



HM Government

Executive Summary: United Kingdom Labour Market Enforcement Strategy 2021/22

Interim Director of Labour Market Enforcement
Matthew Taylor

December 2021



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of the Immigration Act 2016

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Foreword

Signing off this Strategy will be my final act as Interim Director of Labour Market Enforcement as my appointment has come to an end. I wish the next Director every success and very much hope they can build on my work and that of my predecessor, Sir David Metcalf.

In the sphere of labour market enforcement, this is a time of major challenges but also important opportunities.

The challenges I highlight in this Strategy are twofold. Firstly, a deteriorating labour market could result in greater vulnerability for workers, requiring a stronger focus on upholding worker protections. Secondly, the new immigration rules introduced in 2021 may have unintended consequences for labour market compliance and enforcement, especially in low-paid sectors.

The opportunity lies in the creation of the Single Enforcement Body (SEB) and a renewed approach to labour rights enshrined in the government's forthcoming Employment Bill. The Strategy shares timely and valuable work undertaken by the Office of the Director of Labour Market Enforcement (ODLME) to explore key issues facing the new enforcement body and reinforces our offer to do more to make it a success.

I leave office concerned that the government has not fully grasped the nature of the challenges I describe, or the scale of the opportunity provided by the SEB. I very much hope this Strategy helps to address this and that the coming period will see our system of labour market compliance and enforcement continue to adapt and improve.

The UK has had a strong record on job creation over recent years, but quality of work matters as much as quantity. Minimum standards that are demonstrably enforced are the bedrock of a healthy labour market. I urge the government not to lose sight of this.

I would like to thank the many stakeholders who have engaged with my Office since my appointment in August 2019, and the staff of the three enforcement bodies and sponsor departments.

I end with thanking my small and excellent team for all their work and for producing this report, led by Tim Harrison, and including Moosa Abbas, Mark Birch, Emily Eisenstein, Michael Flynn, Bethan Hunt, Ellie-May Leigh and Carolina Martinelli.



Matthew Taylor
Interim Director of Labour Market Enforcement

Submitted to Government on 30 January 2021

Table of recommendations

	Recommendation	Delivery timescales¹	Lead body
1	<p>Risk modelling</p> <p>I recommend that the enforcement bodies, together with the ODLME Information Hub and external experts, continue to develop the risk model, including widening the information sources used and improving the robustness of the data. This evolving model should feed into the development of the Single Enforcement Body's approach to assessment and prioritisation of risk. The assessment should be reviewed every six months.</p>	<p>Ongoing feeding into the SEB</p> <p>Assessment to be reviewed every six months</p>	All bodies with ODLME
2	<p>Sector-based approach</p> <p>I recommend that the enforcement bodies should work with ODLME through the Strategic Coordination Group (SCG) to adopt a more strategic, sector-based joint-working approach to tackle non-compliance in high-risk industries. A two-year programme of work should be developed with appropriate interim milestones, to commence at the beginning of the 2021/22 financial year. The learning and progress from this programme of work will feed into developing an effective sectoral approach for the SEB.</p>	Two-year programme to commence beginning of the 2021/22 financial year	All bodies with ODLME
3	<p>Managing compliance risks from changes in the labour market</p> <p>To monitor and mitigate the potential risk to workers related to a changing labour market, I recommend:</p> <p>a) that both HMRC NMW and EAS are given the resource and ability to utilise more timely and impactful communication approaches;</p> <p>b) that all three bodies seek to overcome current intelligence and information gaps by maximising the use of new and alternative data sources (e.g. from fraud investigations into the Coronavirus Job Retention Scheme) to identify potentially non-compliant employers.</p>	<p>By end of 2021</p> <p>By 2022</p>	<p>HMRC NMW and EAS</p> <p>All bodies</p>
4	<p>Managing shared challenges</p> <p>To support the three bodies in dealing with shared challenges and rapid changes ahead, I recommend that the heads of HMRC NMW, GLAA and EAS convene, with coordination from the ODLME, to identify issues of common concern and to find joint solutions wherever possible. This forum could address issues such as resourcing, use of innovation, training and operational cultures, and potentially involve time-limited and measurable workstreams.</p>	To commence by the beginning of the 2021/22 financial year	All bodies with ODLME

¹ This Strategy was submitted to Government on 30 January 2021. Because of the delay in publication, the original delivery dates for some of the recommendations have lapsed. However, the expectation remains that the government and enforcement bodies will implement these recommendations as part of their business planning for 2022/23.

