



HM Government

# United Kingdom Labour Market Enforcement Annual Report 2018/19

Interim Director of Labour Market Enforcement

Matthew Taylor

July 2020



HM Government

# United Kingdom Labour Market Enforcement Annual Report 2018/19

**Interim Director of Labour Market Enforcement**  
**Matthew Taylor**

Presented to Parliament pursuant to Section 5(1)(b)  
of the Immigration Act 2016

July 2020



© Crown copyright 2020

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3)

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.uk/official-documents](https://www.gov.uk/official-documents)

Any enquiries regarding this publication should be sent to us at [LMEDirectorsoffice@beis.gov.uk](mailto:LMEDirectorsoffice@beis.gov.uk)

ISBN 978-1-5286-1758-1

CCS0120996056 07/20

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the APS Group on behalf of the Controller of Her Majesty's Stationery Office

# Foreword

I am honoured to have been appointed the second (Interim) Director of Labour Market Enforcement (DLME). I am performing the role of interim Director one and a half days a week and have relied on the patience and experience of the excellent small team in my Office to bring me up to speed. My thanks to Mark Birch, Louis Camp, Emily Eisenstein, Michael Flynn, Tim Harrison, Bethan Hunt, Rachael Lally and Ellie-May Leigh for all their work.

This is the DLME Annual Report for 2018/19. The 2016 Immigration Act requires the Director to produce an Annual Report to be submitted *“as soon as reasonably practicable after the end of each financial year”*. The previous Director, Sir David Metcalf retired in June 2019, and I started properly in post in September of that year. Both the change in Director and the General Election in December 2019 have inevitably delayed publication of this report.

This 2018/19 Annual Report is an assessment of progress in relation to the 2018/19 Labour Market Enforcement Strategy (DLME, 2018). Sir David Metcalf, submitted the Strategy covering 2018/19 in March 2018, and the Government responded in the following December (Department for Business, Energy and Industrial Strategy (BEIS) and Home Office, 2018). The Government fully accepted 29 of 37 enforcement recommendations, partially accepted two, committed to consult on three and rejected three. This report focuses on the Government response to the recommendations and implementation of these up to October 2019.

Reading through the evidence provided, and discussing the issues with the three bodies, it is clear to me that, within the resource constraints of the system, there has been progress since Spring 2018. All the organisations and individuals involved should be congratulated on the distance travelled. I would also like to pay tribute to Sir David Metcalf as this reflects on his strategy, ideas and priorities. I hope that he is pleased with the progress made to date. Incremental changes are sometimes difficult to appreciate, therefore annual reports such as these are useful for demonstrating that there have been improvements and that this will be making a difference to workers at risk of exploitation.

This said, I feel that there is still a major barrier to being able to prioritise our resources and target enforcement in a well-informed and systematic manner. This is our lack of knowledge about the scale of non-compliance. Without knowing the extent to which exploitation affects the workforce we are somewhat flying blind, making it very difficult to know what impact enforcement and other changes are having on the level of non-compliance. This gap in our knowledge has to be addressed. My team have been working with academic researchers to develop a methodology to fill this gap and I give further detail of this in Section 3. This is a multi-year project but research to measure non-compliance would benefit not only the DLME, but also many other people and

organisations who are struggling with the same problem. Crucially, it would help inform the necessary baseline for the proposed Single Enforcement Body. I therefore urge the Government to continue to support and prioritise the further work needed.

I also feel that, while resource has increased more recently, there needs to be a step change in the level of resource allocated to enforcement, especially in relation to employment agencies. The Employment Agency Standards Inspectorate (EAS) is dwarfed by the size of the sector it is meant to regulate with 11 inspectors to 31,500 employment agencies (as of March 2019). In addition, they are expected to soon take on the regulation of umbrella companies and increase enforcement of the growing sector of recruitment online apps. Although there have been improvements in their communication capacity, they still remain almost completely unknown by the public and often have a low profile with other public sector bodies too. This needs to be addressed if agency workers are to be properly protected.

I am pleased to note that the new Labour Market Enforcement Undertakings (LMEUs) and Orders (LMEOs) are increasingly being used by the enforcement bodies, however I also feel that the level of prosecutions for labour market offences remains too low to act as an effective deterrent. In relation to the hand car wash sector, after engaging widely with stakeholders, I have concluded that the endemic issues of non-compliance in this sector and the risk of severe exploitation can only be more fully addressed through a mandatory national licensing scheme.

This annual report highlights a number of areas where there are problems and barriers embedded in the current enforcement structure. Fortunately, there is an opportunity to address these through the Single Enforcement Body (SEB) which will bring together the enforcement of workers rights across the labour market, providing greater protection for workers. This will be part of the new Employment Bill.

Given that my annual strategy for 2020/21 must be submitted by the end of the financial year, it will not be possible to comment on the Single Enforcement Body in detail in that document. However, I will look forward to working closely with BEIS and the Home Office, as well as the three enforcement bodies and wider partners to help shape the development of this new organisation to ensure that it meets its potential to have a real and lasting impact on the experience of workers in the UK.

I shall also look forward to the Government response to the 2019/20 Strategy. This was submitted in March 2019 and published in July (DLME, 2019a).



**Matthew Taylor, Director of Labour Market Enforcement**  
**February 2020**

This report was submitted to Ministers in February 2020. Publication has been further delayed due to the COVID-19 pandemic.

# Contents

Section 1. Introduction .....	2
1.1 The role of Director of Labour Market Enforcement .....	2
1.2 Context of Annual Report .....	2
Section 2. Assessment of progress against recommendations .....	4
2.1 Overview of progress.....	4
2.2 Implementation of the accepted recommendations .....	9
2.2.1 Compliance theory and approach (Recommendations 1-9) .....	9
2.2.2 Deterrence approaches: investigations and penalties (Recommendations 10-22)	16
2.2.3 Improving labour market enforcement (Recommendations 23-30).....	32
2.2.4 Enforcement gaps (Recommendations 31-37).....	38
2.3 Rejected recommendations.....	41
Section 3. The Information Hub activities undertaken in 2018/19 .....	43
3.1 Information Hub outputs: statement of activities .....	44
3.1.1 Strategic Intelligence Assessment (SIA).....	44
3.1.2 Improving information networks and partnerships .....	45
3.1.3 Research and analysis activity.....	46
3.2 Information Hub Work Plan .....	47
Section 4. Concluding remarks .....	49
Annex A: Acronyms .....	51
Annex B: References .....	53

# Section 1. Introduction

## 1.1 The role of Director of Labour Market Enforcement

The Immigration Act 2016 set out the role of Director of Labour Market Enforcement (DLME) with an aim to bring together an assessment of the extent of labour exploitation, and to set strategic priorities for labour market enforcement. The Director's remit is to examine the work carried out by the three principal enforcement bodies:

- National Minimum/Living Wage Enforcement Teams in HMRC;
- the Gangmasters Labour Abuse Authority (GLAA); and
- the Employment Agency Standards (EAS) Inspectorate.

The DLME must consider the whole spectrum of labour market non-compliance, ranging from accidental infringement to serious criminality and modern slavery.

The Act requires the Director to:

- produce an annual labour market enforcement strategy, endorsed by the Department of Business, Energy & Industrial Strategy (BEIS) and Home Office Secretaries of State, setting priorities for the three main enforcement bodies by the end of each financial year;
- develop the Information Hub;
- and write an annual report setting out for Ministers how, collectively, the enforcement bodies performed relative to the Ministerially-agreed strategy.

My predecessor, Sir David Metcalf was appointed in January 2017, and submitted to the Government an Introductory Report (DLME, 2017), two Labour Market Enforcement Strategies 2018/19 (DLME, 2018), and 2019/20 (DLME, 2019a), and the Annual Report for 2017/18 (DLME, 2019b). My appointment started in September 2019 and therefore I publish this Annual Report under my tenure.

## 1.2 Context of Annual Report

As per the requirements set out in the 2016 Immigration Act,<sup>1</sup> this annual report reflects upon the implementation and progress made against the 2018/19 Labour Market Enforcement Strategy recommendations. As the 2018/19 Strategy (DLME, 2018) was the first full strategy to make recommendations to the Government, this is the first such assessment.

---

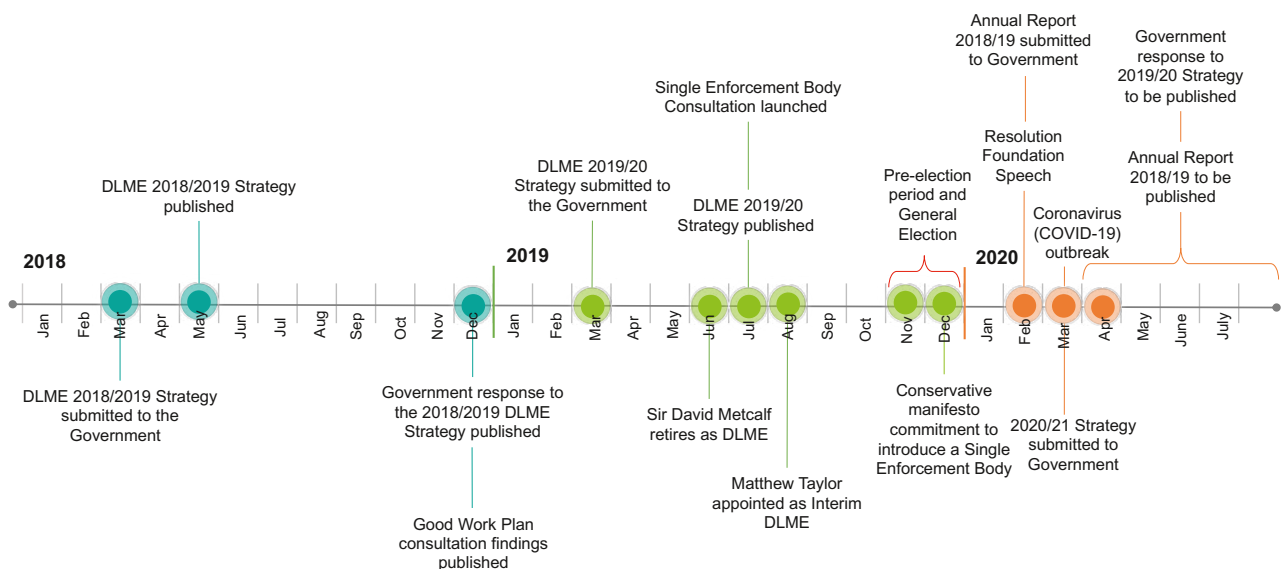
<sup>1</sup> Principally Section 4(2) and related sections (2(2)(b)(ii) and section 8.

The 2016 Immigration Act<sup>2</sup> requires the Annual Report to report on:

- an assessment of the extent to which labour market enforcement functions were exercised during the year to which the report relates, and activities of the kind mentioned in section 2(2)(b)(ii) were carried out, in accordance with the Strategy;
- an assessment of the extent to which the Strategy had an effect on the scale and nature of non-compliance in the labour market during that year;
- a statement of the activities the Director undertook during that year in the exercise of his or her functions under section 8.

Strictly this Annual Report is intended to report on the impact the 2018/19 Strategy recommendations have had on labour market enforcement across the UK. The 2018/19 Strategy was submitted to the Government in March 2018. As the Government response was published only in December 2018, this left little time in the 2018/19 reporting year to implement the recommendations it had accepted. Therefore, for the purposes of this Annual Report we cover activity **up to October 2019**.

**Figure 1: Timeline of Labour Market Enforcement Strategy and Annual Report**



The remainder of this Annual Report is structured as follows:

Section 2: Assessment of progress against recommendations. This section provides an assessment of the extent to which labour market functions were exercised across each of the three enforcement bodies within my remit (up until October 2019), and, wherever possible, some indication of the effect this has had, or could potentially have on the scale and nature of non-compliance in the labour market during that year. At the time of writing (December 2019) none of the three bodies had published their own annual reports for 2018/19. The assessment that follows comes with a strong caveat attached that we have not had access to final performance metrics from the bodies, although HMRC NMW and BEIS have provided some information from their forthcoming Compliance and Enforcement Report which will be published in the near future.<sup>3</sup>

Section 3: The Information Hub activities undertaken in 2018/19. This section details the activities undertaken by my Office's Information Hub.

<sup>2</sup> Principally Section 4(2) and related sections (2(2)(b)(ii) and section 8.

<sup>3</sup> Since this report was written, BEIS published the National Living Wage and National Minimum Wage: the Government Evidence on Compliance and Enforcement Report 2018/19. <https://www.gov.uk/government/publications/national-living-wage-and-national-minimum-wage-government-evidence-on-compliance-and-enforcement-2019> and the GLAA has published its Annual Reports and Accounts 2018/19. <https://www.glaa.gov.uk/whats-new/latest-press-releases/27012020-annual-report-and-accounts-2018-2019/>



## Section 2. Assessment of progress against recommendations

This Section lists and assesses the progress the two sponsor Departments (BEIS and Home Office) and the three enforcement bodies have made against the recommendations in the 2018/19 Strategy. Little new management information or statistical data was available for the relevant time period other than what had already been analysed for the 2019/20 Strategy, therefore this report is based on information provided by the two sponsoring departments (BEIS and Home Office) and the three enforcement bodies, along with evidence already available.

The Immigration Act (2016) specified that the Annual Report covers the “*extent to which the Strategy had an effect on the scale and nature of non-compliance in the labour market during that year*”. Where possible we provide evidence of impact of changes from the Strategy, however without a baseline measuring non-compliance in the labour market, it is not possible to produce an overall assessment of the effect of the recommendations on these. This is discussed further in Section 3.

The 2018/19 Strategy made 37 recommendations focused on compliance theory and approach, deterrence approaches, improvements to the enforcement regarding supply chains and licensing and addressing enforcement gaps. The overarching aim was to create a more collaborative and proactive enforcement approach.

I am pleased the Government responded positively to the 2018/19 Strategy, accepting 29 recommendations, partially accepting two and committing to consult on another three. Three recommendations were rejected.

### 2.1 Overview of progress

To evidence the progress made against each recommendation my Office undertook two rounds of consultation with the three enforcement bodies and two sponsor departments during 2019. I would like to express my gratitude for their assistance and cooperation in this process.

I have examined the evidence and have scored the implementation of the recommendations using a traffic light rating system (red/amber/green).

**The traffic light ratings reflect progress against each of the recommendations being fully implemented. The ratings should not be taken as a direct assessment of the performance of the bodies or departments.**

Inevitably, a number of the accepted recommendations will take some time to fully implement and, as such, will extend beyond the assessment period for this report. In particular, any changes that require legislation have faced obvious challenges in terms of implementation given the political situation and parliamentary time taken with EU exit matters. Therefore, in these cases, progress is measured as amber, reflecting partial implementation to date.

Otherwise, the commentary alongside each recommendation expands on why the rating is given.

**Table 1: Traffic light ratings assessing progress against full implementation of recommendation**

<b>Implemented:</b> Recommendation has been implemented or completed (or is very close to it)	
<b>Good progress:</b> Significant work has been undertaken but it is not yet fully implemented	
<b>Some progress:</b> Work has been carried out but the recommendation is still some way to being completed	
<b>Little progress:</b> There have been some efforts to progress this but they have not gained momentum or led to change	
<b>No progress:</b> Little or no change observed, and risk of recommendation not being implemented	
<b>Not assessed:</b> Rejected or partially accepted recommendations that are not assessed	

Table 2 below lists all the recommendations made in the 2018/19 Strategy and provides our overall progress rating for each. Further discussion against each recommendation is then covered in Section 2.2 below.

