. Deductions for the benefit of workers: to review the regulations underpinning deductions from pay, to consider how best to enable low-paid workers to access genuine, non-cash workplace benefits within the scope of the NMW provisions.				No
BEIS	c. Pay averaging: under current regulations pay can be averaged in some circumstances but not others, but there is no clear policy rationale for this.				No
BEIS	d. Clarifying issues around uniform payments, working time and time recording, salary sacrifice and pension schemes.				No
8. To promote compliance with the regulations, I recommend that the enforcement bodies increase the volume of awareness-raising campaigns and improve the targeting of educational messaging aimed at employers.					
All bodies	a. I recommend that the bodies promote and advertise all changes to the regulations and guidance, to set clear expectations against which to enforce. I appreciate that this activity should be proportionate to the scale and impact of the changes.				No
All bodies	b. I recommend that the bodies, particularly GLAA and EAS, consider how to promote and insert their messaging across wider government communications, such as through GOV.UK's 'step by step' guide for new employers.				No
All bodies	c. I recommend that the bodies look to use The Pensions Regulator's approach to distributing educational material as an example of best practice, such as by producing similar newsletters and bulletins for employers on a regular basis. In particular, more use should be made of case study examples to highlight both good and bad employer behaviour as a practical guide to compliance.				No

5. Using joint working to tackle more serious and persistent non-compliance in the labour market

It remains the case that an integrated, multi-agency approach is often needed to tackle labour market exploitation. However, I understand that joint working must be justified, particularly when considering the resource-intensive nature of joint operational activity. This section therefore places greater emphasis on the benefits and importance of intelligence-sharing. Effective and timely sharing of intelligence can lead to more targeted enforcement and therefore more effective use of operational resource.

I argue that the bodies should use joint working to tackle more serious and persistent non-compliance, and identify four broad themes on which the bodies should focus:

- **reviewing existing intelligence processes and legal gateways** in order to adopt a more proactive approach to intelligence-sharing and to improve the efficiency of their joint operational activity;
- **aligning enforcement activity within DLME-defined priority sectors**, considering how best to use shared powers and improve strategic understanding of threat, risk and harm;
- **considering opportunities to engage further in joint working with wider partners**, with particular focus on tackling recidivism and deliberate non-compliance; and
- **conducting robust evaluation** of joint working in order to understand the value of such initiatives and where intelligence and operational resources can best be utilised in further work.

5.1 Intelligence-sharing

It is widely recognised that enforcement activity cannot rely on responding to worker complaints alone. I previously recommended a shift to a more proactive enforcement approach due to its value in uncovering violations, but also due to its *“substantial deterrent effect, especially among businesses in the same region and industry of the inspected workplace”* (see DLME 2018/19 Strategy). **One way to develop this proactive approach is through better intelligence-sharing to inform the bodies’ risk-modelling processes and, ultimately, their targeted enforcement.**

While intelligence, operational activity and research findings suggest the presence of multiple violations, the extent to which labour market non-compliance occurs alongside other issues or offences is not currently known. Developing intelligence in this area would help to improve understanding of these issues and ultimately inform the response. Intelligence held by wider partners should play a crucial role in identifying such instances of multiple violations and developing a richer intelligence picture.

5.2 Joint working between the enforcement bodies

While progress has been made in terms of operational joint working between the bodies, there remain limits to a joint operational approach in its current form. The most effective use of resources in terms of joint working between the three enforcement bodies is on occasions where there is a shared strategic priority, for example within a particular sector. In these instances, benefit is seen in the intelligence-sharing and risking process to inform operational activity, enabling the bodies to build the intelligence picture and identify gaps in their knowledge.

I have recently revised the Labour Market Enforcement Board (LME Board), which will now consider joint working as part of its wider function. This will be supported by two sub-groups: the Strategic Coordination Group (SCG), and the Evidence and Analysis Group (EAG). This structure will play a crucial role in supporting my aim of better aligning enforcement activity between the bodies within DLME priority sectors.

5.3 Joint working with wider partners

My 2018/19 Strategy discussed the potential benefits of the enforcement bodies developing relationships with established strategic partnerships. Such groups tend to focus primarily on modern slavery and present opportunities to form effective relationships within this remit. It is also important that the bodies form relationships aimed at tackling wider non-compliance. Existing local, regional and national initiatives and anti-slavery networks are also one mechanism for this, as there may be instances whereby exploitation cases will not always meet the modern slavery threshold but still involve other aspects of labour market non-compliance.