	Recommendation	Delivery timescales¹	Lead body
5	<p>Online recruitment</p> <p>To better understand and develop ways of tackling heightened risks in online recruitment, I recommend:</p> <p>a) that BEIS and EAS, working with the recruitment industry and JobsAware (formerly SAFERJobs), explore how they can better use innovative technologies to identify fake and fraudulent jobs advertised online;</p> <p>b) that BEIS (i) prioritise the completion of the review of online recruitment accepted from the 2019/20 LME Strategy to evidence better the online harms threat and (ii) feed the findings into broader government and industry discussions around regulating online activity, with a view to identifying practical safeguards and remedies for jobseekers affected by this threat.</p>	<p>By end of 2021/22 financial year</p> <p>Complete review by end of 2021/22 financial year</p>	<p>BEIS and EAS</p> <p>BEIS</p>
6	<p>Immigration and labour market enforcement</p> <p>To increase the focus and build the evidence base around the impact of the new immigration system on labour market enforcement, I recommend:</p> <p>a) that a strategic oversight group be established involving relevant government departments and enforcement agencies focusing on the potential labour market enforcement implications arising from the new immigration system. To be implemented by the end of June 2021, before the deadline for applications for the EU Settlement Scheme;</p> <p>b) that Home Office and BEIS commit to regular and ongoing monitoring of the impact of the new immigration system on labour market compliance, building on existing structures such as the Vulnerability Advisory Group. In addition, there should be an independent evaluation of these impacts after 18 months of the new system;</p> <p>c) that Home Office and BEIS, working with the enforcement bodies, should review the interaction between labour market and immigration enforcement to ensure sufficient protections for migrant workers and improve intelligence flows via safe reporting structures. This should feed into development of the SEB.</p>	<p>To be established by end of June 2021</p> <p>Monthly monitoring</p> <p>Evaluation to report by the end of 2022</p> <p>By end of 2021/22 financial year</p>	<p>Home Office</p> <p>Home Office and BEIS</p> <p>Home Office, BEIS and enforcement bodies</p>
7	<p>Immigration and labour market enforcement</p> <p>The labour market enforcement bodies should urgently act to mitigate the labour exploitation risks of the new immigration system. For all three bodies, I recommend:</p> <p>a) that they identify sectors and locations with high numbers of European Economic Area (EEA) migrant workers and issue communications targeting both workers and employers to raise awareness about the immigration changes;</p> <p>b) that they better monitor emerging risks from the new immigration rules to be able to respond in a timely manner, by increasing their working with: (i) other enforcement bodies and; (ii) third-party organisations (such as unions, NGOs).</p>	<p>By mid-2021</p> <p>To commence beginning of 2021/22 financial year</p>	<p>All enforcement bodies</p>

Section 1: Introduction and context

The Immigration Act 2016 created the position of the Director of Labour Market Enforcement (DLME) to bring together a coherent assessment of the extent of labour market exploitation, identifying routes to tackle exploitation and harnessing the strength of the three main enforcement bodies: HM Revenue and Customs National Minimum Wage (HMRC NMW), the Gangmasters and Labour Abuse Authority (GLAA), and the Employment Agency Standards (EAS) Inspectorate. Figure 1.1 provides an overview of their respective remits and resourcing, giving useful context to understanding how they go about their enforcement roles, how they interact with each other and why bringing them together under the umbrella of the SEB will be a challenging task.

Figure 1.1: Overview of the resourcing and scope of the three enforcement bodies

Enforcement body (Responsible department)	Funding in £m (FTE staff)			Focus and scope	Geographic coverage
	2018/19	2019/20	2020/21		
HMRC NMW (BEIS)	26.2 (429)	26.3 (433)	26.4 (420*)	All employers and workers in scope, covering around 2m workers in low-paid jobs	UK
GLAA (Home Office)	6.4 (122)	7.3 (112)	7.2 (118.58*)	Over 1,000 licensed labour providers, supplying around 0.5m workers Modern slavery: estimated 10-13,000 potential victims**	Licensing: England, Scotland, Wales and by order in Northern Ireland. LAPO coverage: England and Wales***
EAS (BEIS)	0.725 (15)	1.125 (27)	1.525 (28.8*)	Around 29,000 Employment Agencies, covering 1.1m workers	England, Wales, Scotland

Sources: BEIS (2020b; 2021), GLAA management information, EAS data submission to DLME

* EAS: includes vacant posts due to be filled in 2020/21. GLAA: figure at the end of January 2021. HMRC NMW: full-time equivalent (FTE) figure for year end, excluding vacancies.