**Table 2: Assessment of the 2018/19 Recommendations**

Recommendation		Government response	Implementation progress
<b>COMPLIANCE THEORY AND APPROACH</b>			
<i>Supporting employers to be compliant</i>			
1	BEIS/HMRC should review the guidance around NMW in collaboration with stakeholders to identify and improve problem areas such as pay averaging and salary sacrifice.	Accepted	
2	HMRC NMW/NLW team should develop a more supportive approach when companies ask for advice in order to be compliant.	Accepted	
<i>Promoting worker rights, supporting awareness and access to enforcement</i>			
3	A statement of rights should be made mandatory for all workers from within week one of employment.	Accepted	
4	Clear and accessible information on employment rights should be provided to workers opportunistically through a number of channels.	Accepted	
5	The right to a payslip should be extended to all workers.	Accepted	
6	For hourly paid workers, there should be mandatory inclusion of total hours worked and hourly rate of pay on payslips.	Accepted	

Recommendation		Government response	Implementation progress
7	In the longer term, hours and hourly earnings should be captured in Real Time Information data returns to HMRC.	Rejected	Not assessed
8	Simplify the entry channel to seek help on employment rights and how to seek redress.	Accepted	Good progress
9	Acas should build on the links with the three bodies to ensure that staff training, referral processes and data sharing are promoting their service to maximise access.	Accepted	Implemented
<b>DETERRENCE APPROACHES: INVESTIGATIONS AND PENALTIES</b>			
<i>Risk of inspection</i>			
10	An increase in resources for EAS, both to promote their ability to enforce current regulations and due to the proposal to expand its remit. The Director will monitor efficiency of how resource for the three enforcement bodies are used.	Accepted	Some progress
<i>Size of financial penalty for employers</i>			
11	BEIS and EAS should investigate the potential for EAS being given the powers to impose civil penalties on non-compliant employment agencies as an alternative to prosecution.	Accepted	Good progress
12	Employers found to be non-compliant should also be charged a fee for intervention to allow the enforcement bodies to recover some of their enforcement costs.	Not taken forward at this time	Not assessed
13	The NMW penalty multiplier should be reviewed and increased.	Rejected	Not assessed
14	The revenue from higher penalties should be recycled into the enforcement system as an additional resource.	Accepted	Not assessed
<i>Reputational penalties</i>			
15	Evaluation of the BEIS Naming scheme to assess its impact.	Accepted	Some progress
16	Further information should be provided within the Naming Scheme.	Accepted	Some progress
<i>Undertakings and Orders</i>			
17	There should be greater use of – and publicity for – prosecutions; and	Accepted	Some progress
	undertakings and orders to help increase the deterrent effect.		Implemented
18	Home Office and GLAA should work to explore and clarify the role and powers of LAPOs.	Accepted	Implemented
<i>Prohibitions</i>			
19	The three enforcement bodies should work with the Insolvency Service to crack down on phoenixing by directors seeking to avoid labour market penalties.	Accepted	Good progress

Recommendation		Government response	Implementation progress	
<i>Prioritisation of inspections</i>				
20	The three bodies should continue to shift to more proactive enforcement methods.	Accepted	Good	progress
<i>Use of intelligence and joint working</i>				
21	The three enforcement bodies should continue to work positively with the Information Hub and Strategic Coordination Group (SCG) to build on the good progress made over the past 12 months.	Accepted	Good	progress
22	Different forms of partnership working should be piloted and evaluated, primarily through the support of: (a) Newham's proposal to target NMW/NLW (testing joint working between HMRC and local authority); and	Accepted	Little	progress
	(b) Leicester's proposal to target the garment trade through high density, highly visible joint enforcement (testing partnerships with local agencies and businesses).		Some progress	
<b>IMPROVING LABOUR MARKET ENFORCEMENT</b>				
<i>Accountability and leverage through the supply chain</i>				
23	To help ensure compliance throughout supply chains, joint responsibility measures should be introduced where the brand name (at the top of the chain) bears joint responsibility for any non-compliance found further down its own supply chain.	Return to following consultation	Not assessed	
24	Provisions should also be made to enable temporary embargo of 'hot goods' to disrupt supply chain activity where non-compliance is found.	Return to following consultation	Not assessed	
<i>Public Procurement</i>				
25	An assessment should be made of the effectiveness of the Welsh Government's new Code of Practice, to determine whether national roll-out would be beneficial.	Accepted	Some progress	
26	Procurement templates should be amended to explicitly compel compliance with labour market regulations in public contracts.	Rejected	Not assessed	
<i>Licensing and other models of regulation</i>				
27	The 2012 GLAA licensing standards should be reviewed to ensure they reflect current worker rights and employer obligations.	Accepted	Implemented	
28	Two pilot schemes should be run and evaluated to test the feasibility and impact of GLAA licensing of businesses in different sectors. These should be done on a geographically limited basis and cover: hand car washes and nail bars.	Partially accepted	Not assessed	
<i>Continual assessment and improvement</i>				
29	The three bodies should further develop and embed an evaluative approach to their own processes and systems.	Accepted	Some progress	

Recommendation		Government response	Implementation progress
30	An independent evaluation should be undertaken, by an outside organisation, to investigate the overall impact of the three bodies on tackling labour market non-compliance.	Accepted	Some progress
<b>CURRENT ENFORCEMENT GAPS</b>			
<i>Holiday pay</i>			
31	HMRC, or another state body, should be provided with the powers and remit to take responsibility for the enforcement of holiday pay for all workers, including mechanisms to recover holiday pay arrears.	Accepted for vulnerable workers	Some progress
32	In the interim EAS and GLAA should make use of their existing enforcement frameworks to investigate holiday pay as a matter of priority. The findings should be shared with HMRC NMW as appropriate.	Accepted	Some progress
<i>Intermediaries and umbrella companies</i>			
33	EAS current powers should be expanded to include intermediaries.	Accepted	Some progress
34	The GLAA, EAS and HMRC NMW/NLW team should work closely with the other relevant HMRC tax enforcement teams to share information of non-compliant intermediaries that they identify through their enforcement work.	Accepted	Good progress
35	EAS and HMRC should work together to develop the options for enforcing regulations around intermediaries, assessing the likely impact, costs and benefits of each.	Accepted	Some progress
<i>Swedish Derogation</i>			
36	The Swedish derogation should be properly enforced or abolished. EAS remit should be extended to cover enforcement of compliance with the AWR (including the Swedish Derogation), with the additional necessary resource to do this.	Partially accepted	Implemented
			Not assessed
<i>Lack of documentation</i>			
37	HMRC to take advantage of the recent change in policy guidance and pursue more prosecutions for standalone non-record keeping offences.	Accepted	Some progress

## 2.2 Implementation of the accepted recommendations

This section goes through each of the recommendations that was accepted by the Government, by theme of the 2018/19 Strategy, namely:

- compliance theory and approach,
- deterrence approaches,
- improvements to the enforcement approach; and
- enforcement gaps.

### 2.2.1 Compliance theory and approach (Recommendations 1-9)

The 2018/19 Strategy explored how within enforcement there are two broad approaches: compliance and deterrence and that the most effective enforcement approach will be some mix of the two.

The compliance approach is premised on the idea that violations of employment regulations are the result of employer ignorance and incompetence. The 2018/19 Strategy recognised that a large part of non-compliance can be understood in this way, necessitating tools to help employers be compliant while supporting workers to know their rights, be able to complain and have access to enforcement.

#### Supporting employers to be compliant

The strategy emphasised that the enforcement bodies could generally improve their support and education of employers to reduce ‘accidental’ non-compliance.

<b>Recommendation 1</b>	<b>BEIS/HMRC should review the guidance around NMW in collaboration with stakeholders to identify and improve problem areas such as pay averaging and salary sacrifice.</b>	<b>Good</b>	<b>progress</b>
-------------------------	---	-------------	-----------------

Although the published guidance has not significantly changed since the recommendation was accepted, BEIS and HMRC are currently reviewing the approach to published guidance, working with stakeholders to improve content and identify areas for further clarification is required. They have shared their workplans and progress with me and my team, and I am encouraged that improved guidance to employers, providing information on the issues that often cause problems, should soon be delivered. The volume of guidance means this is a medium-term project that will take more time to fully be implemented. To date progress has included:

- in late 2018, BEIS NMW Guidance (BEIS, 2019a) was updated to include guidance on sleep-in shifts (November 2018), and guidance on unpaid work trials (December 2018).
- the National Minimum Wage Calculator has been reviewed and amended so it now takes into consideration common underpayment risks.<sup>4</sup>
- BEIS have engaged a readership panel to ensure their guidance is clear and readily accessible.

The quality and accessibility of guidance is going to be a significant issue for a Single Enforcement Body (SEB), and I am greatly encouraged that BEIS and HMRC are working together to improve their communication and look forward to seeing the results and getting feedback from employers about whether it makes a difference.

<sup>4</sup> <https://www.gov.uk/am-i-getting-minimum-wage/y>

Recommendation 2	<b>HMRC NMW/NLW team should develop a more supportive approach when companies ask for advice in order to be compliant.</b>	<b>Some progress</b>
------------------	--	----------------------

A consistent theme throughout the 2018/19 Strategy was for enforcement bodies to support employers to be compliant. HMRC has undertaken a number of activities to raise awareness of National Minimum Wage and support employers including via:

#### Targeting employers with timely information

- emailing employers regarding rate changes;
- sending nudge letters to targeted employers and helping responders to self-review;
- targeting email prompts to employers at risk of underpayment;
- conducting a ‘test and learn’ exercise in the equestrian sector, using one-to-many letters to encourage calls to a dedicated helpline manned by compliance officers;

#### Improving availability of information

- developing webinar and e-learning products to educate and support employers;
- hosting dedicated NMW/NLW pages on HMRC Online Forum, where employers could ask questions to subject matter experts and access Q&A;
- using the HMRC Employer Bulletins (six per year) to give employers and agents the latest information for example unpaid work trials and the increase in NMW/NLW;
- Question & Answer (Q&A) function within the live webinar programme;

#### Designing new processes

- voluntary declaration process – an opportunity for employers to declare to HMRC any arrears paid as a result of an employer’s own self-review. This opportunity is supported by recorded webinars detailing the self-review process;
- designing and delivering the Social Care Compliance Scheme;
- working with Acas regarding the Acas/HMRC complex query resolution route;

#### Improving links with partners

- updated Acas advisor guidance to better support employers seeking help and information;
- meetings with big four accountants to discuss compliance issues.

Work here is ongoing and I will want to get feedback from stakeholders to understand their experiences before being able to say this recommendation has been fully met, but the amber rating here recognises the significant amount of work HMRC has done to raise awareness for employers, for which it should be congratulated. Going forward, I would like to see greater sectoral engagement to ensure that businesses can access the detailed and relevant guidance they require to be confident of their compliance.

This recommendation was primarily concerned with the response that businesses received when they asked questions of HMRC and, at the time, felt they were not receiving the support or technical advice they needed to be compliant. I will be interested to hear from employers whether this has changed. The structure introduced in March 2017 has become more established and fine-tuned, and my Office have reported to me that there has been improvement in the proactive education activity with employers.



HMRC evaluate some of its communications work, for example by measuring the responses from different types of letters and monitoring the number of ‘click-throughs’ to its website from certain campaigns. BEIS also runs an annual communications campaign to promote the NMW uprating and measure overall awareness of minimum wage, though we have not seen the evidence from this. I would find it helpful to see more analysis and evidence around awareness of NMW and the impact of activities by HMRC and other regulators. In future, and for consideration in the development of a potential Single Enforcement Body, measuring awareness among employers about NMW and other employment rights will be very important.

## Promoting worker rights, supporting awareness and access to enforcement

### *Information on Rights*

The 2018/19 Strategy explained that employment rights are now predominantly enforced on an individual rather than a collective basis, following the decline in union membership and collective bargaining coverage. Yet the evidence suggests that awareness levels among workers and employers of rights, responsibilities and public enforcement are relatively low. The lack of knowledge and confidence to report issues, and consequently the vulnerability of workers, is not surprising given the complexity of different rights and employment statuses, combined with a fragmented enforcement landscape.

<b>Recommendation 3</b>	<b>A statement of rights should be made mandatory for all workers from within week one of employment commencing. The Government should develop a template for the written statement of employment to ensure transparency in information provided, and to reduce the burden on business.</b>	<b>Implemented</b>
-------------------------	---	--------------------

In response to the Taylor Review (BEIS, 2018a), the Government committed to providing a written statement of employment conditions for workers and consulted on what information should be included in the statement.

From April 2020:

- a ‘**day one written statement**’ of rights will be mandatory for all workers not just employees.
- a ‘**key information document**’ must be given to all agency workers registering with an employment business.

Previously, employers only needed to provide employment particulars to employees and this only within two months of starting work. Employers were required to include some of the main particulars of employment in writing, including names of both the employer and employee, the amounts and frequency of pay, the hours of work, holiday entitlement, location, notice periods, collective agreements and who to go to about a grievance.

From April 2020, the **day one statement** must be provided to employees and workers, on the first day of employment, and additionally include:

- how long a job is expected to last, or the end date of a fixed-term contract
- how much notice an employer and worker are required to give to terminate the agreement
- details of eligibility for sick leave and pay
- details of other types of paid leave e.g. maternity leave and paternity leave
- the duration and conditions of any probationary period
- all remuneration (not just pay) – contributions in cash or kind e.g. vouchers and lunch
- which specific days and times a worker will be required to work



Enforcement would theoretically be via employment tribunal (although the practicalities and likelihood of anyone taking this to tribunal as a stand-alone issue are questionable).

I am hopeful that this additional information being provided to a wider section of the workforce will improve the clarity around people’s employment rights and reduce the scope for non-compliance through misinformation. It should help employees and workers to challenge when they feel they have not been paid and treated as agreed.

In parallel to this development on written statements, all agency workers registering with an employment business after April 2020 must be given a **key information document**. This has been introduced in response to the Taylor Review’s recommendation that ‘*Government should amend the legislation to improve the transparency of information which must be provided to agency workers both in terms of rates of pay and those responsible for paying them*’ (BEIS, 2017a p. 46).

This key information document forms part of the Conduct Regulations placed on employment businesses and will be enforced by EAS. It requires that employment bodies give prospective agency workers a key information document before agreeing the terms that they must make before work-finding services can begin. It will need to include, among other things, who is responsible for paying the worker, the minimum pay they expect to achieve for them, an explanation of any fees or deductions made to amounts as it goes from the employment business, through any umbrella company, and to the worker. It will also need to have an example statement, using numbers, demonstrating how these deductions will apply to an example rate of pay.

With these changes, employees, workers and agency workers should have better information on their work agreements – a significant step towards helping compliance.

<b>Recommendation 4</b>	<b>Clear and accessible information on employment rights should be provided to workers opportunistically through a number of channels, including via:</b>	<b>Some progress</b>	
	<b>(a) Use of targeted social media campaigns;</b>	<b>Some progress</b>	
	<b>(b) Development of a web portal linking all enforcement agencies</b>	<b>No progress</b>	
	<b>(c) Workplace notices detailing rights and how to enforce them should be mandatory, similar to the Health and Safety notices.</b>	<b>No progress</b>	
	<b>(d) Payslips, and payslip software and apps should include NMW/NLW rates guidance, information on the enforcement agencies and details of how to report a breach</b>	<b>No progress</b>	
	<b>(e) The education system should use opportunities and existing resources to inform young people of their rights as they prepare to enter employment.</b>	<b>No progress</b>	
	<b>(f) Information should be included with National Insurance notification letters and other Government communication</b>	<b>Good</b>	<b>progress</b>

I recognise that the overall recommendation here – to provide clear and accessible information on employment rights – has been somewhat progressed by the three bodies, therefore I have given this an amber rating overall. However, apart from the use of social media and including information on National Insurance letters, no progress has been made on the other sub-recommendations (hence the red ratings here).

The two departments stated that a SEB will explore the potential to improve access to information on employment rights. It is certainly true that one of the main benefits of a SEB is the potential to be open to workers, to provide a single point of access for information on employment rights and to become a well-known organisation that encourages workers and employers to be compliant.

In the meantime, the three bodies have been working to improve their communications, making better and greater use of technology to improve reach. Box 1 below gives examples of some of the actions which have been taken by the enforcement bodies and sponsoring departments during the reporting period, although I would make the point again that there is limited evaluation of these activities, and therefore it is difficult to establish its full impact.

### **Box 1: Examples of enforcement bodies', and the Government department efforts to improve awareness of employment rights (2018/19)**

#### **EAS**

- EAS has raised its profile by launching a new website in January 2019, providing key information and guidance surrounding worker rights and the role of EAS.

#### **GLAA**

- In its latest Business Plan, GLAA has committed to enhance social media reach across the board and target stakeholders in specific sectors, especially using Facebook. It states that further work is being undertaken to accurately measure and assess the impact of its social media output and improve the scope of its website to aid customer experience. It monitors and reports on number and interactions of followers on Twitter, Facebook and LinkedIn accounts.
- The GLAA has worked with Boston College to help raise awareness of rights with young people. As part of the project, the college's 1,500 full-time students all participate in a tutorial on workers' rights and spotting the signs of modern slavery. During this academic year, students from the college presented different visual concepts of raising awareness such as videos, photography etc.

#### **HMRC NMW – in addition to the examples discussed under Recommendation 2:**

- A series of birthday texts have been issued to working tax credit recipients who have moved from one NMW age band to another and to apprentices.
- Further engagement has been developed through a series of YouTube videos on a variety of NMW topics outlining wage entitlement and underpayment risks.

#### **Government Departments**

- Migrant workers arriving in the UK have been provided with leaflets via Border Force informing them of their rights and obligations.
- In February 2019, BEIS launched its first 'It comes with the job' advertising campaign to increase awareness of legal obligations around holiday pay.
- The Government has published updated guidance providing advice to employers and workers on how to calculate holiday pay (BEIS, 2019b).
- From November 2018, DWP National Insurance Number allocation letters now contain information on National Minimum Wage, National Living Wage, links to information online and information about Acas.

I do not ask the bodies to follow each sub-recommendation here, but I would want them to re-examine the broader question of how best to join up the Government communications and interactions with workers and workplaces to promote awareness. Again, this is a theme to return to in the development of the SEB to determine how these messages are best communicated and targeted at key populations will be a major consideration for the new body.

*Payslips:*

Recommendation 5	The right to a payslip should be extended to all workers.	Implemented
Recommendation 6	For hourly paid workers there should be mandatory inclusion of hours worked and hourly rate of pay on payslips.	Implemented

Workers have not previously been legally entitled to a payslip from their employer but, in response to the Taylor Review, the Government supported the recommendation to extend a statutory right to receive a regular payslip to all workers (BEIS, 2018a). The 2018/19 Strategy endorsed this recommendation and went further by recommending that for hourly paid workers, there should be mandatory inclusion of total hours worked and hourly rate of pay on payslips (Recommendation 6).

Previously, only employees had the right to receive a payslip. In April 2019, the Government introduced legislation to extend the right to receive a payslip to all workers, and to require that employers state the hours being paid for on the payslips of time-paid workers. This recommendation came into force in April 2019 (BEIS, 2018b).