Beyond these formal partnerships, and given the potential for multiple violations, I argue the importance of maximising the use and effectiveness of different agency powers. I also discuss the value of joint working with local authorities and sector-specific partnerships and am encouraged by some extremely positive initiatives and examples of effective intelligence-sharing and joint working.

5.4 Evaluation

The need for monitoring and improvement across the three bodies is also directly relevant when considering joint working at the operational or project level, both between the three bodies and with wider partners. **Assessment of the effectiveness of joint working is limited by the current lack of robust evaluation.** While I very much support joint working, I understand the bodies' concerns that it must be justified. Its impact is often difficult to assess, and benefits may not always be immediately apparent.

Similarly, evaluation of the impact of enforcement efforts upon non-compliance is essential in order to inform future enforcement activity. While the enforcement bodies conduct some degree of evaluation or debriefing of operations, this does not include formal and consistent evaluation of joint working. Robust evaluation will help the bodies to understand the value of joint working initiatives and where intelligence and operational resources can best be utilised in future work.

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Using joint working to tackle more serious and persistent non-compliance in the labour market					
9. I recommend that the three enforcement bodies review existing intelligence processes and legal gateways in order to adopt a more proactive approach to intelligence-sharing and to improve the efficiency of their joint operational activity.					
All bodies	a. I recommend that the three bodies and sponsor departments review the joint working Memoranda of Understanding as a priority to ensure that the intelligence flow and subsequent tasking processes are operating as effectively as possible.				No
GLAA/EAS	b. I recommend that intelligence-sharing between GLAA and EAS is improved as a matter of priority.				No
HMRC NIMW	c. I recommend that HMRC consider how to better identify relevant intelligence at the start of the intelligence triage process in order to optimise opportunities for targeted enforcement.				No
All bodies	d. I recommend that the three bodies develop an understanding of the extent to which offences within their remit occur alongside other violations and where non-compliance is deliberate. This will involve further developing of relationships with law enforcement and other government departments in order to identify and access relevant data sources.				Yes – partially
All bodies	e. I recommend that the bodies proactively share information on Labour Market Enforcement Undertakings/Orders with the Insolvency Service in order to inform their targeting decisions and potentially streamline their investigations.				No
10. The three enforcement bodies and sponsor departments should work with my Office to align activity within the DLME-defined priority sectors, consider how best to use shared powers and improve strategic understanding of threat, risk and harm.					
All bodies	a. I recommend that the bodies and my Office consider how to use the Evidence and Analysis Group, Labour Market Enforcement Board and Strategic Coordination Group respectively, to identify, agree and facilitate joint activity in the sectors on which the Director recommends the bodies focus. This process should, of course, allow for the fact that not all sectors will be relevant to all bodies.				No
All bodies	b. I recommend that the bodies establish how best to utilise Labour Market Enforcement Undertaking/Order powers jointly in order to address non-compliance across the whole spectrum of offences.				No

Body	Recommendation	Delivery: 1 year	Delivery: 2 years	Delivery: 3+ years	Relevant to single body?
Using joint working to tackle more serious and persistent non-compliance in the labour market					
11. The three enforcement bodies should consider how they can engage further in joint working with wider partners, with particular focus on recidivists and deliberate non-compliance.					
All bodies	a. I recommend that the three bodies engage with strategic partnerships and anti-slavery networks.				No
All bodies	b. I recommend that the three bodies explore how different agency powers can be used collectively to support sustained and long-term disruption of non-compliance, with a focus on recidivists and deliberate offenders.				No
All bodies	c. I recommend that the three bodies further engage with local authorities to ensure that their inspectors have the necessary information to identify the signs of non-compliance and the channels through which to share actionable information in return.				No
All bodies	d. I recommend that the three bodies work more closely with local authorities to tackle labour market non-compliance and exploitation, particularly in those sectors not within HSE's enforcement remit, such as warehousing.				No
12. I recommend that the three enforcement bodies conduct robust evaluation of joint working in order to understand the value of such initiatives and where intelligence and operational resources can best be utilised in further work.					
All bodies	a. I recommend a full evaluation of the Leicester pilot in order to understand what works and whether this is a good model for elsewhere.				No
All bodies	b. I recommend that the three bodies establish success criteria at the start of operational activity, evaluating immediate outcomes through processes such as multi-agency debriefs as well as monitoring of the longer-term disruption effect.				No
All bodies	c. I recommend that the three bodies conduct ongoing evaluation of the impact of Labour Market Enforcement Undertakings/Orders, both in terms of immediate outcomes and the longer-term disruption effect.				No