** Based on an estimate of there being between 10,000 and 13,000 potential victims of modern slavery in the UK in 2013 (Silverman, 2014).

*** The Immigration Act (2016) gave the GLAA a much broader role addressing labour exploitation across the entire labour market, including modern slavery offences. The new activity is carried out by Labour Abuse Prevention Officers (LAPOs). LAPOs have powers to: investigate labour market offences; arrest suspects; enter premises; search and seize evidence.

As Director my statutory obligations are to:

- produce an annual labour market enforcement strategy, approved by the Department for Business, Energy and Industrial Strategy (BEIS) and Home Office Secretaries of State, to set priorities for the three main enforcement bodies;
- develop the DLME Information Hub; and
- produce an annual report setting out for Ministers how, collectively, the enforcement bodies performed relative to the ministerially agreed strategy from the previous year.

There should be a regular cycle of strategies and annual reports which are published in a timely manner and which provide regular strategic direction for the enforcement bodies. In practice this timescale of work has not been smooth: at the time of writing my previous Strategy for 2020/21 has yet to be published despite being submitted in March 2020 and the Government response for the 2019/20 Strategy (BEIS and Home Office, 2020), submitted in March 2019, was only published in October 2020. Furthermore, by January 2021, we still await the Government response to the SEB Consultation, which closed over 12 months ago.²

Of course, I recognise the demands and pressures placed on government due to COVID-19 in the past year, but equally the impact of the pandemic on the economy brings the need for an effective system of labour market enforcement into even greater focus. The failure of the departments to keep to expected and effective timelines undermines the role and work of the DLME and slows progress in protecting workers. I would hope to see a response to this Strategy within three months of submission and especially as many of the recommendations are highly time-sensitive.

² The Government published its response to the SEB Consultation in June 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf

Section 2: Scale and nature of non-compliance: Risk model

2.1 Introduction and methodology

The Immigration Act 2016 sets out the requirement for the Director to assess the scale and nature of non-compliance in the labour market. In previous strategies my Office has partly assessed this through intelligence and risk assessments using the Management of Risk in Law Enforcement (MoRiLE) methodology. This resulted in the identification of sectors that were assessed as posing the most serious risk of harm to workers.

This year we have been working to revise and strengthen our methodology to provide more detailed insight into the complexities of the exploitation threats faced across sectors of the labour market, assessing:

- the impact of non-compliance on workers;
- the extent and nature of enforcement activity; and
- the relevant workforce by sector.

This work remains ongoing and I should stress that, as the labour market impacts of the pandemic are still unfolding and this analysis is drawing on data pre-COVID-19, I do not expect the enforcement bodies to base their priorities on the sectors highlighted in this analysis in the same way as previous years. I encourage the enforcement bodies to be agile and responsive throughout 2021/22 and work together to address changing circumstances and emerging issues.

The progress made with the risk model should be continued, and I would like the assessment to be reviewed every six months to help inform the SEB (see Recommendation 1).

2.2 Key findings from risk model

The analysis process really brought to the fore how, in many areas, the enforcement bodies have a **difference in perspective or assessment** about the level and type of risk and harm. While in some sectors there was alignment in the assessment across the three bodies in terms of impact of non-compliance, in others this was not the case. This reflects the different remits of the bodies, and hence the type (and volume) of cases they will each see across individual sectors.

As the enforcement bodies move towards the Single Enforcement Body, it is crucial to understand the complexity of the intelligence and enforcement picture. Developing a shared picture of non-compliance will need to be a priority work strand for the development of the SEB. This will require common definitions and language between the bodies, as well as joined-up information and intelligence systems and risking frameworks (see Recommendation 1).

Sectors assessed as highest risk (where the assessment with the enforcement bodies concluded there were instances of highest level of impact on workers, including cases of modern slavery) were broadly consistent with sectors reported in previous strategies:³

- food processing and packaging;
- hand car washes;
- agriculture; and
- construction.

Also assessed as high risk (including instances with substantial impact on workers, deliberate non-compliance and repeat offenders) were:

- garment and textile manufacturing;
- shellfish gathering;
- poultry and eggs (chicken catchers);
- modelling (specifically fraud in relation to portfolios and other services); and
- fraudulent or misdescribed online job applications.