Where a worker’s pay varies by time worked, the new requirement to include actual hours worked on payslips will improve transparency for workers in low-paid hourly jobs.

I am very pleased that the recommendation on the right to a pay slip has been implemented and expect that this will make it significantly easier for workers to know how much they have been paid and to challenge this when it is not the correct amount.

Although Recommendation 6 was accepted by the Government it has only been partially implemented. The 2018/19 Strategy also recommended that the hourly rate of pay also be included on payslips. While this is certainly a step forward and will make a positive difference to many workers, having the rate of pay would have added extra clarity to many people who are unsure of how their pay is calculated.

*Improving complaints channels:*

Recommendation 8	<p><b>Simplify the entry channel to seek help on employment rights and how to seek redress. There needs to be greater clarity on the internet about where to go for help and how to complain. In the next year:</b></p> <p>(a) The three agencies should improve their websites to make clearer what complaints to direct to them and how, and who to direct other types of complaints to. These should link with the web portal recommendation.</p> <p>(b) EAS should raise its profile and have an easy-to-find webpage on GOV.UK with contact details for people to make complaints.</p> <p>(c) Acas should review its communications and marketing promoting its service, and ensure it is accessible to workers.</p>	<p>Good progress (in some areas)</p>
------------------	---	--------------------------------------

The enforcement bodies report that they have improved their websites with the aim of simplifying entry channels when seeking help on employment rights.

In October 2018, HMRC re-launched its online complaint form to provide clarity surrounding the complaint process, making more fields mandatory and improving the questions included in the form. Across the entire 2018/19 reporting year, HMRC received 7,900 contacts, 5,800 of which were from the online form. Contacts are worker complaints, third party information and other enquiries. In 2018/19 HMRC received 5,000 worker complaints, 3,800 of which were from the online form. This is approximately 77 per cent of the complaints received. The previous version of the online form, in use up to January 2017, typically led to HMRC receiving around 30 online complaints each month.

HMRC reported to us that the form has helped provide workers with a clear route to enforcement that is available 24 hours a day. It also serves to protect the anonymity of workers who may not otherwise complain by telephone. Complaints via the online form have increased by 5 per cent in 2019/20.

EAS has clearly invested in its communications activity and increased its profile by launching a new website in January 2019 and will continue to improve awareness of legislation relating to employment agencies and businesses. In May 2019 it appointed a Stakeholder and Publicity Manager which will greatly increase its capacity for communications. EAS has also held two roadshows in April and October 2019 for employment agencies and businesses with the purpose of educating the recruitment sector of the obligations upon them. These events are focused on good practice, providing examples of satisfying compliance, and educative with stakeholders. This kind of engagement with businesses and agencies is an example of the proactive efforts being made by EAS to raise its profile.

GLAA told us it has developed its stakeholder mapping to reflect stakeholder engagement. GLAA's level of activity across digital engagement channels and the accumulated reach for 2018/19 resulted in average monthly impressions (number of times content is displayed) of 287,000. Performance measures in the GLAA's Business Plan will assess the increased impact of its social media reach.

The GLAA has created a quarterly Partnership Bulletin<sup>5</sup> which focusses on information sharing with stakeholders and highlighting emerging issues and trends in enforcement, prevention, licensing and compliance as well as sharing other relevant news and information. Similarly, seventeen industry profiles have been added to its website focusing on different sectors at risk of labour exploitation such as construction. These profiles include a breakdown of where intelligence is focused, the main ways in which people are exploited in each sector and how to report concerns.

Acas reported that it has worked with the enforcement bodies to review its communications and marketing, and NMW/NLW guidance to help users understand and enforce their rights. This activity has led to a 14 per cent increase in visits to Acas' online guidance on NMW/NLW. Alongside working with enforcement bodies, Acas has taken action to promote its services through email campaigns and through social media.

I am pleased to note the changes that the three bodies have implemented to meet this recommendation. I feel it is not yet the step change which is required to have a significant impact on awareness and ease of access to complaints, but this is an issue to pursue further with the development of the Single Enforcement Body.

---

<sup>5</sup> <https://www.gla.gov.uk/whats-new/glaa-partnership-bulletins/>

<b>Recommendation 9</b>	<b>Acas should build on the links with the three bodies to ensure that staff training, referral processes and data sharing are promoting its service to maximise access.</b>	<b>Implemented</b>
-------------------------	--	--------------------

It was reported to us that Acas and HMRC NMW have been increasingly working together. For example, HMRC coordinate quarterly meetings to discuss referral policies, case law and other developments, and NMW Professionalism, Learning and Guidance (PLG) has provided technical advice and feedback for Acas on its NMW guidance. During the 2018/19 financial year Acas worked closely with HMRC to refine and improve the training material used by its helpline staff to advise callers on the NMW/NLW Triage Team. PLG, together with Acas, will review how best to ensure this awareness presentation is embedded for future use for any new staff. In addition, the NMW Triage team has delivered awareness training for over 200 Acas advisers in May 2019. HMRC report that early indications are that NMW are receiving improved referrals from Acas.

In addition, EAS Inspectorate staff have visited all Acas helpline offices to train advisers. Acas report that due to a variety of reasons such as increased digital offerings, resourcing and technical issues, the volumes of calls answered by the Acas Helpline have settled to around the 750,000 per year mark. The table below shows the volume of recorded referrals from the Acas Helpline to EAS by calendar year.

**Table 3: Referrals from Acas Helpline to EAS**

Agency referrals	HMRC	EAS	GLAA
2017/18	2,864	412	23
2018/19	1,895	386	33
2019/20 (Apr-Nov)	1,711	365	36

In addition, Acas has engaged with the GLAA through regular phone calls every six months to coordinate work and update each other on changes and developments. Acas Managers have recently been given a presentation by the GLAA, and during October the GLAA Intelligence Team delivered a total of 13 presentations to Acas call takers and Team Leaders in its call centres located in Nottingham, Manchester, Newcastle and Glasgow. This approach seems to be bearing fruit, measured by the volume of referrals in the first half of 2019/20. Acas referrals to all three bodies look set to significantly surpass volumes achieved in 2018/19.

I am pleased with the progress and closer working relationships between Acas and the three enforcement bodies. I see Acas as having a pivotal role within the enforcement ecosystem and ensuring its staff are well informed about the roles of the three bodies and are sufficiently linked in to make appropriate referrals.

### **2.2.2 Deterrence approaches: investigations and penalties (Recommendations 10-22)**

The 2018/19 Strategy explained that deterrence theory emphasises deliberate violations. In the context of the spectrum of labour market compliance, the deterrence approach may be more appropriate for recidivist employers and for cases of more serious labour exploitation.

The previous Director expressed his view that both the chances of being investigated by enforcement officers and the scale of financial penalties for those found to be non-compliant are too low. Not only does this provide little incentive for employers to comply, but some employers are actively including these costs as part of their wider business model.



### Risk of inspection

<b>Recommendation 10</b>	<b>I recommend an increase in resources for EAS, both to promote their ability to enforce current regulations and due to the proposal to expand its remit. The Director will monitor efficiency of how resource for the three enforcement bodies are used.</b>	<b>Some progress</b>
--------------------------	--	----------------------

The Government's response to the 2018/19 Strategy committed to increase EAS inspector resources by 50 per cent. EAS' overall budget was maintained at £0.725 million for 2018/19, to allow for this. EAS recruited four additional inspectors during 2018/19, bringing the total number of front line inspectors to 11 FTE Inspectors by March 2019.

The increase in resource has allowed EAS to increase the volume of sectorial or geographical operations during the period, although the training required for an EAS inspector means that it takes time for new staff to be fully operational. The expansion has also allowed EAS to train and coach new staff on its extended remit ahead of April 2020.

In the 2019/20 Strategy, David Metcalf monitored how resources were being used and made recommendations focusing on prioritisation of enforcement resources to protect the most vulnerable workers including a recommendation for a further increase in EAS resource, to double that of 2018/19 (recommendation 3a). At the time of writing the Government has not yet responded to the 2019/20 Strategy, but I am pleased to observe that EAS has had additional resources allowing it to have more frontline and support staff.

Even though EAS has been expanded to the degree that the Government promised in its response to the 2018/19 Strategy, I have kept this recommendation as amber, reflecting 'some progress'. I recognise that the additional resources are welcome and in line with what the Government response promised to deliver for 2018/19, yet overall the size and capacity of EAS is still clearly not in line with scale and complexity of the sector it is being tasked with regulating. It should be noted that in 2018 there were over 31,500 employment agencies, up from 19,500 in 2008 (ONS, 2019), therefore even with their additional officers, at March 2019 levels of resourcing there was one inspector per 2,850 agencies. This is before considering the future potential responsibilities for enforcing against rogue umbrella organisations and the growing area of online recruitment apps.

I shall be working closely with BEIS and the Home Office in the development of the SEB to ensure appropriate resourcing.

### Size of financial penalty for employers

The 2018/19 Strategy favoured a significant increase in the size of civil penalties for the non-compliant to bolster the deterrent effect. As discussed later in Section 2.3, the linked recommendations 12 and 13 (to charge for intervention where the employer was found to be non-compliant, and to increase the NMW penalty multiplier) were rejected by the Government.

<b>Recommendation 11</b>	<b>BEIS and EAS should investigate the potential for EAS being given the powers to impose civil penalties on non-compliant employment agencies as an alternative to prosecution.</b>	<b>Good progress</b>
--------------------------	--	----------------------

The Government has committed to introduce civil penalties for non-compliant employment agencies. BEIS included the following question in the consultation on the Single Enforcement Body which closed in October: *Should civil penalties be introduced for the breaches under the gangmasters licensing and employment agency standards regimes that result in wage arrears?* (Q24 BEIS, 2019c).

I am pleased to see that civil penalties were included in the Single Enforcement Body consultation and await the publication of the results of the consultation with interest. Again, when designing and considering the SEB, the powers and penalties that are afforded to the enforcement officers will be an important consideration.

<b>Recommendation 14</b>	<b>The revenue from higher penalties should be recycled into the enforcement system as an additional resource.</b>	<b>Not assessed</b>
--------------------------	--	---------------------

Although this recommendation was accepted, as the level of penalties were not increased, there is no additional resource to recycle into the system. Additionally, income from penalties is not hypothecated (i.e. ringfenced), therefore penalties are not being directly recycled into the enforcement system.

Here, my view differs from that of the previous Director: I do not believe that revenue from enforcement should be hypothecated as it may create perverse incentives for the enforcement bodies (or perception of such) and it is administratively burdensome. The NMW enforcement budget continues to increase – it has more than doubled from £13.2 million in 2015/16 to £27.4 million for 2019/20. I am therefore satisfied with the current system of penalties being recycled through the Treasury which is then partly back into the enforcement system.

**Reputational penalties**

The 2018/19 Strategy detailed how greater use was being made of reputational penalties, specifically, the BEIS Naming Scheme for minimum wage breaches. At the time BEIS was conducting naming rounds approximately every three months and, based on engagement with employers, it was clear that the ‘fear factor’ associated with public naming has a powerful effect. The 2018/19 Strategy recommended further evaluation of the scheme carried out, with potentially a shift away from a focus on accidental breaches towards more serious violations.

<b>Recommendation 15</b>	<b>Evaluation of the BEIS Naming Scheme to assess its impact.</b>	<b>Some progress</b>
<b>Recommendation 16</b>	<b>Further information is provided within the Naming Scheme to highlight the average arrears per worker, that case studies are provided to increase both the deterrence and compliance effect, and that opportunities are taken to engage with specific sectors to educate other employers on potential areas of non-compliance.</b>	<b>Some progress</b>

Naming rounds have previously operated on a quarterly basis. The last naming round took place in July 2018. Taking July 2018 as an example, 239 employers were found to have underpaid 22,400 UK workers by a total of £1.44 million in back pay, with the employers fined an additional £1.97 million (BEIS, HMRC, Acas and LPC, 2018). The top five reasons for National Minimum and Living Wage underpayments in that round were: taking deductions from wages for costs such as uniforms, underpaying apprentices, failing to pay travel time, misusing the accommodation offset and using the wrong time periods for calculating pay.

In order to increase its compliance and deterrent function, BEIS has been reviewing the naming scheme to ensure it effectively fulfils this purpose. The decision was taken that no further naming of employers for NMW breaches would take place until the review is completed (Parliamentary Question, 2019a<sup>6</sup> and 2019b<sup>7</sup>).

The second part of the recommendation for the scheme to highlight average arrears per worker, include case studies, and engage with specific sectors to educate other employers on potential areas of non-compliance, will be considered as part of the review.

Although I am encouraged to see that there is ongoing work to evaluate and improve the naming scheme, I am disappointed that the scheme has been suspended during this time. I will look forward to the outcome of the review. I note that further suggestions for the naming scheme were made in the 2019/20 Strategy (Recommendation 5e) around sector-specific naming rounds coupled with an education campaign to maximise the impact. A Government response to that that Strategy is yet to appear. I hope that these recommendations have been seriously considered in the re-design work undertaken.

It is now over 18 months since the last naming round took place. I am therefore pleased that, in February, BEIS is announcing that a reviewed scheme will recommence that both recognises the sharper focus advocated by my predecessor, and follows a stronger compliance and education approach to help employers get it right. I will monitor how this progresses with interest.

### Undertakings and orders

The labour market enforcement undertakings and orders (LMEU/O) were introduced by the Immigration Act 2016. They are designed to increase the enforcement tools available to the three bodies, with breaches punishable by a custodial sentence of up to two years.

Recommendation 17	There should be greater use of – and publicity for – Prosecutions; and	Some progress
	undertakings and orders to help increase the deterrent effect.	Implemented

**Table 4: Number of LMEU/Os issued by the enforcement bodies**

	2017/18		2018/19		2019/20 (to October 2019)	
	LMEU	LMEO	LMEU	LMEO	LMEU	LMEO
EAS			4		3	2
HMRC			7		9	
GLAA	2		12	2	3	
<b>Total</b>	<b>2</b>		<b>19</b>	<b>2</b>	<b>12</b>	<b>1</b>

I am very pleased that LMEUs are being used more frequently than previously (at the time the Strategy was written very few, if any, of these had been issued). Conversations with the three bodies indicate interventions are becoming established as a useful tool against non-compliance. Initial difficulties in the process, and uncertainty about how best to use them and level of evidence required, have been resolved and it is interesting to see how they are evolving to deal

6 Minimum Wage: Non-payment: Written parliamentary question 226132 "...Last year, the Director of Labour Market Enforcement recommended making changes to the scheme "to increase its compliance and deterrent effect." Work has now begun on this to ensure the scheme continues to best fulfil this purpose."

7 Living Wage and Minimum Wage: Non-payment: Written parliamentary question 252048: "As announced in the Government response of December 2018, the review of the National Minimum Wage and National Living Wage (NMW) Naming Scheme commenced in response to recommendations made by the Director of Labour Market Enforcement in his 2018/2019 Labour Market Enforcement Strategy. No further naming of employers for NMW breaches will take place until the review has been completed."



with different types of problem behaviours and businesses. The GLAA used Undertakings most frequently in 2018/19 but more recently, HMRC is also increasingly using them. This is linked to the new teams set up to specifically investigate the worst cases of non-compliance and identifying cases for prosecution, for whom LMEU/Os are an important tool to gain compliance. The Serious Non-Compliance Team in particular are making use of them to disrupt serious and persistent offending, as was intended.

## Box 2: LMEU case study, GLAA

A 38-year-old man was prevented from supplying workers without a licence following investigations by GLAA in Devon. The man, a Romanian national living in Sidmouth, was served with an LMEU after providing labour to food processing factories through a recruitment agency.

The LMEU has been signed and will remain in place for one year.

Use of LMEU interventions has varied across the enforcement bodies due to the types of cases that the bodies have been dealing with in the first part of the year. As the number of LMEUs and LMEOs increases, there will need to be thought and planning in relation to the capacity to monitor these but this is not causing problems at the moment.

HMRC has been reviewing the circumstances under which it issues LMEUs to optimise its effectiveness and focusing at what point it should use them during an investigation. An example being using Undertakings in the hand car wash sector. This is intended to drive compliance with record keeping requirements, which then allows officers to effectively check that workers are being paid at least the minimum wage throughout the LMEU monitoring period.

As more LMEUs are issued, the more monitoring resource is required to ensure compliance. It is clear that LMEU/Os are not to be used lightly without consideration of resources. I note that the recommendation in the 2019/20 Strategy that *“the bodies establish how best to utilise Labour Market Enforcement Undertakings/ Order powers jointly, in order to address non-compliance across the whole spectrum of offences”* (Recommendation 10b) and that they *“conduct ongoing evaluation of the impact of Labour Market Enforcement Undertakings/Orders, both in terms of immediate outcomes and the longer term disruption effect”* (Recommendation 12c). I agree that it is now an opportune time to do both these things, involving all three bodies, and I hope that the Government accepts these recommendations.

The second part of the recommendation was about publicity of LMEU/Os. I understand that due to the nature of undertakings (being an ongoing agreement to comply with the regulations) it will not always be appropriate to publicise details of an LMEU. However, where a case is already in the public domain and an Order is obtained, the enforcement bodies have actively sought to advertise prosecutions and undertakings and orders for instance EAS prosecution in August 2018 (BEIS, Insolvency Service and EAS, 2018), and GLAA's first LMEO conviction in October 2018 (GLAA, 2018a). The three bodies stated that they continue to look for appropriate cases to publicise to help raise awareness among the public.