Strategy Part Two

6. Sector studies: warehousing and hospitality

Both warehousing and hospitality (hotels, restaurants and food services) were identified as high-risk sectors for labour abuse in my 2018/19 Strategy.

I therefore undertook a 'deep dive' into these sectors for my 2019/20 Strategy. This was informed by meetings with stakeholders and site visits; three sector-specific roundtables with representatives from business, trade unions and government; and bespoke analyses of available data, information and intelligence produced by my Information Hub. My Office also commissioned three independent research projects into the hotels, restaurant and food service sector (collectively referred to as 'hospitality' hereon) and the warehousing sector to provide a better understanding of how these sectors have been affected by the fissuring of the worker-employer relationship in the past 10 years. Prior to these projects being undertaken, there was limited available research focusing on these issues in these sectors. As such, this commissioned research has proven to be a valuable addition to the evidence base. These research papers are each published in full alongside this Strategy.

The current trends and levels of non-compliance and exploitation within the warehousing and hospitality sectors have gone hand in hand with profound changes to the labour market which were identified and discussed in my 2018/19 Strategy.

Both warehousing and hospitality are highly competitive and businesses within these sectors are facing increasing cost pressures, impacting on the pay and conditions for workers. These pressures are further exacerbated by the fissured nature of the employment relationship within these sectors. My 2018/19 Strategy addressed several enforcement gaps where labour market enforcement could be improved, and I await the implementation of the proposals contained in the Government's response to these with interest.

Exploitation in these and many other sectors is further aggravated by a lack of understanding of employment rights and complaint channels. Coupled with a lack of clarity in workers' contracts and even their employment relationship, this can make it difficult for the enforcement bodies to detect non-compliance. Again, I made several recommendations in my 2018/19 Strategy around promoting worker rights, supporting awareness and access to enforcement, and I am pleased that the Government has accepted the majority of them.

Efforts to tackle exploitation in these sectors must include efforts to:

- **increase workers' awareness** of their rights, and complaint channels, particularly noting the vulnerability of the workforce in both sectors;

- **improve the relationship between the enforcement bodies** responsible for labour provision (EAS and GLAA);
- improve enforcement across the spectrum of non-compliance by **working with organisations outside of the Director's remit** to bolster targeted/proactive enforcement; and
- perhaps most importantly, it is vital that the enforcement bodies **improve their understanding of the strategic risk in these sectors in order to make the most effective use of targeted enforcement.**

Lastly, I reiterate the argument made earlier that there remain considerable gaps in understanding the scale and nature of labour market non-compliance, both generally and within sectors such as these, as well as the impact of enforcement efforts to tackle it. The answer here has to be investment by Government, seeking to improve understanding of the issues in the UK labour market and the extent to which interventions by the state enforcement bodies are making a difference. Building the evidence base in this way should facilitate the most efficient prioritisation of enforcement resources and, ultimately, strengthen worker protections.

Strategy Part Three

7. Office of the Director of Labour Market Enforcement workplan 2019/20

The approach that I have taken to this Strategy has been much more detailed and is what I would deem to be more ‘technical’ than in my previous Strategy for 2018/19.

As my team and I were much of the way through researching and drafting the content of this Strategy by the time I received the Government’s response to my 2018/19 Strategy, it was inevitable that many of the same issues were raised by stakeholders. This has, however, enabled my Office to investigate these issues in greater detail.

Looking ahead to 2020/21 and the work on which the Director’s Office will focus, our next steps include:

- helping to ensure a timely response to, and implementation of, the 2019/20 LME Strategy;
- gathering evidence for and preparing my Annual Strategy for 2020/21;
- strengthening the LME Board and supporting structures to further build the evidence base and our understanding of labour market enforcement issues;
- taking forward the next stages of my research programme, particularly around assessing the scale and nature of non-compliance and beginning evaluation of the impact of the work of the three bodies;
- further development of the DLME Information Hub; and
- fulfilling my other obligations as set out in the Immigration Act 2016.