The consistency with previous assessments demonstrates the persistent threat of severe and deliberate labour exploitation in these sectors and supports my argument for the SEB developing sectoral approaches.

These high-risk sectors are all complex but highly differentiated, with structural characteristics that facilitate non-compliance and increase the risk of workers being severely exploited. Progress on tackling these areas will require the enforcement bodies to build on the work they are already doing, but with a stronger focus on joint working; to build the evidence base to identify accurately the scale and nature of labour abuses; to understand the business models and financial incentives for businesses; and to build effective relationships with compliant businesses, industry bodies and worker groups to promote and enforce standards in the workplace (see Recommendation 2).

When the SEB is introduced, the organisation will have to balance how it allocates resource across *volume* and *severity* of issues of non-compliance. The **measure of enforcement activity** within this model is one step towards being able to do this, although of course it does not (yet) take into account the varying level of resource required to investigate different types of cases or allegations.

When considering the **size of the worker population in different sectors** (as a proxy for the pool of workers potentially affected by non-compliance), the risk analysis highlighted some areas of risk where the workforce affected is difficult to quantify either because it is very small (for example, shellfish gathering and chicken catchers), or because it could be very large, such as jobseekers using online platforms. Both of these situations create challenges for assessing the scale of non-compliance.

³ The 2020/21 LME Strategy listed the following sectors as severe risk: hand car washes, agriculture. The following sectors were assessed as high risk: care sector, construction. The following sectors were assessed as medium risk: hospitality, shellfish, nail bars, poultry and eggs, warehouses, food processing and packing, garments and textiles.

Section 3: Improving the evidence base

Previous LME strategies have highlighted the challenge of adequately assessing the scale and nature of labour market compliance. My Office has been progressing its responsibility to measure the scale and nature of non-compliance through the design and development of a large-scale research project.

In 2018/19, my Office commissioned a scoping study to explore potential methods for undertaking this research. This report recommended a mixed-methods research design using worker surveys, worker interviews and stakeholder interviews (Cockbain et al., 2019). The authors recommended targeting precarious workers for the survey element and, in 2018/19, my Office commissioned research (Posch et al., 2021) to test the feasibility of this proposal through an initial assessment of precarious work in the UK.

The Government has committed to provide the funding for this research project.⁴ I am grateful, too, to the Economic and Social Research Council (ESRC) for agreeing to co-fund the research.

Working with ESRC over the past year, further progress has been made in designing this research, including an international research methodology conference held in August 2020, and a supplier event in December 2020.

My Office is now working towards launching an Invitation to Tender in the first half of 2021 to identify contractors to take forward this research project. This is a substantial piece of work which aims to deliver within a period of two to three years, and which should provide valuable and timely input to the SEB implementation discussions.

⁴ See Government response to the LME Strategy 2019/20.

Section 4: COVID-19, economic change and non-compliance

4.1 Impact of pandemic on the labour market and workers

The COVID-19 pandemic and the resulting economic fallout have had a profound effect on the labour market and on enforcement activities since March 2020. At the time of writing (January 2021), it is expected that the UK will remain in national lockdown until March 2021 at least, a full year since the pandemic first took hold.

The pandemic-related economic shock currently being experienced is unprecedented, with a sharp fall in economic growth and rise in unemployment. Its effect across different areas of the economy has been uneven, with output falling by 70 per cent in accommodation and food services and by 30 per cent or more in areas such as construction, wholesale and retail and transportation (OBR, 2020).

The economic impact has been highly uneven across different sectors and worker groups. The Government's Coronavirus Job Retention Scheme (CJRS) has served to subdue the impact on job losses, but where unemployment has resulted this has been concentrated in lower-paying work, particularly in food services, food manufacturing, residential care and construction. Sectoral shutdowns have been disproportionately felt by lower earners, who are more likely to be young, women and ethnic minorities (IES, 2020; IFS, 2020).

As the labour market evolves in response to the pandemic, the *quantitative* impact on employment (i.e. number of jobs lost and increase in unemployment) is important, but the *quality* of jobs should equally be monitored and considered.

Experience tells us that significant labour market shocks are likely to lead to changing patterns of employment and greater challenges to the enforcement of employment rights. Financial pressure on businesses, increased unemployment, personal financial hardship and consequent weaker position of workers have previously been linked to shifts towards non-standard or atypical forms of employment and an increase in employer non-compliance. Not all atypical work is negative, but it does often coincide with reduced rights for workers, reduced ability to challenge problems of pay and conditions of work, less stability and predictability of income and therefore an increase in vulnerability for low-paid workers.