### Box 3: Case study of an LMEO issued by EAS

In October 2019, an LMEO was issued against a company director, banning them for two years from being involved in running or working for an employment agency without first notifying, and getting approval from EAS. This case resulted from the agency not carrying out appropriate checks and supplying a worker who did not have a valid licence to work as a driver.

The worker was involved in a serious road traffic accident. During the subsequent investigation it became apparent that he had been refused a licence to drive Large Goods Vehicles due to problems with drugs and as such, should not have been working as a driver. Had the agency carried out appropriate checks under the Conduct Regulations they would have established this.

The result: for breaching two charges under the Forgery Act offences – 25 weeks' imprisonment, suspended for two years on each offence, concurrent, with a requirement do 150 hours unpaid work. For breaching the Conduct Employment Agencies and Employment Businesses 2003 an LMEO was issued disqualifying the director for two years. Costs were ordered in the sum of £4,633 and victim surcharge of £115.

### Box 4: Case study of an LMEO issued by GLAA

GLAA conducted an investigation into two people from Leicester who exploited workers from Eastern Europe. The GLAA worked with the regional Government Agency Intelligence Network (GAIN) before embarking on a joint operation with Leicestershire Police to arrest the suspects and interview their workers.

The couple had each admitted an offence of acting as a gangmaster without a licence following an investigation led by GLAA.

The couple posted recruitment adverts on social media using the name Anglia Jobs. Their company offered – for a fee – to find 'well-paid' work in the UK and 'good quality' accommodation. They also travelled to Romania and Moldova to recruit.

They had joint control over five properties close to Leicester city centre which they sub-let to workers recruited from overseas. Some workers claimed up to 13 people had been forced to sleep on mattresses on the floor of one three-bedroomed property. The overcrowded arrangement netted the couple nearly four times the amount of rent they were paying each month.

The pair were given 12-month prison terms, suspended for two years, and were served with LMEOs, also in force for two years. The orders require compliance with measures aimed at preventing further offences being committed under UK labour law. Failure to do so is a criminal offence.

## Prosecutions

When considering how to deal with a serious case, the bodies consider the criteria for whether cases should be criminally investigated or warrant prosecution, and/or whether an LMEU/O would be appropriate. The Crown Prosecution Service (CPS) are responsible for deciding whether there is sufficient evidence to provide a realistic prospect of conviction and whether a prosecution is in the public interest. Prosecutions are not undertaken lightly and are reserved for the worst cases of non-compliance.

Relatively few prosecutions are taken across the three bodies (table 5 below). HMRC NMW has only had one successful prosecution since 2017/18. Both GLAA and EAS have had greater success but even here volumes are low.

**Table 5: Prosecutions by Crown Prosecution Service for cases referred by each agency by financial year**

Agency referring cases to CPS that go to prosecution	2017/18	2018/19	2019/20 (up to October 2019)
HMRC NMW	1	0	0
EAS	11	12	2
GLAA	3	2	3

In terms of increasing publicity around prosecutions, the three bodies deal with prosecutions differently:

- CPS has not prosecuted any HMRC NMW cases since August 2017. Interestingly, those prosecuted are not 'named' in the same way as the rest of the NMW naming scheme. Only fines and compensation orders are publicised, not the arrears owed to workers which can obscure the severity of the case.
- GLAA issues press releases on case prosecutions related to its investigations and publicise these via its website and social media;
- EAS has had little capacity for publicity other than via BEIS website. The prohibition list has been online since at least 2018 and is now linked to the EAS website.

#### **Box 5: Case study of an EAS case going to prosecution**

In August 2018, a former director of an employment agency was sentenced in a Bristol court. He had to pay compensation to two workers and fines totalling £5,154 after a government prosecution and has been banned from being a director for five years. The former director of the employment agency pleaded guilty to four charges including withholding wages and failing to give information to workers. The prosecution resulted from an EAS investigation based on a worker complaint. The agency withheld wages to two workers for work undertaken in December 2015 and February 2016. The director was also guilty of failing to provide the right information to his workers when they started their jobs. He has been disqualified from being a director for five years.

## Box 6: Case study of a GLAA case going to prosecution

GLAA officers found 41 Romanian exploited workers during a multi-agency operation in Liverpool in March 2018.

The ringleader recruited the workers from Romania with the promise of employment and accommodation. Once they were in the UK, he controlled their wages, directed them to live in cramped, sub-standard housing, and even gave some of them false identities so that they could work two separate shifts at a food processing factory in Greater Manchester. He was supported by his wife, who was also sentenced for her role in the exploitation.

The pair were arrested and questioned following a multi-agency day of action which saw the victims taken to a reception centre to be safeguarded. The gangmasters left the UK but were arrested by Spanish authorities in Valencia after a European Arrest Warrant was issued.

The ringleader pleaded guilty to acting as an unlicensed gangmaster and conspiring to commit fraud by abuse of position and was jailed for three-and-a-half years. His wife admitted an offence of aiding and abetting an unlicensed gangmaster. She was jailed for 15 months.

In sentencing, the judge described the exploitation as “sophisticated and well-organised offending”. She said: “You exploited people that you brought into the country. These people had come to the country for legitimate work and are entitled to protection from the law.”

In July 2019, two accomplices were also sentenced: one was jailed for 20 months after pleading guilty to aiding and abetting an unlicensed gangmaster and conspiring to commit fraud by abuse of position, and another was handed a suspended sentence and community order for the same gangmaster offence.

<b>Recommendation 18</b>	<b>Home Office and GLAA should work to explore and clarify the role and powers of LAPOs within the overarching framework of Labour Market Enforcement (LME).</b>	<b>Implemented</b>
--------------------------	--	--------------------

Specialist Officers known as Labour Abuse Prevention Officers (LAPOs) were still relatively new at the time of writing the 2018/19 Strategy, and the Strategy recommended that Home Office and GLAA explore and clarify the role and powers of LAPOs within the overarching framework of LME. Some 36 LAPOs were trained and authorised by the Secretary of State to use PACE Powers (Police and Criminal Evidence Act 1984) by July 2018 (Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services, 2019).

The Memorandum of Understanding (MoU) setting out the role of LAPOs has been reviewed by the enforcement bodies three times since May 2018, with the most recent review taking place September/October 2019. No substantial or structural changes to the enforcement bodies’ processes have been proposed.

### *Prohibitions*

<b>Recommendation 19</b>	<b>The three enforcement bodies should work with the Insolvency Service to crack down on phoenixing by directors seeking to avoid labour market penalties.</b>	<b>Good progress</b>
--------------------------	--	----------------------

In March 2018, the Government launched a consultation to seek views on how to crack down on irresponsible directors, as part of improvements to corporate governance within companies that are in or are approaching insolvency (BEIS and the Insolvency Service, 2018). The response, published in August 2018 (BEIS, 2018c), announced plans to legislate to enhance existing

powers and enable the Insolvency Service to investigate directors of dissolved companies when they are suspected to have acted in breach of their legal obligations. This aims to combat the use of phoenixing (where a business closes and reopens under a new legal entity) to avoid financial liabilities.

During this period the enforcement bodies worked with the Insolvency Service by exchanging information on both live and closed company investigations, to tackle phoenixing. HMRC and the Insolvency Service (IS) have implemented a Memorandum of Understanding and a case referral process to enable HMRC to proactively refer suitable NMW enforcement cases for consideration for director disqualification, where there is evidence of poor director conduct and non-compliance with NMW legislation.

HMRC told us that joint working with the Insolvency Service to address phoenixing has resulted in director disqualifications and arrears, but these cases are not necessarily always in the public domain. In 2018/19, under their new approach, 12 cases were referred to the Insolvency Service resulting in two directors being disqualified and prompting outstanding arrears to workers being settled in two further cases.

It is encouraging to see the Insolvency Service and HMRC are working together more closely. Bringing real consequences on the directors of companies that do not comply with labour market rules is an important tool in the enforcement arsenal and encourage HMRC, and the other bodies, to make as best use of it as possible. The number of cases being referred, given the level of non-compliance, remains very low and I would like to see this increased in the future.

#### *Prioritisation of inspections: proactive vs reactive*

The 2018/19 Strategy noted that much current enforcement activity remains complaint driven, though increasingly there is a shift to more intelligence-led enforcement.

<b>Recommendation 20</b>	<b>The three bodies should continue to shift to more proactive enforcement methods. This will necessitate a more efficient way of responding reactively to complaints.</b>	<b>Good progress</b>
--------------------------	--	----------------------

Each of the three enforcement bodies use a mix of proactive and reactive enforcement activity and apply an analytical approach to information/intelligence they receive to determine the most appropriate enforcement action. Each enforcement body's Annual Report for 2018/19 will provide further details on the levels of enforcement activity undertaken during the year, however these have not yet been published. We can only report therefore on qualitative information and changes that have been implemented since the 2018/19 Strategy was published.

HMRC has further developed its NMW Risk Model that uses data from a range of sources including Pay As You Earn (PAYE) information to identify workers at most risk of NMW underpayments. This analysis underpins the formulation of a national strategic picture of risk that informs the targeted enforcement programme of work and deployment of operational resources. In 2018/19 targeted enforcement cases accounted for over half (55 per cent) of the cases closed by HMRC and represented 45 per cent of the cases closed with arrears.

Since April 2017 HMRC has invested additional funding in creating five new teams to specifically tackle non-compliance in larger and more complex organisations and their supply chains, where there is a risk of widespread non-compliance. These teams work closely with HMRC tax counterparts, making a holistic assessment of the risks within business structures and digital payroll systems to review the pay of large numbers of at-risk workers. HMRC also now has four teams to target potentially criminal behaviours, working closely with other government agencies during multi-agency operations to identify cross cutting illegal behaviours.



With this structure in place, HMRC's approach to enforcement has become clearer, shifting towards Promote, Prevent and Respond strategy with their programme structured around:

- **Campaigns:** a structured, sustained programme of work aimed at improving understanding and compliance levels amongst particular sectors or groups of workers where there is a high risk of non-compliance
- **Large and complex organisations:** targeting businesses with 250 or more workers with complex structures and payroll systems where there is a higher risk of non-compliance
- **Serious non-compliance:** targeting employers and vulnerable workers most at risk of labour abuse, including modern day slavery
- **Flexible response:** targeting employers across various sectors of the labour market where enforcement data, intelligence and risk modelling indicate a high risk of non-compliance
- **Test and learn:** targeting employers where various intelligence and data indicate there may be an emerging risk of non-compliance, and testing whether this assessment is in fact accurate and what response is most appropriate.

Overall, my assessment is that HMRC has developed a much more sophisticated system than it had at the beginning of 2018 when the Strategy was written. As noted in previous reports, under the service level agreement (SLA) with BEIS it has to respond to all complaints so resource will always focus on this in the first instance. However, it is doing more proactive work and should be congratulated on the range of responses and specialist teams that it has developed. Speaking to the teams at HMRC, it is clear that staff are developing expertise and techniques to deal with the most non-compliant businesses and insight into the most problematic sectors.

However, we are unable to make a comprehensive assessment of how these changes have translated into proactive and reactive cases as the Compliance and Enforcement Report. At the time of writing this had not been shared with us but has since been published (BEIS, 2020).

I look forward to seeing how this develops further over the next 12 months.

### Box 7: Case study of HMRC 'test and learn': childcare

HMRC sent letters to 15,000 nursery and childcare employers to raise awareness of underpayment of minimum wage in relation to deductions from worker's pay for childcare fees. Evidence suggested that employers often unwittingly underpaid the minimum wage through lack of understanding of the rules in relation to deductions from pay. The letter release was intended to flag the risk in question and suggest an alternative working practice to aid compliance. Results showed a demonstrable reduction in both the prevalence and average value of large deductions from pay.

Figures on the breakdown of **EAS** activity for 2018/19 are not yet available, but EAS states that it continues to review its balance of reactive and proactive work. As resourcing increases, more proactive work will be undertaken and EAS expects to deliver an increased number of operations in 2019/20. EAS is aiming to achieve approximately 50/50 split between the two strands of work by 2021/22, but this is dependent on the number of actionable complaints received over this period. EAS must respond to all complaints, therefore the resource left for more proactive work will be dependent on this demand, and given the activity it has been doing to raise awareness of its enforcement role one would expect this to increase.

The **GLAA** provided the following data on its cases.

**Table 6: GLAA breakdown of inspections, and split between LAPO and non-LAPO work**

	Application Inspections tasked*	Compliance Inspections tasked	Enforcement cases tasked	Non-LAPO work	LAPO work**
2017/18	136	104	228	240 (51%)	228 (49%)
2018/19	138	85	311	223 (42%)	311 (58%)
April 2019-Oct 2019 (YTD)	77	44	208	121 (37%)	208 (63%)

## Notes:

\* Application inspections and compliance inspections data relates to date tasked as opposed to inspection date (and therefore may differ from previous GLAA reports).

\*\* Investigations into Section 12/Section 13 offences under the Gangmasters (Licensing) Act 2004 can also be investigated by LAPOs, and therefore are captured as LAPO work. Intelligence development cases are included only when progressed to investigation.

While LAPO/non-LAPO work does not completely represent licensing vs non-licensing, it is a close proxy. As one would expect with the increase in numbers and experience of LAPOs, the enforcement cases have increased both in number and as a proportion of GLAA work. Looking at licensing, application inspections have stayed relatively stable, but compliance inspections have decreased since 2017/18.

I understand that there has been an increase in demand in terms of referrals recorded by the intelligence team from 2017/18 to 2018/19 and continuing into the current financial year. These intelligence reports require assessment even if they do not lead to investigation cases. This inevitably impacts on resource.

The GLAA clearly has difficult decisions to make around where to prioritise resource, covering high-risk labour abuse cases while also having a role in maintaining compliance across regulated sectors through its licensing regime. There may well be insights to be drawn from its experience in relation to the design and approach of the Single Enforcement Body. I will be interested to look into the balance between activity on licensing and non-licensing work in more detail for the 2020/21 Strategy, in particular as a number of stakeholders have raised concerns about the level and robustness of GLAA licensing since the GLAA has taken on its extended role.

The enforcement bodies obviously have a delicate balance to strike between the complaints and information coming in from workers asking for help, against the more intelligence or analysis led investigations into sectors and populations where there is known non-compliance but it is more hidden. I can see there has been progress with all three bodies since the 2018/19 Strategy was written, although the data to enable us to analyse the issue in depth is not yet available. The consultation on the creation of a new Single Enforcement Body asked about the balance between proactive and reactive enforcement. I will be interested to read the feedback from stakeholders on that question and to consider the issues in more detail as the developments of the SEB move forward.

*Use of intelligence and joint working*

Recommendation 21	The three enforcement bodies should continue to build on the good progress made over the past 12 months by:	Good	progress
	(a) Refining the systems and processes for intelligence sharing, exploring all possible legal gateways and identifying any potential barriers, including developing the intelligence requirements to ensure the appropriate information is being collected	Good	progress
	(b) Learning from shared experience to ascertain best practice for joint working, ensuring the best enforcement tools are applied to each case	Some progress	
	(c) Continuing to build relationships with other enforcement agencies to facilitate more joint working where different powers and additional resources, or enforcement tools can be of benefit	Good	progress
	(d) Looking to build partnerships with business, trade unions, trade bodies and other industry experts so that these partners may feed in intelligence to the bodies in such a way that is actionable	Some progress	
	(e) Operating a feedback loop with each other, with those that submit intelligence to them and to their respective complainants.	Some progress	

Joint working initiatives can take the form of a) the sharing of intelligence and information between the bodies to inform independent activity, and b) joint operational activity. Although this will not always be appropriate joint working can be hugely beneficial in the right circumstances. HMRC informed us that in 2018/19, the Serious Non-Compliance Team completed 199 joint visits (up from 127 in 2017/18) with officers and officials from the other enforcement bodies, as well the Home Office, Immigration Enforcement and the Police. Further detail on joint operations will be available in BEIS' Enforcement and Compliance report (BEIS, 2020).

Both individually and with the Strategic Coordination Group (SCG), the enforcement bodies have worked to address the problems identified in the 2018/19 Strategy around intelligence sharing and joint working. The enforcement bodies have increasingly been exchanging intelligence with each other and other enforcement agencies, and sharing information with the Information Hub, leading to the identification of suitable opportunities to work together collaboratively.

The enforcement bodies reported the following developments in the way they gather, analyse and share information:

**HMRC NMW has:**

- appointed a dedicated 'Stakeholder and Joint Working Lead' to build regular engagement with trade unions, agents and advisory bodies (Recommendation 21d);
- worked with the Insolvency Service to develop a legal gateway and referral pathway to allow both parties to consider 'rogue' directors as part of their respective investigations (Recommendation 21a);
- created four dedicated teams focused on targeting the most serious cases of non-compliance where there may also be evidence of modern-day slavery or serious exploitation of vulnerable workers. The Serious Non-Compliance Teams are continuing to build relationships with government departments (OGDs) and enforcement partners across the UK, including information sharing and participation in joint working operations.



**GLAA has:**

- reviewed its existing legal gateways with DWP to share relevant intelligence and agreed a revised data sharing protocol (Recommendation 21a).
- reviewed its legal gateway with the National Police Chiefs' Council (NPCC) and signed a new protocol that will allow a flow of intelligence with the body (Recommendation 21a).