7.1 Development of the Labour Market Enforcement Board

Facilitating joint working firstly between the labour market enforcement bodies and secondly with other state enforcement bodies remains a core part of my remit. I have recently bolstered structures to help bring a sharper focus to multi-agency enforcement, either through better intelligence-sharing and/or through joint operations. The joint enforcement operation that commenced in Leicester in autumn 2018 gives us a strong platform on which to build.

The LME Board, which I chair, has senior representation from each of the three labour market bodies, as well as the two sponsoring government departments. This helps to provide the authority and legitimacy for joint activity to be agreed, undertaken and evaluated. Underpinning

the Board are the SCG, which executes joint operations, and a new EAG, which draws on all available intelligence and information from a variety of sources and state enforcement partners to help direct joint activity to those areas and sectors where it is most needed.

7.2 Development of the DLME Information Hub

Now that the Measurement of Risk in Law Enforcement (MoRiLE) approach to identifying at-risk sectors has become fully embedded in my Strategy, I will be looking to strengthen this strand of work, including more frequent updates (biannual rather than annual) to the list of at-risk sectors, developing links with new intelligence sources and carrying out more in-depth analyses of sectors where the threat of labour market non-compliance is only beginning to emerge.

The major focus of research for the coming year will be following up on the two scoping studies to a) introduce robust evaluation of enforcement body interventions; and b) take forward work to begin to measure the scale and nature of non-compliance in the labour market. Both of these will be vital to underpin our understanding of the non-compliance picture and how the work of the three bodies makes a difference to combating this. Therefore, Government will need to invest in these areas if we are to really make a marked and lasting impression on tackling non-compliance in the labour market and ensuring workers are being protected.

7.3 A single labour market enforcement body

As highlighted in my 2018/19 Strategy, the enforcement system is complex and fragmented and is clearly sub-optimal for workers needing employment protection. If one were starting from scratch, it is unlikely that one would design state labour market enforcement along its current lines. Indeed, the International Labour Organization (ILO) recommended best practice is that inspection be placed under the supervision and control of a central authority.

I am therefore supportive of the Government's proposal to consult on this matter, though this clearly warrants careful consideration.

While the option of a single enforcement body may be attractive at a theoretical level, and indeed exists in several other countries, this is a substantial step change from the current UK system. The practicalities, time and resources required to bring together the three organisations would be significant. It is my view, therefore, that the Government must first make a thorough assessment of the potential benefits of a single enforcement body and assess if, and how, this option could improve on the current system.

There are several different models that the single enforcement body could take. Careful consideration of the organisational design and remit of any new body will be key to ensuring that any new organisation resolves as many as possible of the limitations, gaps and difficulties of the current system, and brings about the greatest improvements for workers, employers and government. For me, the first question is: **what would a single body need to achieve to improve the system and represent value for money?** I believe that the key success criteria would have to include:

- **simplification** of the 'user journey' for:
 - workers;
 - employers; and
 - enforcement officers;
- **modernisation** in line with current working practices and closing the enforcement gaps; and
- enabling a **more strategic approach**: ensuring a balance between compliance approach and deterrence effect.

The intention is that my Office will formally respond to the public consultation once it is published. My evidence to Government on this issue will build upon the work of my Office to date, focusing on several key themes, including, but not limited to:

- the most effective **enforcement approach**;
- the potential **remit** of a single enforcement body;
- the **powers and tools** required of any potential single enforcement body;
- if and how a single enforcement body could improve the current system of **intelligence-sharing** and **joint working**; and
- the future **role of the DLME** in this process.

During my Call for Evidence, some stakeholders raised issues which will be relevant for the consideration of a single enforcement body, in line with the themes listed above. In particular, the issues raised included the potential to modernise legislation and address enforcement gaps and the opportunity to ensure a coherent enforcement approach across the spectrum of non-compliance and streamline intelligence-sharing. My Office will ensure that we consider these in some detail in our response to the consultation.

If the decision were taken to pursue a single enforcement body, there is likely to be a lengthy process of implementation. During that period, it is essential that safeguards are in place to ensure that enforcement activities are effectively maintained during any transitional period.