4.2 The challenge to labour market enforcement

Labour market enforcement operations have inevitably been significantly impacted by pandemic restrictions. I have been continually impressed by the dedication and flexibility shown by the enforcement bodies in these difficult circumstances. They have responded remarkably well to the challenges they have faced, and the adaptations required to continue to carry out their duties. Any learning and good practice from this experience needs to be captured and built upon, not only for the SEB, but also because it is likely that when the enforcement bodies are able to resume normal business this will be against a backdrop of tighter public sector budgets that will impact on resources.

A decline in both worker complaints and intelligence flows during the pandemic are a cause for concern. Although reduced economic activity is undoubtedly a factor here, it may also be that exploitation is even more hidden as people stay at home, reducing reports from third parties.

Ensuring labour market compliance, especially for complaint-led cases, will rely on raising awareness of rights, signposting the available pathways to raise concerns or complaints and providing sufficient protections and reassurances for those who need to do so. This is an area in which the bodies should amplify their efforts over the next period. This will require agile, targeted communications campaigns, and there is a real need for the enforcement bodies to be in control and maximising the effectiveness of their own communications.

For both HMRC NMW and EAS, communication channels are somewhat hampered by their wider organisational communications strategies, and therefore I recommend that both are given the resource and ability to utilise more timely and impactful communications approaches (see Recommendation 3a).

Fewer complaints from workers will also mean greater reliance on targeted enforcement activity, an area previous LME strategies have sought to strengthen. Of the three bodies, HMRC NMW has the most advanced system for targeted enforcement, informed by HMRC's risk model.

To mitigate against falling complaints, the three bodies should look to:

- draw on lessons from Operation TACIT focusing on tackling non-compliance in the Leicester garment trade;
- maximise the opportunity to draw on intelligence and new sources of data, including that related to the Job Retention Scheme (see Recommendation 3b); and
- work more closely with third parties to mine information and intelligence.

As well as their own individual challenges, the three enforcement bodies will face a common set of challenges, where closer working between the three bodies could prove beneficial. In particular: the changing nature of the labour market induced by both economic and policy factors; the prospect of tighter, and possibly reduced, budgets to carry out their work; and preparation for the move to the Single Enforcement Body.

I recommend that, in much the same way as the Strategic Coordination Group (SCG) seeks to promote opportunities for intelligence-sharing and joint operational activity, the heads of HMRC NMW, GLAA and EAS should convene, with coordination from the ODLME, to identify issues of common concern and to find joint solutions wherever possible (see Recommendation 4).

4.3 Countering the increasing threat from online recruitment

The online jobs sector is poorly regulated, and current economic conditions will exacerbate risks from online jobs scams as more people are seeking work and recruitment firms operating solely in a virtual environment become the norm. Common online recruitment scams include advertising jobs that do not actually exist, charging fees for bogus services including for fake background checks, fake qualifications and payments for CV writing services and identity theft.

I believe government and the recruitment industry must urgently make progress to counter what appears to be an increasing threat in this sector. I recommend that BEIS and EAS work with the recruitment industry and JobsAware (formerly SAFERJobs), to explore how they can better use innovative technologies to identify fake and fraudulent jobs advertised online (see Recommendation 5a).

The 2019/20 LME Strategy already called for BEIS to lead a comprehensive review of the threat of online and app-based recruitment. The online threat clearly spans a much wider space than the jobs market. I therefore recommend that BEIS prioritise the completion of the review and use the findings to feed into broader government and industry discussions around regulating online activity, with a view to identifying practical safeguards and remedies for work-seekers affected by this threat (see Recommendation 5b).

Section 5: Future risks related to changes in the immigration system

5.1 Changes to the immigration system and supply of European Economic Area workers

From January 2021 there has been a fundamental shift in the UK's immigration system following our departure from the European Union, with new restrictions on European Economic Area (EEA)⁵ workers based on skill and salary thresholds. The ending of free movement and the abolition of a dedicated self-employed worker immigration route will likely impact disproportionately on migrant labour supply into low-skilled and low-paid sectors. A large number of EU migrants have regularised their status and will continue to have the right to work in the UK, but since 2016 there has been a downward trend in EEA migrants coming here for work. Sectors that have traditionally relied on EEA labour are likely to experience labour shortages. This includes food manufacturing and processing, warehousing, hospitality and agriculture.