**EAS has:**

- continued to work closely with SAFERJobs which provides it with intelligence about potential abuses in the labour market, particularly exploitation of work-seekers.
- continued to work with the Association of Compliance Organisations (ASCOR<sup>8</sup>) to promote greater awareness of information sources for both employers, hirers and work seekers, and to provide a route to provide information relating to potential labour market abuses.

A significant development in regard to Recommendation (d) are the GLAA protocols. Sector-specific protocols now exist for textiles, construction and retail, and work on a further protocol for hospitality and hotels recently commenced.

**Box 8: GLAA Protocols**

The GLAA website sets out that signing up to the protocol means an agreement to:

- work in partnership to protect vulnerable workers
- agree to share information, where possible, to help stop or prevent the exploitation of workers
- work together to manage information sensitively and confidentially
- commit to raising awareness within the supply chain
- maintain momentum through this protocol by communicating regularly

All parties have agreed to raise awareness within supply chains to help to prevent and protect workers from exploitation or abuse and take necessary steps to ensure that exploitation and abuse of workers is recognised and addressed with appropriate safeguards put in place to ensure that exploitative practice is not repeated. By signing up to the protocol, organisations are doing so of their own free will with a view to assisting the GLAA in reducing opportunities for exploitation and slavery. In doing so, the GLAA makes no comment as to the current state of its employment and/or supply chain practices. Being a signatory to the protocol will not prevent enforcement action being taken should exploitative behaviour subsequently come to light.

For further information see: <https://www.gla.gov.uk/i-am-a/i-use-workers/>

Each protocol is tailored to the industry it covers. They are industry led, with the GLAA being a catalyst and support for the group to convene and identify good practice. The retail protocol was the first protocol produced involving all the big retailers involved with licensed sectors (Marks and Spencers, Tesco, etc.) and helps deal with their supply chains. This began in 2013 and was reviewed in 2016.

The Construction protocol was launched in October 2017 and now has nearly 150 signatories. The GLAA reports that there is significant appetite for this from the construction sector and it has developed quickly. The Apparel (textiles) protocol developed from work in Leicester and the

8 <https://www.theascor.org/>

joint working there (GLAA, 2018c); it has 19 members. The apparel protocol has concentrated on formalising joint working and information sharing. The hospitality and hotel protocol is the most recent to be initiated (first meeting was September 2019) and is being developed closely with the Shiva foundation.<sup>9</sup>

The GLAA report that the benefits of the protocols are in the provision of a forum for open discussion both between enforcement bodies and employers, but also within the industry itself. They have seen that conversations about risks and how to address exploitation can change behaviour and develop what good practice looks like. It has helped to clarify how to report issues to the GLAA and how it will deal with it. Although the protocols raise awareness of the extreme end of labour exploitation in the protocols, GLAA also tries to focus on worker welfare and treatment.

I am very interested in the GLAA protocols as a model of working with the industry, and can see that it is potentially an efficient way of getting significant reach into industries and their supply chains. I would like to see an assessment of the protocols to understand better what works well in different sectors and why. For example, has there been an impact on intelligence reports and the quality of these, have there been any changes in behaviour by signatories and has there been a wider raising of awareness in the sector. The GLAA has initiated a series of surveys of protocol signatories and these should assist with the continued evaluation of the effectiveness of the approach.

I also note that GLAA is open about its conclusions from its analysis of intelligence and has published industry profiles to help inform its partners and the public about trends and problems in different sectors.<sup>10</sup> It has also updated its report into the nature and scale of labour exploitation across the UK (GLAA, 2018d). I commend GLAA on sharing its analysis in this manner and this example of good practice should be noted for the development of the Single Enforcement Body.

On recommendation (e) in terms of feedback to external people/organisations raising complaints or reporting intelligence, we are not aware of any change in practice. I understand that there are legal barriers to enforcement bodies feeding back on the results of intelligence reported. The enforcement bodies only feed back to other agencies where there is a specific request for information. There has been an improvement in that they now hold records of the numbers of intelligence requests and shared reports, but they do not regularly share all feedback. The SCG provides a forum for the bodies to raise issues if they feel there were 'blocks' or problems with information and intelligence.

In summary, I see that progress is being made against all these recommendations. Joint activity and intelligence sharing between the enforcement bodies is now more embedded as business as usual in the enforcement process and I am pleased to see that this is increasing. The SCG has had an important role in encouraging progress here. Going forward I would like to see further progress on:

- development of the intelligence requirements to improve the collective response to non-compliance by the enforcement bodies;
- further building of relationships with wider enforcement agencies to demonstrate that the response to labour exploitation is consistent across the UK;
- consideration of how the enforcement bodies can work more effectively with other stakeholders, including business, trade unions, trade bodies and others to increase the quantity and quality of intelligence flows; and
- development of methods to jointly investigate the supply chain after serious cases of exploitation.

<sup>9</sup> <http://www.shivafoundation.org.uk/>

<sup>10</sup> <https://www.gla.gov.uk/publications/labour-exploitation/>

Recommendation 22	Different forms of partnership working should be piloted and evaluated, primarily through the support of:  (a) Newham's proposal to target NMW/NLW (testing joint working between HMRC and local authority); and	Little	progress
	(b) Leicester's proposal to target the garment trade through high density, highly visible joint enforcement (testing partnerships with local agencies and businesses).	Some progress	

### a) Newham's proposal to target NMW/NLW (testing joint working between HMRC and local authority);

The London Borough of Newham (LBN) proposed using local data and local intelligence to proactively target rogue employers likely to be non-compliant with NMW legislation. HMRC NMW met with officials from LBN to explore intelligence held by LBN and joint working opportunities.

In December 2018, HMRC undertook compliance visits accompanied by Newham officials to various nail bars (which are licensed in Newham). Four premises were selected and intelligence discussed at a team briefing before visits occurred. Intelligence shared from the LBN contained worker details that could be used to cross check on HMRC systems. The partners involved in the four visits included: the Council's Health and Safety Enforcement team, HMRC's NMW Serious Non-Compliance Team and its Individuals and Small Business Compliance (ISBC) Taskforce.

LBN and HMRC NMW shared information regarding all premises of concern. The key issues found by the LBN inspectors included: poor health and safety, and unhygienic conditions, such as one pest control issue and one ventilation issue. The NMW team discussed employment with staff and owners of each premises on hours worked, pay received, unpaid training, break times, deductions from pay, accommodation and employment status. The outcome of these operations resulted in four enforcement revisits, and LBN health and safety inspectors issued two warning letters. Following the revisits all premises have been deemed fully compliant with health and safety and licensing conditions.

The LBN identified the following issues through the work they did together:

- competing requirements for enforcement agencies (underpayments and incorrect licences);
- lack of legal gateways creating obstacles to intelligence sharing and providing feedback;
- lack of relevance of some of the intelligence, for instance LBN data not being able to identify the employer;
- lack of employer engagement with NMW when attending with LBN.

The LBN and HMRC NMW are looking at ways they can increase engagement and at this time the full benefits of further joint working in this trade sector could not be established with the current intelligence.

It is a shame that the joint working trialled in this case does not seem to have yielded positive results. I feel that there must be more ways in which local and national partners can come together to share information and deal with problem businesses. Perhaps this was not the particular issue on which these partnerships would be fruitful but I would encourage the enforcement bodies to continue to work closely with Local Authorities to find ways in which they can work together to be mutually beneficial.

## b) Leicester's proposal to target the garment trade through focused, highly visible joint enforcement (testing partnerships with local agencies and businesses).

In line with this recommendation, the enforcement bodies and partners worked closely to develop a joint approach to enforcement within Leicester and in the summer/autumn of 2018 piloted a joint enforcement approach. The partners involved included: GLAA (Operational lead), City Council (Strategic Lead), Employment Agency Standards Inspectorate (EAS), HMRC NMW, HSE, Police, Immigration Enforcement and ODLME.

In Spring 2018, EAS undertook over 30 compliance visits to employment agencies in the Leicester area. It found no evidence that the garment trade was being supplied via agencies. EAS therefore took no further part in the operational side of the pilot.

In July 2018 the aims and objectives of the pilot were agreed through the SCG. The partners agreed to the aims of the pilot to be:

- **Engage:** To support local businesses and employees to report issues, prevent and improve
- **Identify:** To test the perception that there are a number of Leicester businesses in the supply chain for the retail sector who act outside of the law, where they exploit workers and do not pay their legal duties
- **Tackle:** Where multiple non-compliance is identified, to undertake joint working between state enforcement bodies to seek to tackle this
- **Promote:** To build confidence that information, prevention and enforcement activities are leading to proactive action and positive change

In September 2018 enforcement agencies compared intelligence to identify potential targets within the Leicester textile industry, leading to a series of joint visits with GLAA, HMRC, Home Office Immigration Enforcement (HOIE) and the police over three days. Six visits to businesses were conducted. HMRC's involvement resulted in four cases with follow up: one closed with no NMW issues, one closed to NMW but passed to fraud investigation; one case found NMW arrears in connection with unpaid working time; and investigations are ongoing for two cases for potential employer compliance and VAT risks. GLAA found one potential case of exploitation that was referred to the police. HOIE attended three visits and identified a number of illegal migrants on a follow-up visit. The police attended all six visits but did not find any offences.

HSE was also involved in the pilot and conducted its own visits to 22 businesses. During these inspections, small issues of non-compliance were found, e.g. problems of insurance records, noise, machinery maintenance. One case was referred to GLAA. While some enforcement action was taken, there was nothing to indicate high risk health and safety issues that would require HSE to reassess this part of the textile industry as high risk.

At the same time, Leicester City Council have been working with local textile businesses. Over 18 months, they provided £400,000 to business from EU funding, and engaged with around 150 textile businesses, with many attending specific ethical compliance workshops covering social compliance, health and safety, HR and management (by Acas) productivity and selling online.

The DLME's office conducted an interim evaluation of Leicester's pilot and concluded the pilot had shown that the enforcement bodies worked well together: new partners had been brought in, the days of action were run smoothly and data sharing issues had been resolved. However, the joint working was labour intensive and had required a significant amount of resource for planning and coordination. The aim of achieving greater deterrent activity and publicity around joint activity was not achieved during the pilot, and the evaluation concluded that repeating the same approach would not provide value for money unless greater intelligence was sourced and wider compliance

activity was undertaken. All agencies involved acknowledged that one operation is insufficient to change the culture and behaviour within the industry, and that a coordinated, structured rolling programme was required to achieve this.

Further discussions with the Mayor of Leicester and the enforcement bodies has led to the City Council deciding to recruit a project coordinator to help support the approach going forward. At the time of writing, this recruitment is underway and the Council has established a new steering group to take this work forwards once the coordinator is in place.

I appreciate the efforts that have been made to tackle the problem in the textile industry in Leicester and hope that learning from testing different ways of working together in this area can be applied to similar problems in other cities and industries – this is not only a ‘Leicester issue’ as London, Manchester and many other areas have similar problems. However, I think that the work to date has demonstrated that the enforcement bodies and local partners will need to be more creative to solve the issue. I am hopeful that having a coordinator on the ground locally will help by providing a focus of knowledge and contacts and the momentum to try new things to change the problematic working environment that exists in some parts of this sector. I will give all the support we can from the Office.

### 2.2.3 Improving labour market enforcement (Recommendations 23-30)

#### Accountability and leverage through the supply chain

One of the most prominent manifestations of the fissured workplace over recent decades has been the growth of supply chains. Often this is in the context of global business, but increasingly there are examples where there is a return to on-shoring in the UK to benefit from greater within-country proximity throughout supply chains (e.g. fast fashion in the garment industry). However, the driver for this business model remains the same – that is, cost reduction – and this, in turn, risks compromising labour standards.

A key element of strategic enforcement is the recognition of the power of leverage within the supply chain. Improvements in compliance throughout the supply chain can be achieved by linking the actions of suppliers down the supply chain to the brand name at the top.

Recommendation 23	To help ensure compliance throughout supply chains, joint responsibility measures should be introduced where the brand name (at the top of the chain) bears joint responsibility for any non-compliance found further down its own supply chain. Where non-compliance is found, follow-up action by enforcement agencies in conjunction with the brand name and supplier would be undertaken in private to provide an opportunity to correct the infringements within a given timeframe. Failure to correct could result in public naming of both the brand name and the supplier.	Not assessed
Recommendation 24	Provisions should also be made to enable temporary embargo of ‘hot goods’ to disrupt supply chain activity where non-compliance is found.	Not assessed

The Government committed to returning to these recommendations around increasing accountability and leverage through the supply chain following a consultation. As with other recommendations which were not fully accepted, I have not given these an assessment rating.

The 2018/19 Strategy identified that the public sector itself can play a leading role in helping to achieve greater compliance through its commissioning of public procurement contracts (amounting to over £250 billion a year overall).



I was pleased that joint responsibility and hot goods were consulted on as part of the Single Enforcement Body consultation and will await the Government response. I am of the view that using different tools to impact throughout the supply chain will be essential for dealing with non-compliance in particular problem sectors.

The Government also held a consultation on Transparency in Supply Chains (TISC) which closed in September 2019 (Home Office, 2019). I responded to this and emphasised my view that a joined up approach from the Government that sets out the expectations on firms in relation to their supply chains will make it easier for companies to comply and similarly, easier to enforce. My engagement with large companies to date suggests acceptance for responsibility of their supply chains, but that they need clarity from the Government on their responsibilities, and that the process for compliance must be made as easy as possible. I look forward to reading the Government response to the TISC consultation and hope it will be influential in setting further direction in this area.

<b>Recommendation 25</b>	<b>An assessment should be made of the effectiveness of the Welsh Government's new Code of Practice, to determine whether national roll-out would be beneficial.</b>	<b>Some progress</b>
--------------------------	--	----------------------

The Welsh Government launched a Code of Practice to guide procurement in the Welsh public sector to cover issues such as false self-employment, the unfair use of umbrella companies and payment of the living wage.

Since the Code of Practice was launched in March 2017 there have been 186 signatories, of which 54 are from the public sector, 20 from the third sector and 112 are from the private sector. This includes all universities, police and health boards, and most of the local authorities in Wales.

The Welsh Government responded to the recommendation to review its Code of Practice by stating that it intended to do so in the spring of 2019. Since then a Fair Work Commission was established to consider the wider matter of what should be done to make Wales a Fair Work Nation. The commission included progress on the Code of Practice within its review, describing the Code within its report as “an important and innovative initiative”, and making recommendations about how it could be strengthened. The Commission’s recommendations are now being considered together and so a more formal review of the Code will take place later than was envisaged. I await the Welsh Government’s response on next steps for the Code of Practice (Fair Work Commission, 2019).

**Recommendation 26** on public procurement templates was rejected and is discussed in section 2.3.

### Licensing and other models of regulation

The 2018/19 Strategy considered licensing and other models of regulation (registration, certification and accreditation).

<b>Recommendation 27</b>	<b>The 2012 GLAA licensing standards should be reviewed to ensure they reflect current worker rights and employer obligations.</b>	<b>Implemented</b>
--------------------------	--	--------------------

Following the Government response to the 2018/19 Strategy, GLAA licensing standards were updated and came into force from 1st October 2018. GLAA’S Brief Series 58 outlines the details of these updates (GLAA, 2018b). This sought to clarify how the GLAA assess an application/ licence holder by considering how they operate outside the licensable sector and emphasised the enforcement of holiday pay. I welcome implementation of this recommendation meaning that GLAA licensing conditions remain relevant to changing labour market trends and conditions.

During the call for evidence informing the 2018/19 Strategy, there were multiple calls from stakeholders to extend licensing to, for example, employment agencies, the garment trade, construction employers, and firms in the security industry. Such calls however lacked evidence on either the costs or benefits of extending licensing, or its practicability. Rather, there was typically a simple assertion that licensing would improve matters. For this reason, **Recommendation 28** proposed testing geographically limited, mandatory licensing pilots in nail bars and hand car washes.

The Government partially accepted **Recommendation 28**. As this activity is not the same as what was included in the Strategy recommendation, we have not assessed progress against the recommendation.

<b>Recommendation 28</b>	<b>Two pilot schemes should be run and evaluated to test the feasibility and impact of GLAA licensing of businesses in different sectors. These should be done on a geographically limited basis and cover:</b> <b>(a) Hand car washes</b>	<b>not assessed</b>
	<b>(b) Nail bars</b>	<b>not assessed</b>

In relation to **nail bars** the Government agreed to: *“explore how local authority licensing of nail bars in London operates to identify any gaps. [...] Further work is required to build the evidence base to better understand the issues associated with nail bars in London and across the rest of the country.”* (BEIS and HO, 2018).

The Home Office states that it has engaged with London Boroughs to learn about how Local Authority licensing of ‘Massage and Special Treatment’ works. Some local authorities have licensing schemes for special treatments (which include some treatments relating to nail bars), but the issues of concern are more focussed on health and safety and product safety and do not cover employment law or rights. Each local authority is responsible for its own licensing conditions.

To understand more about the potential risks in the sector the GLAA, supported by Project Challenger, completed a survey of the level of nail bar operators in a specified area in Manchester. The results of this work fed into wider discussions within the Home Office on the potential to develop accreditation of nail bars.

The Home Office has done what it committed to doing in its response, however overall I feel that the level of risk of exploitation identified with nail bars (e.g. IASC, 2017) warrants greater attention and urgency to understand the nature and scale of exploitation within this sector. In particular, how can labour abuses be distinguished from other forms of criminality and the enforcement bodies work together to effectively deal with the problem? I would like to see further work to consider how local authority inspections could include issues of worker rights and protection, and how this could be better linked into a combined enforcement response.

In relation to **hand car washes**, the Government response stated: *“there is a need to further explore and identify the issues within this sector to enable the development of a robust evidence base that will help to determine the most appropriate regulatory approach and enforcement body. The Government believes that this can be better achieved by a voluntary pilot approach over a compulsory pilot licensing scheme.”*

Hand car washes continue to feature highly in both the volume of intelligence and cases, and risk of harm to workers from labour exploitation, and indeed continue to rank as the greatest risk in the DLME MoRiLE assessment. As set out in the Government response, a voluntary licensing scheme has been set up, and public awareness of the problems in hand car washes may be increasing via GLAA communications and a campaign by the Clewer initiative.

In October 2018, the Responsible Car Wash Scheme (RCWS) was launched. The RCWS was led by the Downstream Fuel Association and supported by the GLAA, Police, HSE, HMRC, the Environment Agency, the Petrol Retailers Association and the charity Unseen. Accredited Operators are able to display the RCWS logo to demonstrate that they have adhered to the scheme's Code of Practice allowing consumers to make an informed decision on which car washes to use. The Scheme also provides advice and guidance on best practice to help drive up standards through continuous improvement. The RCWS completed its initial pilot phase during February and March 2019; 44 sites located in the East and West Midlands participated in the pilot, almost exclusively within a carpark of one of the sponsoring supermarkets.

The RCWS undertook an evaluation of the pilot in July 2019. The aim was to talk to the workers about their terms, conditions and working practices on the site. Each audit was unannounced with the audit team first observing the site for a brief period prior to making themselves known to the site operator.

Overall 61 per cent of operators passed, 25 per cent failed and 14 per cent are pending subject to further information being supplied. The audits identified issues such as: confusion over employment status, low pay, excessive working hours, and language barriers. Failures were based on the observations of workers taking themselves away from the site when auditors arrived, workers unable to satisfactorily show registration for UK tax, and/or where the site was unable to evidence proper disposal of waste products.

It is concerning, and reflects the deep problems in the sector, that there remains such a high level of non-compliance even within car washes which have voluntarily signed up to the standards are most likely to be compliant being linked to large supermarkets and retailers who are trying hard to ensure good practice in businesses linked to their own. I note that RCWS is building on its approach and at the end of 2019 trialled a focussed local approach, where it visited all car washes in a local policing area, with the focus on engagement, education and compliance. Following visits to each hand car wash, the owners were invited to attend a partnership seminar run by the RCWS, with other partner agencies in support; including HMRC, Trading Standards and the Local Authority. I look forward to discussing the results of this approach further.

In June 2018, the Clewer Initiative's "Safe Car Wash" app was developed, which works to raise public awareness of labour exploitation in hand car washes, and provide a community intelligence-led approach to mapping car washes across the UK and gathering data in relation to modern slavery. A report of the first six months of the initiative was compiled by the University of Nottingham Rights Lab and published in April 2019 (University of Nottingham Rights Lab, 2019). The report stated that the app had been downloaded 8,225 times and generated over 2,000 entries of data between June and early December 2018.

The app enables users to anonymously provide information on the location and setting of the car wash, workers' access to suitable clothing, living arrangements, the presence of minors working on site, and the cost and method of payment. Users are prompted to call the Modern Slavery Helpline if their answers indicate that there is a likelihood of modern slavery or exploitation at the car wash. Anonymous data collected from the app is shared with the National Crime Agency, the GLAA and the National Police Chiefs' Council. These agencies are given real-time access to the data to help develop the intelligence required to lead effective investigations.

The report has some interesting analysis on the location of the hand car washes and the types of issues reported of concern:

- 48 per cent of Safe Car Wash app reports commented that workers did not have access to suitable clothing
- 14 per cent of reports said that workers were living on the car wash site
- 17 per cent of users identified fearful workers at the car wash



- 8 per cent of reports logged children working on site
- The average price paid for a hand car wash service was £7.10

An important finding from the research was that although 41 per cent of users were asked to call the Modern Slavery Helpline by the application, only 18 per cent of those who were advised to call actually did so and 82 per cent did not. There were a total of 126 cases where the helpline was called.

Another initiative in this sector is the Sandu Foundation which brings together the Government agencies, wash companies, workers, charities and the public to make the industry fairer and safer for all. This was set up in memory of Sandu Laurentiu-Sava who was killed in 2015 in poor accommodation linked to the car wash he was working in.

The Clewer app shows promise and is a good example of innovation emerging from different parts of civil society coming together to do something positive. I would see this first version of the app as a prototype on which to build and learn from experience. I look forward to discussing this further with the group when developing my 2020/21 Strategy.

The RCWS initiative is also interesting and the organisers should be congratulated on trying to tackle the issues in car washes, particularly their commitment to evaluate the scheme. It is very positive to see industry taking the lead to try to improve compliance within their sector with the support of enforcement agencies. I am very much in favour of these kind of partnerships and hope that this is a basis on which to build business models for compliant hand car washes. The role of consumers in choosing which services they use, based on more than just cost, will be important in determining whether this scheme can make headway in changing behaviour in the sector.

Despite the initiatives outlined above and the commitment shown by a range of stakeholders, I remain doubtful that by themselves voluntary schemes will impact on the worst offenders in the sector who are, after all, making significant amounts of money from these non-compliant businesses.

The 2018/19 Strategy discussed the differences between voluntary and mandatory licensing schemes in detail and was clear about the reasons why the mandatory scheme should be tested as only this was felt to be potentially effective at dealing with the non-compliance from resistant businesses. Indeed, in 2018, the Environmental Audit Committee reiterated the call for licensing in the hand car wash sector (EAC, 2018).

The issue of licensing as a compliance and enforcement tool remains highly topical in the light of the potential of a proposed Single Enforcement Body. It was a specific question in the consultation on the SEB and, as stated above, I am aware that some stakeholders have called for licensing of labour providers in a number of sectors.

Since coming into post, my engagement with the three enforcement bodies and wider stakeholders has led me to think that some sectors, such as hand car washes display such a high level of non-compliance and or recurring problems that the current enforcement model is not effective. The enforcement bodies could spend disproportionate resource and time trying to enforce standards in these businesses without managing to bring the industry as a whole into line.

After engaging widely with stakeholders, I have concluded compulsory national licensing to be the only option which would seem to enable enforcement bodies to have the tools to fully address non-compliance and the risk of severe exploitation in this sector. However, as the former Director discussed in the 2018/19 strategy, the practicalities and costs of licensing and the monitoring activity required to make this effective, must be fully understood to design such a scheme effectively. This is something that I will come back to in my 2020/21 Strategy.

### *Continual assessment and improvement*

The 2018/19 Strategy emphasised the importance of undertaking robust evaluation to understand which policy interventions work, and to understand the overall impact of the three enforcement bodies on tackling non-compliance.

All three bodies report on outputs of their activities (e.g. number of cases, amount of money recovered, etc.), but the Director felt this risked distorting organisational behaviour and priorities and therefore wanted to see greater emphasis on measuring outcomes (i.e. impact on the level of non-compliance overall).

<b>Recommendation 29</b>	<b>The three bodies should further develop and embed an evaluative approach to their own processes and systems, making best use of data and information to assess their performance and impact, ensuring they align with strategic enforcement principles, especially in terms of increasing the deterrence effect.</b>	<b>Some progress</b>
<b>Recommendation 30</b>	<b>An independent evaluation should be undertaken, by an outside organisation, to investigate the overall impact of the three bodies on tackling labour market non-compliance.</b>	<b>Some progress</b>

In Autumn 2018, the DLME commissioned the National Centre for Social Research (NatCen) and the Institute of Employment Research (IER) at University of Warwick to consider suitable evaluation approaches to assess the impact of labour market enforcement. The enforcement bodies have been involved in this process. This is explored later in section 3.4.

The enforcement bodies have carried out several actions to improve their performance. EAS has invested in two IT products to enhance its use of management information and data more generally. This will allow EAS to produce weekly reviews into its performance against published SLAs and monitor impact. These IT systems are fully aligned with EAS strategic enforcement approach and will allow EAS to enhance its utilisation of resource.

BEIS and HMRC NMW are working together to develop evaluative work. The key elements of this work are continuing to refine the monitoring information captured and developing work to understand the impact of enforcement activity itself. This second strand of work will principally focus on establishing the impact of communications and awareness-raising activity, and understanding the compliance and deterrent effect of various types of enforcement activity. I look forward to seeing the results and discussing these with BEIS.

I understand that BEIS has commissioned small-scale qualitative research among employers and workers to understand their awareness and understanding of NMW enforcement and the extent to which they viewed it as an effective deterrent. I look forward to seeing the findings when it is published.

The GLAA has implemented a new performance and insight pack to measure its monthly activity, enable analysis, and review areas of concern immediately, which then in turn informs their Annual Report on performance.

I recognise and welcome the fact that the bodies are taking steps to evaluate and analyse their activity, however there is still some way to go until this is embedded within business as usual.

## 2.2.4 Enforcement gaps (Recommendations 31-37)

The 2018/19 Strategy highlighted some serious gaps in labour market enforcement.

Recommendation 31	<b>HMRC, or another state body, should be provided with the powers and remit to take responsibility for the enforcement of holiday pay for all workers, including mechanisms to recover holiday pay arrears.</b>	<b>Some progress</b>
Recommendation 32	<b>In the interim EAS and GLAA should make use of their existing enforcement frameworks to investigate holiday pay as a matter of priority. The findings should be shared with HMRC NMW as appropriate.</b>	<b>Some progress</b>

### *Holiday pay*

The 2018/19 Strategy stated that effectively, there is no state agency enforcing holiday pay regulations, yet the evidence presented suggests that in aggregate the unpaid amount is as large as non-compliance with the minimum wage.

Both EAS and GLAA can currently investigate holiday pay but these powers and resources are not in proportion with the scale of the problem. For EAS, holiday pay is covered by the Conduct of Employment Agencies and Employment Businesses regulations 2003 (as amended), and a complaint about non-payment will be investigated. Employment businesses receive warning letters regarding compliance with payment of holiday pay and this has led to payment of holiday pay.

The GLAA told us that during the reporting period there have not been any cases of withheld holiday pay being a part of licence revocation grounds, however there have been separate recoveries of holiday pay resulting from other interventions.

The Government accepted that the state should take responsibility for the enforcement of holiday pay for vulnerable workers and has committed to introduce legislation to provide powers for state to do so. This will be an important consideration in developing the remit and powers of the Single Enforcement Body. EAS and GLAA's experience are informing plans on how to best introduce state enforcement of holiday pay for vulnerable workers.

I will return to holiday pay in my 2020/21 Strategy, but in the interim it is my view that holiday pay should be viewed conceptually as an NMW issue. I have made representation to HMRC NMW that they could consider it an NMW breach where holiday time not taken and not paid brings the individual below NMW rates. I understand that the technical issues and the different legislation around NMW and holiday pay prohibit this approach at the moment. However, moving forwards with the Single Enforcement Body and new legislation, this seems to me an interesting avenue to explore and certainly a useful way of defining vulnerable workers and therefore targeting enforcement to support the workers for whom it would have the greatest impact.

*Intermediaries and umbrella companies*

Recommendation 33	EAS current powers should be expanded to include intermediaries to enable it to follow up on cases of worker exploitation as it would for employment agencies. Its resources should be increased in line with the additional requirements to do this.	Some progress
Recommendation 34	The GLAA, EAS and HMRC NMW/NLW team should work closely with the other relevant HMRC tax enforcement teams to share information of non-compliant intermediaries that they identify through their enforcement work. The relevant teams in HMRC should take effective action against such organisations, ensuring that successes are widely publicised to demonstrate that the enforcement environment is changing.	Good progress
Recommendation 35	EAS and HMRC should work together to develop the options for enforcing regulations around intermediaries, assessing the likely impact, costs and benefits of each.	Some progress

The Government has committed to introduce legislation that will bring umbrella companies within the remit of the EAS. This requires primary legislation, which, we have been told by BEIS, will be introduced as soon as the parliamentary timetable allows. The enforcement bodies are taking steps to combat umbrella companies. Umbrella companies are currently not a common feature of the GLAA licensable sectors. However, should such schemes be attempted to be operated, the GLAA operating model should ensure that any relevant intelligence is shared with HMRC. EAS will continue to share information where it has a legal gateway to do so or where it identifies issues where it believes that has been a breach of other legislation.

In light of the recommendations to extend EAS's remit to umbrella companies, EAS works closely with HMRC tax enforcement and are actively looking at how to enhance existing information sharing. In the interim, the enforcement bodies are continuing to share intelligence to tackle this. In particular, the five teams HMRC has set up to tackle large and complex businesses and their supply chains are looking closely at and developing expertise in dealing with umbrella bodies and intermediaries. This ensures that HMRC takes a holistic view when assessing risk within large, complex business structures and computerised payroll systems – reviewing the pay for large numbers of at-risk workers. Currently they have over 400 investigations ongoing into large and complex businesses.

In terms of working with the HMRC taxation, EAS meets monthly with colleagues to discuss matters of mutual interest, such as the Government's commitment to extend EAS' remit and IR35.

I have spoken with BEIS officials who are working with EAS and HMRC to develop options to regulate umbrella companies once EAS has the requisite powers and will consider the impact and benefits of each, and look forward to the necessary legislation being taken forward to enable this to be progressed. Going forward, I hope to support and work closely with these teams to ensure there is a robust strategy, with the necessary resource, to tackle rogue umbrella bodies effectively. In the meantime, one hopes that the key information page for agency workers that comes in in April 2020 will at least provide greater transparency for agency workers on the charges of any umbrella company, and help them to make an educated decision about whether to use them.

### Swedish derogation

The 2018/19 Strategy identified concerns with the Agency Worker Regulations 2010 (AWR) which made agency workers vulnerable to being underpaid. The AWR transposed an EU directive that guarantees agency workers equal pay and conditions with employees in the same business (who do the same work) following completion of a qualifying period of 12 weeks into UK law. Evidence was presented for the 2018/19 Strategy that many employment agencies avoid their obligations under the AWR, denying agency workers their correct level of pay. One way is for agencies to ask or coerce the worker into signing up to the ‘Swedish Derogation’ which provides an exemption to the right to equal pay that an agency worker should receive under the AWR.

<b>Recommendation 36</b>	<b>The Swedish derogation should be properly enforced or abolished.</b>	<b>Implemented</b>
	<b>EAS remit should be extended to cover enforcement of compliance with the AWR (including the Swedish Derogation), with the additional necessary resource to do this.</b>	<b>Not assessed</b>

The Government has since announced that the Swedish Derogation will be repealed following the Agency Workers (Amendment) Regulations 2019. This will come into effect on 6th April 2020. I am very pleased to see that this recommendation has been implemented, and the Swedish derogation has been repealed.

As a matter of course, there should be a review or evaluation a year after the repeal to find out if it is being observed, and what (if any) impact it has had, including any unintended consequences.

The Government did not accept the second part of the recommendation as it was concerned that expanding EAS remit to cover the Agency Worker Regulations 2010 (AWR) would represent an unreasonable expansion of its role.

### Lack of documentation

The absence of, or failure to keep adequate, records is often a serious impediment to enforcement. A change in the policy guidance in 2017 encouraged HMRC to prosecute this as a standalone offence. Furthermore, BEIS’ published policy on prosecutions was also updated in November 2017 to deliver greater clarity regarding which cases should qualify for referral to CPS who then ultimately decides whether to prosecute.

<b>Recommendation 37</b>	<b>HMRC to take advantage of the recent change in policy guidance and pursue more prosecutions for standalone non-record keeping offences.</b>	<b>Some progress</b>
--------------------------	--	----------------------

The law on record keeping has not changed and CPS has not taken on additional cases identified by HMRC specifically around failure to keep records. Since the change in policy guidance, no cases have been referred to the CPS for standalone record keeping offences, and therefore there have been no prosecutions on this to date.

Despite this, it has been reported to me that HMRC has been taking other action to deal with the problem. HMRC is identifying employers where a lack of records has been a barrier to ensuring compliance and initially providing these employers with advice and where appropriate subjected to repeat visits. Where employers continue to fail in their record keeping obligations (and where criminal referral is not appropriate), HMRC may then issue LMEUs to correct that behaviour. This has been used particularly in the hand car wash sector, indeed of the 16 LMEUs issued by HMRC up to October 2019, 12 have been for hand car wash businesses. Where employers continue to fail in their record keeping obligations and/or where there is evidence of other trigger offences, HMRC may then issue LMEOs.



Early results of this approach suggest that using LMEUs has been successful in a number of cases in getting businesses to comply with the rules, although it can be labour intensive as there is the need to monitor the businesses until they comply, or to escalate enforcement if they do not. HMRC is currently reviewing its use of LMEUs to assess what works. I look forward to seeing its findings and discussing the conclusions with HMRC and the other enforcement bodies.

## 2.3 Rejected recommendations

Three recommendations were rejected outright by the Government. These are shown in Table 7.

**Table 7: Rejected Recommendations**

Recommendation 7	In the longer term, hours and hourly earnings should be captured in Real Time Information data returns to HMRC.	Not assessed
Recommendation 13	The use and imposition of much more severe financial penalties to act as a greater deterrent against non-compliance. The NMW penalty multiplier should be reviewed and increased again to a level that would ensure that there is an incentive to comply with the legislation.	Not assessed
Recommendation 26	Procurement templates should be amended to explicitly compel compliance with labour market regulations in public contracts.	Not assessed

**Recommendation 7** aimed to allow hours (and hourly earnings) to be captured in Real Time Information (RTI) data returns to HMRC to enable better proactive enforcement of the NMW/NLW. The Government rejected the recommendation, but it stated that it committed to consider alternative options to improve the measure of NMW compliance. During this period, HMRC NMW report that they have considered alternative ways of capturing the number of hours worked such as adding questions to other data sets (the Annual Survey of Hours and Earnings and data from the Office of National Statistics); HMRC NMW found that this would not provide robust data to establish the number of hours worked. There has therefore been no change in this area, and the information gap remains.

The previous Director was disappointed that the Government rejected **Recommendation 13** calling for greater civil penalties for non-compliance. The 2018/19 Strategy explained that balance between resource for enforcement vs the penalties for non-compliance was crucial to enforcing employment law.

The Government justification for rejecting the recommendation was that it believes the current multiplier of 200 per cent of the value of NMW arrears is having a significant impact on the value of penalties. The multiplier was increased from 100 per cent to 200 per cent in April 2016. Enforcement statistics for 2018/19 show that the value of penalties increased to £17.1 million from £3.9 million two years previously. The Government, therefore, does not believe there is sufficient evidence to justify a higher penalty than those already in operation.

Sir David Metcalf disagreed and felt that a significant increase in the size of civil penalties for the non-compliant would act as a stronger deterrent. To better understand if the current multiplier is effective, as per the Government response, the 2019/20 Strategy recommends that BEIS commission an independent evaluation to report by the end of 2019 to assess whether or not this was the case.



I encourage the Government to accept this recommendation and ensure that the evaluation is robust. Depending on the result there may be a case for reconsidering the case for raising penalties further in the future. In any case, consideration of the use and level of penalties will certainly be a key feature of discussions around the potential Single Enforcement Body, therefore such an evaluation would be extremely informative.

The Government position as regards **Recommendation 26** on public procurement remains unchanged, yet it should be noted that the Government has taken a number of steps to tackle modern slavery through public procurement. In March 2019, Cabinet Office launched a Modern Slavery Assessment Tool to enable public bodies to assess their own supply base for modern slavery risks (Home Office, 2019b). In September 2019, Cabinet Office set a mandatory commercial policy on tackling modern slavery through Government supply chains, which applies to Central Government Departments, their Executive Agencies and Non-Departmental Public Bodies. The Procurement Policy Note (PPN) and accompanying guidance sets out how to identify and manage modern slavery risks in both existing contracts and for new procurement activity (Cabinet Office, 2019). Online training is available for relevant staff.

The guidance includes specific measures to be adopted at each stage of the commercial life-cycle, from pre-procurement to contract management. It states that bidders who have been convicted of child labour or human trafficking offences under the Modern Slavery Act within the last 5 years must be excluded from public procurement. The cross-government supplier selection questionnaire also requires bidders to self-certify that they have produced a modern slavery statement in line with Section 54 of the Act. If a bidder has not done so, the contracting authority may decide to exclude that bidder under discretionary exclusion grounds.

I am heartened that the Government is starting to use its procurement power to crack down on the worst types of exploitation and hope that this approach becomes commonplace for other forms of labour exploitation as well. There are an increasing number of examples of good practice emerging in this regard, for instance, since 2010 any contractor or sub-contractor providing security services under a Scottish Government contract must be approved by the Security Industry Authority for that service<sup>11</sup> I would encourage the Government to reconsider this recommendation in light of these policy developments.

<b>Recommendation 12</b>	<b>Employers found to be non-compliant should also be charged a fee for intervention to allow the enforcement bodies to recover some of their enforcement costs.</b>	<b>Not assessed</b>
--------------------------	--	---------------------

The Government also said that it would not be taking forward **Recommendation 12** “at this time”. The Government’s position remains unchanged but will kept under review and could be reconsidered in the future.

<sup>11</sup> <https://www.sia.homeoffice.gov.uk/Pages/acs-public-procurement.aspx>

## Section 3. The Information Hub activities undertaken in 2018/19

This Section sets out the activities undertaken by the Information Hub ('the Hub') during the reporting period, and in doing so will implicitly touch upon the progress made against **Recommendation 21** of the 2018/19 Strategy as discussed in the previous section.

The Hub was established as an integral part of the Office by the Immigration Act 2016, which sets out its role to '*gather, store, process, analyse and disseminate information relating to non-compliance in the labour market.*'<sup>12</sup> In effect, the principal function of the Hub, which is staffed by intelligence analysts, social researchers and economists, is to build a stronger evidence base around non-compliance and to use this to encourage better targeted interventions and hence a more efficient use of resources.

The purpose of the Hub is to draw together various sources of information to:

- improve the understanding of labour market enforcement issues;
- make an assessment of the scale and nature of non-compliance; and
- identify and address any evidence gaps, whether through partnership working or wider research and analysis.

To achieve this, the Hub gathers information in a number of different ways (see figure 2).

It has an **intelligence analysis function**, which gathers anonymised data and information from partner organisations, stakeholders holding intelligence on labour market non-compliance, and law enforcement agencies. The Immigration Act 2016 is clear on appropriate responsibilities here: for instance, the Hub does not receive raw intelligence (on individual cases for example), nor task the enforcement bodies. The Office does not get involved in operational decisions or have a role in live investigations apart from to support the creation of links and networks that may help enable joint working. Rather, its role in this context is to help coordinate and facilitate joint activity.

The Hub collates and analyses summary-level intelligence information to produce a number of outputs, including a strategic overview on emerging trends in non-compliance. These products combine to inform our understanding of the scale and nature of non-compliance, and it is through this work that intelligence gaps (or "requirements") can be identified.

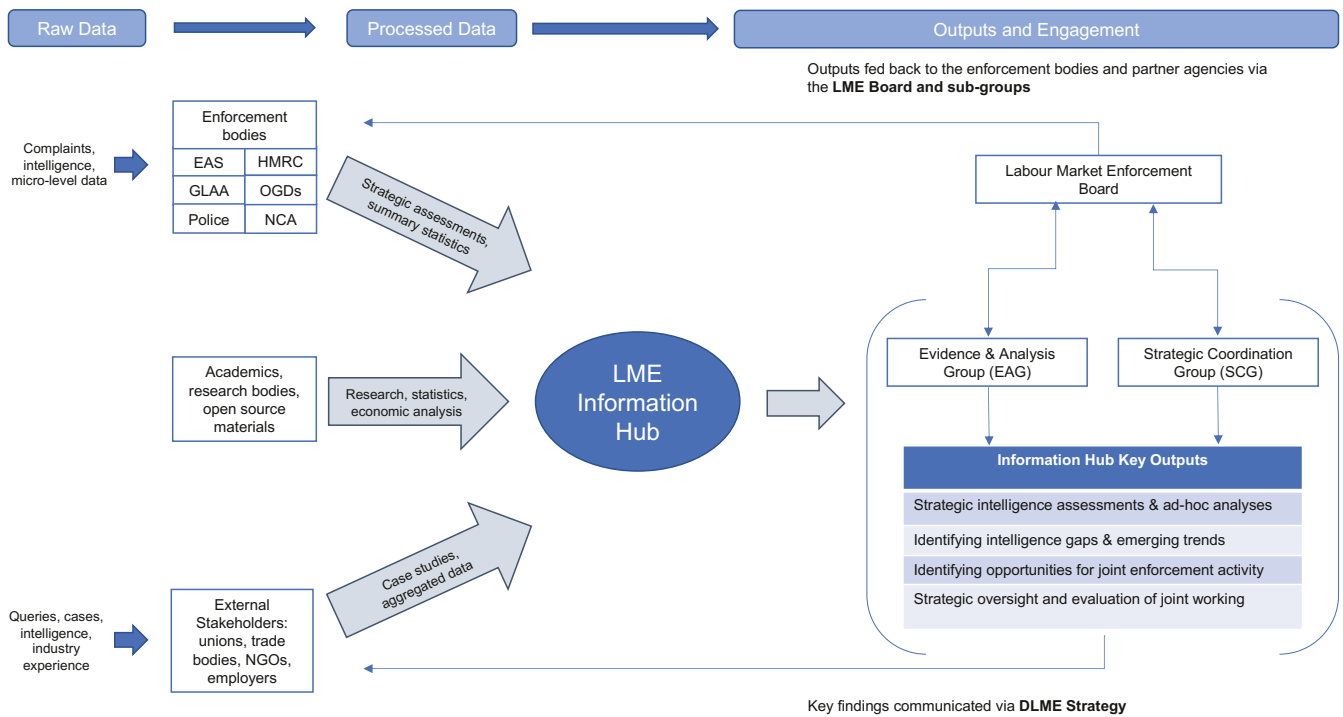
---

12 S8 Immigration Act 2016

The Information Hub also has a **research function**, which gathers wider research and information from across academia and wider sources, including internationally, looking at data and analysis across disciplines to build a picture of current knowledge on the scale and nature of non-compliance and what works in enforcement. This function of the Hub also commissions the Director’s research programme.

Further to these analytical functions, a core role of the Hub is to **facilitate more collaborative working** between the enforcement bodies and wider partners to maximise inter-agency partnership working, whether that be through intelligence-sharing or joint operations. This is done mostly via the Hub’s Strategic Coordination Group (SCG) which is discussed further in Section 3.3.

**Figure 2: Flow of Information through the Information Hub and Information Hub outputs**



### 3.1 Information Hub outputs: statement of activities

Section 8 of the Immigration Act 2016 sets out the statutory duty to report a statement of activities undertaken throughout the previous year. This section will summarise the work undertaken by the Hub during 2018/19 up to October 2019 covering:

- strategic intelligence assessment
- improving information networks and partnerships
- research and analysis activity; and
- the Information Hub’s workplan.

#### 3.1.1 Strategic Intelligence Assessment (SIA)

One of the Director’s roles is to develop strategic priorities across the remit of the three state enforcement bodies. This includes an assessment of the key risks for labour exploitation to provide strategic focus to the bodies.

The intelligence analysis function of the Hub, in collaboration with the enforcement bodies, produces an annual Strategic Intelligence Assessment to provide an overarching view of the sectors of the UK economy deemed to be at greatest risk of labour exploitation. Using the industry-standard Measurement of Risk in Law Enforcement (MoRiLE) strategic matrix, the Hub identified, catalogued and assessed non-compliance threats in the reporting period to produce a list of the most at-risk sectors for 2019/20 (Table 8 below).

**Table 8: Sectors identified as key risks of labour exploitation (DLME, 2019a)**

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 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 sectors are not receiving NMW.
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.

This analysis, which is refreshed each year, forms the basis of the Director's strategic priorities for enforcement, to which the bodies must pay due regard when allocating their enforcement resources. The previous iterations of the SIA from 2018/19 steered the focus on hospitality and warehousing for the 2019/20 Strategy. The last two assessments we have carried out have identified a largely similar list of most at-risk sectors.

### 3.1.2 Improving information networks and partnerships

An important mechanism for the Hub facilitating information flows and partnerships is via the monthly **Strategic Coordination Group (SCG)**. Core members of this group are: HMRC NMW, EAS, GLAA, HSE, Immigration Enforcement and the ODLME. During 2018/19 the Department for Work and Pensions (DWP) and the National Crime Agency (NCA) have become involved in the group, either as regular attendees and contributors, or on an ad hoc basis. Through the SCG, enforcement bodies and wider partners have provided updates on planned operations and fed back on those completed, discussed legal barriers that prevent them from sharing and receiving intelligence from other agencies, compared how they are using LMEU/Os and discussed the current priorities for the Director and plans to tackle these. It is also a useful forum to update the three bodies on the work of the ODLME and where the office requests their help.

The SCG supported joint working such as the Leicester pilot (described in section 2.2.2), which stemmed from a recommendation in the 2018/19 DLME Strategy. The Office initially supported the enforcement agencies to develop the aims and scope of the project and the GLAA was the operational lead for the activity. The enforcement bodies remain active in this area and the garment trade generally continues to be a sector the ODLME monitors closely.

Similarly, the SCG played a role among the enforcement bodies around Project Aidant, a national multi-agency week of action against labour exploitation jointly led by the NCA and GLAA. This resulted in a number of law enforcement partners working together to carry out operational activity.

The Hub has also had a role in coordinating communications across the enforcement sector. The communications lead in the Office collates and sends out a monthly forward look of events and public-facing communications that the enforcement bodies or the Director are planning, as well as a summary of media articles of interest. This helps to ensure that each organisation has an overview of what each other are planning and that opportunities to collaborate are identified.

More widely, both the intelligence and research functions of the Hub have been working to build relationships with third parties to ensure a regular feed of information around labour market issues and enforcement. This has included other Government departments and agencies; law enforcement partners; local and regional partnerships; trade unions; non-governmental organisations; and the research community in both the UK and internationally.

These partnerships have provided valuable insights into activity across the labour market and have enabled the Hub's analysts to form a more comprehensive picture of what is known about exploitation across the spectrum of non-compliance. In return, wherever possible, the Hub has also provided any information, support and opinions it is able to.

### 3.1.3 Research and analysis activity

As highlighted above, there remains an incomplete and unrepresentative picture of non-compliance in the labour market and its magnitude, it is not possible to accurately assess the scale and nature of breaches under my remit. Given the significant information gaps that exist and my statutory duty to produce such an assessment, in terms of further work and future research, seeking to plug this gap remains my highest priority.

I am therefore keen for research into the scale and nature of non-compliance to be taken forward. Sir David Metcalf recommended in his 2019/20 Strategy that the Government supports the Director in meeting the obligations under the Immigration Act (2016) by providing the necessary investment to undertake robust research into measuring the scale and nature of non-compliance in the labour market. I concur with this view and believe that such research will provide an essential underpinning to the work of the proposed Single Enforcement Body.

A key reason why such an information gap persists is because determining the approach to undertake such to derive robust and meaningful results is not straightforward. For this reason, ODLME commissioned a scoping study in 2018/19 to explore the potential research methods that might improve the assessment of the scale and nature of labour market non-compliance. The final report (Cockbain et al., 2019) assessed five key approaches and concluded that a worker survey accompanied by in-depth interviews or focus groups was the most promising option due to the quality and depth of insights that such research might generate.

Another significant information gap in labour market enforcement is knowing which interventions are the most effective. The 2018/19 Strategy had recommended an evaluation of the impact of labour market enforcement, the objective being to understand the value for money of enforcement actions and to establish "what works". Mindful of the scale and complexity of such a project, an initial scoping paper was commissioned seeking to determine how best to carry out an evaluation of the full impact of the three bodies' activities.

Working with the Office and key partner agencies, NatCen and The Institute of Employment Research at University of Warwick (IER) reviewed methods and approaches used internationally across enforcement contexts and concluded that a single evaluation for labour market enforcement in the UK would not be feasible at this time (Natcen and IER, 2019). The authors instead suggested that a contribution analysis combining multiple methods would offer the most

appropriate way of drawing conclusions about effectiveness and understanding the impact of the three bodies. In effect, while there can be no single wholesale design, the authors recommend that a series of smaller-scale projects – each seeking to measure the impact of specific aspects of labour market enforcements – is conducted and used to form the basis of any impact evaluation.

In addition to the above, my Office launched three further research projects during the 2018/19 which sought to improve the evidence base on specific areas within the Director’s remit. Based on my Information Hub’s MoRiLE assessment outlined above, research studies were commissioned focusing on three of the “at-risk” sectors: warehousing (IFF, 2019a), restaurants and food service (IFF, 2019b), and hotels (López-Andreu et al., 2019). These have been published alongside the 2019/20 Strategy (DLME, 2019a).

At their core, these research projects aimed to evidence how these sectors had been affected by the fissuring of the worker-employer relationship over the last 10 years. The projects included desk-based research, interviews with expert stakeholders, and a small sample of worker interviews. Some key issues identified in relation to pay and conditions in these sectors included:

- issues with taking breaks;
- not being paid properly or paid on time;
- health and safety concerns;
- underpayment of NMW/NLW;
- lack of written contracts; and
- lack of awareness of workers’ rights and relevant complaint channels.

Uncovering such issues in the labour market is only one facet of my research programme. With chronic underreporting of breaches and an unknown population of hidden victims, it is critical that work is undertaken to truly understand the UK labour market and the problems that lie within. The enforcement bodies, to their credit, are doing what they can to tackle an unspecified volume of breaches but are hampered by incomplete information.

Until the scale and nature of non-compliance is known, it is difficult to determine how best to direct enforcement resources and to assess the effectiveness of these efforts. It is, then, of real importance that the Government continues to support me in meeting my Immigration Act 2016 obligations by investing in robust research into measuring the scale and nature of non-compliance in the UK labour market.

## 3.2 Information Hub Work Plan

As described earlier, a core part of the Director’s remit is to facilitate joint working, firstly between the labour market enforcement bodies, and secondly with other state enforcement bodies. The Labour Market Enforcement Board, chaired by the Director, provides the authority and legitimacy for joint activity to be agreed, undertaken and evaluated. The SCG plays a role in facilitating joint operations and activity.

Going forward, however, it was felt that more could be done to improve the evidence base upon which joint activity is based. A new Evidence and Analysis Group (EAG) was created in early 2019 to support the Board by seeking to maximise available information across a variety of sources and methods to provide the best possible picture of risk, ultimately identifying opportunities for enforcement activity. By considering the scale and nature of the risks in this way, the EAG aims to steer joint enforcement interventions to most effectively tackle threats in those areas where it is most needed.



A key programme of work for the LME Board and its subgroups in the coming year will be seeking to better align enforcement activity within the DLME priority sectors, as set out in the 2019/20 LME Strategy. Work is already underway to examine and assess the effectiveness of interventions undertaken by the three enforcement bodies in sectors that the DLME assessed as being at greatest risk of labour abuse in his 2018/19 Strategy.

In addition to its usual role facilitating joint working between the enforcement bodies, the SCG will develop a mechanism for more regular reporting on the plans for and outcomes of operational activity, particularly within the DLME priority sectors. Through further engagement with the bodies, DLME analysts will seek detail on the full suite of enforcement interventions being utilised in these sectors. The EAG will then develop the background evidence base, bringing together the different sources of available information to build the best picture possible of each sector respectively. This includes information on the typical composition of companies, worker demographics, seasonal or regional trends and existing intelligence on trends in non-compliance and exploitation. In this way, the EAG will seek to maximise evidence through intelligence assessments, data analysis and research approaches, as well as exploring the potential of innovative data science methods.

The aim is to make significant improvements to the background evidence base on key areas of concerns in the LME landscape by drawing on all available information and expertise in this way. Better understanding the risks and threats will allow the development of a more tailored and effective set of compliance and enforcement interventions.

By applying this approach to at-risk sectors and emerging threats, the EAG will seek to better realise the scale and nature of non-compliance within certain aspects of the UK labour market. Though such work is an important step and ought to prove both practical and productive in the short term, it does not negate the need for a wider, more comprehensive understanding of such threats. It is, therefore, a key focus of the Office's workplan for 2019/20 and further, to take forward the Director's research programme (see Section 3.4), particularly around evidencing and assessing the scale and nature of non-compliance.

## Section 4. Concluding remarks

Reviewing the changes made by the enforcement bodies and sponsoring departments since, and in response to, the 2018/19 Strategy it is clear there has been progress and the enforcement bodies and sponsoring departments should be congratulated for their successes in several areas.

Since the 2018/19 Strategy, there have been legislative changes which will positively impact on workers once fully enacted. Workers will have better access to information about their employment through the provision of a day one written statement for all workers, a key information document for all agency workers, the extension of the right to a payslip to all workers and the inclusion of hours paid on those payslips. Having this information is an essential building block to enabling workers to know their rights, make educated choices about their employment and to challenge their employer if they are not meeting their obligations. The repeal of the Swedish Derogation is also an excellent development for the protection of workers, closing a loophole which enabled agency workers to be underpaid.

In addition, a number of other issues such as 'hot goods', joint responsibility, holiday pay and further use of civil penalties have been consulted upon and I look forward to seeing the departments' conclusions in their consultation reports. These will be important areas for consideration in relation to the design of the Single Enforcement Body.

The enforcement bodies have also brought about significant improvement.

Within HMRC, the Serious Non-Compliance Teams are making headway in developing expertise and methods of dealing with businesses who are deliberately flouting the rules, with often serious financial harm to their workers and the exchequer.

EAS is making the most of its increased resource and is raising its profile to ensure that agency workers know who to turn to when they have issues. There is still some way to go but for a small team it continues to have an impact beyond the level of resource provided to it.

GLAA has established its workforce of LAPOs and clarified working roles and powers. The types of cases involving LAPOs reflect the role of these officers in identifying and dealing with labour abuse, often working closely with other agencies to deal with the worst cases of exploitation. GLAA has continued to build on its communication strategy and public profile. I especially applaud its approach to being open with its assessment of the intelligence picture through its Nature and Scale of Labour Abuse report (GLAA, 2018d) and sector profiles and its proactive approach to communicating and working with industry, through their protocols, partnership bulletins, use of social media and publicising its successes through the media.

Joint working has improved with greater communication between the three bodies and the development of a wider network of partners with whom to take joint action or share relevant intelligence. Local pilots testing different ways of working with local and national bodies have demonstrated that this is not easy, however learning can be taken from these efforts and the next phase of joint working can continue to develop.

Positively, LMEUs and LMEOs are now increasingly being used as the enforcement tools to change the behaviour of problem businesses.

While the three enforcement bodies have been making good progress they are operating within the resource constraints of the system. It is increasingly clear to me that the scale and diversity of non-compliance in the labour market will require greater investment, creative joint working and strategic insight to really create a level playing field for compliant businesses and to protect vulnerable workers.

Going forward into the design and implementation of the Single Enforcement Body, BEIS, the Home Office and the three enforcement bodies will need to focus on learning from the developments and experience of the past years to maximise the opportunity to rewrite the enforcement landscape. As I stated in my response to the Single Enforcement Body Consultation, my absolute focus for the new organisation would be to ensure:

- workers know their rights and can confidently challenge when these are not being met;
- employers who want to be compliant have clear information and resources to help them do so, and an easy route of redress where they find they have inadvertently not met the regulations;
- employers who are wilfully and repeatedly non-compliant are detected, investigated and dealt with robustly;
- public expectations of the labour market are raised, so that underpaying workers is deemed culturally unacceptable and is seen and called out as exploitation; and
- policymakers can base labour market regulation and enforcement policy on strong evidence and frontline insight.

The past two LME Strategies have analysed many of the issues in enforcement of the labour market and provided a large number of recommendations that range from significant legislative changes to more operational issues and ideas for trialling new ways of working. Much of this will be helpful for guiding the considerations around the new enforcement approach. My 2020/21 Strategy which will be submitted at the end of the financial year will also have useful insights, both on issues cross-cutting the labour market, but also taking a more specific sector-based approach.

As the Director of Labour Market Enforcement, my team and I are keen to play a role in the development of the Single Enforcement Body. In particular, I feel we are well placed to engage with stakeholders and have open conversations about the role, shape and approach to the new organisation. I very much hope that BEIS and the Home Office take us up on that offer.

# Annex A: Acronyms

**Acas:** Advisory, Conciliation and Arbitration Service

**ASCOR:** Association of Compliance Organisations

**ASHE:** Annual Survey of Hours and Earnings

**AWR:** Agency Workers Regulations

**BEIS:** Department for Business, Energy and Industrial Strategy

**CPS:** Crown Prosecution Service

**DLME:** Director of Labour Market Enforcement

**DWP:** Department for Work and Pensions

**EAC:** Environmental Audit Committee

**EAG:** Evidence and Analysis Group

**EAS:** Employment Agency Standards

**EU:** European Union

**FY:** Financial Year

**GAIN:** Government Agency Intelligence Network

**GLAA:** Gangmasters and Labour Abuse Authority

**HMRC:** HM Revenue and Customs

**HOIE:** Home Office Immigration Enforcement

**HR:** Human Resources

**HSE:** Health and Safety Executive

**IASC:** Independent Anti-Slavery Commissioner

**IER:** Institute for Employment Research at the University of Warwick

**IR35:** a piece of legislation that allows HMRC to collect additional payment where a contractor is an employee in all but name

**IS:** Insolvency Service

**ISBC:** Individual and Small Business Compliance

**LAPO:** Labour Abuse Prevention Officer

**LBN:** London Borough of Newham

**LME:** Labour Market Enforcement

**LMEO:** Labour Market Enforcement Order

**LMEU:** Labour Market Enforcement Undertaking

**LPC:** Low Pay Commission

**MoRiLE:** Management of Risk in Law Enforcement

**MoU:** Memoranda of Understanding

**NatCen:** National Centre for Social Research

**NCA:** National Crime Agency

**NINo:** National Insurance Number

**NPCC:** National Police Chiefs' Council

**NLW:** National Living Wage

**NMW:** National Minimum Wage

**ODLME:** Office of the Director of Labour Market Enforcement

**OGD:** Other Government Department

**ONS:** Office for National Statistics

**PACE:** Police and Criminal Evidence Act 1984

**PAYE:** Pay As You Earn

**PLG:** Professionalism, Learning and Guidance Team

**PPN:** Procurement Policy Note

**RCWS:** Responsible Car Wash Scheme

**RTI:** Real Time Information

**SCG:** Strategic Coordination Group

**SEB:** Single Enforcement Body

**SIA:** Strategic Intelligence Assessment

**SLA:** Service Level Agreement

**SNC:** Serious Non-Compliance

**TISC:** Transparency in Supply Chains

**UK:** United Kingdom

## Annex B: References

BEIS (2017a) *Good work: the Taylor review of modern working practices*. Available at: <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>

BEIS and Home Office (2018) *United Kingdom Labour Market Enforcement Strategy 2018 to 2019: government response*. December 2018. Available at: <https://www.gov.uk/government/publications/labour-market-enforcement-strategy-2018-to-2019-government-response>

BEIS and The Insolvency Service (2018) *Insolvency and Corporate Governance*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/691857/Condoc - Insolvency and Corporate Governance FINAL .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691857/Condoc_-_Insolvency_and_Corporate_Governance_FINAL_.pdf)

BEIS (2018a) *Good Work: a response to the Taylor Review on modern working practices*. Available at: <https://www.gov.uk/government/publications/government-response-to-the-taylor-review-of-modern-working-practices>

BEIS (2018b) *Payslips: guidance on legislation in force from April 2019 requiring employers to include additional information on payslips*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/794900/payslips-legislation-april-2019-additional-info-on-payslips.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794900/payslips-legislation-april-2019-additional-info-on-payslips.pdf)

BEIS (2018c) *Consultation on insolvency and corporate governance: government response*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/736163/ICG - Government response doc - 24 Aug clean version with Minister s photo and signature AC.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/736163/ICG_-_Government_response_doc_-_24_Aug_clean_version_with_Minister_s_photo_and_signature_AC.pdf)

BEIS (2019a) *National Minimum Wage and National Living Wage: Calculating the Minimum Wage*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791160/calculating-minimum-wage-guidance-april-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791160/calculating-minimum-wage-guidance-april-2019.pdf)

BEIS (2019b) *Holiday Pay Guidance on calculating holiday pay for workers without fixed hours or pay*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/794775/holiday-pay-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/794775/holiday-pay-guidance.pdf)

BEIS (2019c) *Good Work Plan: establishing a new Single Enforcement Body for employment rights*. Available at: <https://www.gov.uk/government/consultations/good-work-plan-establishing-a-new-single-enforcement-body-for-employment-rights>



BEIS (2020) National Living Wage and National Minimum Wage: government evidence on compliance and enforcement, 2018 to 2019. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/866766/nlw-nmw-government-evidence-compliance-enforcement-2018-19.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/866766/nlw-nmw-government-evidence-compliance-enforcement-2018-19.pdf)

BEIS and Home Office (2018) *United Kingdom Labour Market Enforcement Strategy 2018 to 2019: government response*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/765124/dlme-strategy-government-response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/765124/dlme-strategy-government-response.pdf)

BEIS, HMRC, Acas and LPC (2018) *Press Release: Record 22,400 minimum wage workers to receive millions in backpay*. Available at: <https://www.gov.uk/government/news/record-22400-minimum-wage-workers-to-receive-millions-in-backpay>

BEIS, Insolvency Service and EAS (2018) *Press release: Agency director ordered to pay back workers after pleading guilty to withholding wages*. Available at: <https://www.gov.uk/government/news/agency-director-ordered-to-pay-back-workers-after-pleading-guilty-to-withholding-wages>.

Cabinet Office (2019) *Procurement Policy Note 05/19: Tackling Modern Slavery in Government Supply Chains*. Available at: <https://www.gov.uk/government/publications/procurement-policy-note-0519-tackling-modern-slavery-in-government-supply-chains>

Cockbain, E. Scott, S., Pósch, K., and Bradford, B., (2019) *How can the scale and nature of labour market non-compliance in the UK best be assessed? Final report of a scoping study for the Director of Labour Market Enforcement*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814582/How can the scale and nature of labour market non-compliance in the UK best be assessed July 2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814582/How_can_the_scale_and_nature_of_labour_market_non-compliance_in_the_UK_best_be_assessed_July_2019.pdf)

DLME (2017) *United Kingdom Labour Market Enforcement Strategy – Introductory Report 2016/17*. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/629872/labour-market-enforcement-strategy-introductory-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/629872/labour-market-enforcement-strategy-introductory-report.pdf)

DLME (2018a) *United Kingdom Labour Market Enforcement Strategy 2018/19*. Available at: <https://www.gov.uk/government/publications/labour-market-enforcement-strategy-2018-to-2019>

DLME (2018b) *Labour Market Enforcement Strategy 2019 to 2020: call for evidence*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/728256/labour-market-enforcement-strategy-2019-2020-call-for-evidence.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/728256/labour-market-enforcement-strategy-2019-2020-call-for-evidence.pdf)

DLME (2019a) *United Kingdom Labour Market Enforcement Strategy 2019/20*. Available at: <https://www.gov.uk/government/publications/labour-market-enforcement-strategy-2019-to-2020>

DLME (2019b) *United Kingdom Labour Market Enforcement Annual Report 2017/18*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/787302/United\\_Kingdom\\_Labour\\_Market\\_Enforcement\\_Annual\\_Report\\_2017\\_to\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/787302/United_Kingdom_Labour_Market_Enforcement_Annual_Report_2017_to_2018.pdf)

EAC (2018) *Hand car washes Tenth Report of Session 2017–19*. Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvaud/981/981.pdf>

Fair Work Commission (2019) *Fair Work Wales Report of the Fair Work Commission*. Available at: <https://gov.wales/sites/default/files/publications/2019-05/fair-work-wales.pdf>

GLAA (2018a) *Press release: Couple convicted of labour exploitation (26-10-2018)*. Available at: <https://www.glaa.gov.uk/whats-new/press-release-archive/25102018-couple-convicted-of-labour-exploitation/>

GLAA (2018b) *GLAA Brief Issue 58-September 2018 New Version of Licensing Standards*. Available at: <https://www.glaa.gov.uk/media/3750/glaa-brief-58-new-ls-v2.pdf>

- GLAA (2018c) *The Apparel and General Merchandise Public and Private Protocol*. Available at: <http://www.gla.gov.uk/media/4200/apparel-and-general-merchandise-public-private-protocol-november-2018.pdf>
- GLAA (2018d) *The Nature and Scale of Labour Exploitation Across all Sectors within the United Kingdom*. Available at: <https://www.gla.gov.uk/whats-new/the-nature-and-scale-of-labour-exploitation-across-all-sectors-within-the-united-kingdom/>
- Home Office (2019a) *Transparency in Supply Chains Consultation*. Available at: <https://www.gov.uk/government/consultations/transparency-in-supply-chains>
- Home Office (2019b) *Press Release: Government leads the way in tackling modern slavery in public procurement*. Available at: <https://www.gov.uk/government/news/government-leads-the-way-in-tackling-modern-slavery-in-public-procurement>
- IASC (2017) *Combating modern slavery experienced by Vietnamese nationals en route to, and within, the UK*. Available at: <http://www.antislaverycommissioner.co.uk/news-insights/exclusive-report-on-combating-modern-slavery-experienced-by-vietnamese-nationals/>
- IFF (2019a) *How has the UK Warehousing sector been affected by the fissuring of the worker-employer relationship in the last 10 years?* Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814589/Warehousing\\_Sector\\_Director\\_of\\_labour\\_market\\_enforcement\\_July\\_2019\\_IFF\\_research.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814589/Warehousing_Sector_Director_of_labour_market_enforcement_July_2019_IFF_research.pdf)
- IFF (2019b) *How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?* Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814592/Restaurant\\_Sector\\_Director\\_of\\_labour\\_market\\_enforcement\\_July\\_2019\\_IFF\\_research.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814592/Restaurant_Sector_Director_of_labour_market_enforcement_July_2019_IFF_research.pdf)
- López-Andreu, Papadopolous, and Jamalian (2019) *The fissuring of the Employment relationship in the Hotel industry*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814594/UK\\_Hotels\\_Sector\\_Director\\_of\\_labour\\_market\\_enforcement\\_July\\_2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814594/UK_Hotels_Sector_Director_of_labour_market_enforcement_July_2019.pdf)
- Natcen and IER (2019) *Labour Market Enforcement Evaluation Scoping Study*. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814587/Labour\\_Market\\_Enforcement\\_Evaluation\\_scoping\\_study.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814587/Labour_Market_Enforcement_Evaluation_scoping_study.pdf)
- ONS (2019) *Non-financial Business Economy, UK (Annual Business Survey)* <https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/datasets/uknonfinancialbusinesseconomyannualbusinesssurveysectionsas>
- Parliamentary Question (2019a) *Minimum Wage: Non-payment: Written question – 226132*. Available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-02-26/226132/>
- Parliamentary Question (2019b) *Living Wage and Minimum Wage: Non-payment: Written question – 252048*. Available at: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-05-08/252048/>
- University of Nottingham Rights Lab (2019) *Safe Car Wash App Report*. Available at: <https://www.theclewerinitiative.org/s/Safe-Car-Wash-App-FINAL-March-2019.pdf>

CCS0120996056  
ISBN 978-1-5286-1758-1