My remit does not cover immigration policy and system design, but where these changes may impact on non-compliance in the labour market, including on more severe forms of labour exploitation and human trafficking, I do have several concerns.

Sectors with disproportionate numbers of migrant workers are often characterised by a high proportion of low-skilled, low-paid and precarious job roles. Workers in these sectors are also often more likely to be on atypical and temporary contracts (ONS, 2020a), which provide a lower level of rights, protections and predictability of work and income.

Just how employers and workers might respond to these changes requires both careful consideration and close monitoring.

Employers could potentially increase pay and conditions to attract workers resulting in improved standards for workers or introduce greater process innovation and automation. Alternatively, squeezed margins resulting from a harder economic climate and additional costs may incentivise them to drive down pay, weaken worker rights and avoid complying with regulations, thereby increasing the risk of exploitation to workers. At the extreme employers may turn to more vulnerable workforce groups who will accept lower pay and conditions (including migrants without the right to work in the UK).

While workers could find their bargaining position strengthened in conditions of reduced migrant worker supply, greater desperation for work in a poorer economic climate could drive them to accept conditions and pay they might not have done otherwise, including informal working arrangements. EU workers in particular may find greater difficulty in finding employment and more

5 Excluding Irish nationals.

likely to accept poor conditions, as employers may be apprehensive about employing EU workers for fear of falling foul of the law.⁶ Greater worker vulnerability could also result from failure to apply for EU settled or pre-settled status before the June 2021 deadline, as well as a heightened risk of exploitation due to a lack of clarity over what rights this status confers.

Some migrants seeking to work and not qualifying under the new immigration regime may resort to clandestine entry to the country or enter the UK via a visitor (or student) route and work illegally. As well as being subject to immigration enforcement, these individuals will not be legally entitled to full workers' protections, including the national minimum wage. People working illegally are at greater risk of severe exploitation as they are less likely to ask for help or have options to leave their employment, however poorly paid and badly treated they are.

5.2 Potential labour market enforcement action

I have been struck by the absence of preparation and conversation across government to date to anticipate and properly manage the labour market changes related to the new immigration system. Though I recognise COVID-19 will have naturally diverted attention and resource from this issue, a stronger focus is now needed from the centre of government to consider these risks and how they might be mitigated.

The enforcement bodies will also need to improve their preparedness to respond to these risks. To date there seems to have been little done to assess the risks to migrant workers in their own areas and therefore better target those groups (whether by nationality or by the sectors they work in) to ensure they are receiving clear communications on this policy change.

Feedback from migrant and workers' rights groups is that there remains a lack of awareness among pockets of workers, employers and the general population, despite widespread communications from government. This is pressing considering the June 2021 deadline for applications to the European Union Settlement Scheme (EUSS). It is unclear how much discretion there may be, if any, for late applications or special circumstances.

As the new immigration system beds in, it will be vital to have as complete a picture as possible of any emerging non-compliance threats. Gaps in information and intelligence around the scale and nature of non-compliance have always been a problem. The pandemic has resulted in a reduction in timely and meaningful information just when having a detailed and up-to-date picture of developments is most needed.

I would expect the enforcement bodies, working with immigration enforcement and the wider Home Office to be actively assessing the potential effect on non-compliance and worker exploitation identifying which groups of migrants may be anticipated to be at greater risk to prepare and deploy resources effectively. Specifically, I recommend:

- that a strategic oversight group be established involving relevant government departments and enforcement agencies focusing on the potential labour market enforcement implications (see Recommendation 6a);
- that Home Office and BEIS commit to regular and ongoing monitoring of the impact of the new immigration system on labour market compliance, and that an independent evaluation be conducted after 18 months of the new system (see Recommendation 6b);
- that the labour enforcement bodies identify sectors and locations with high numbers of EEA migrant workers and issue communications targeting both workers and employers to raise awareness about the immigration changes (see Recommendation 7a); and

⁶ Employers who fail to carry out right-to-work checks can be fined up to £20,000 per illegal worker employed.

- that the labour enforcement bodies better monitor emerging risks from the new immigration rules to be able to respond in a timely manner, by increasing their working with (i) other enforcement bodies and (ii) third-party organisations (such as unions, NGOs) (see Recommendation 7b).

5.3 Future interaction between labour market and immigration enforcement

An underlying issue during the existence of DLME has been the balance between labour market and immigration enforcement and how the two areas interrelate. Stakeholders have consistently voiced concern over labour market enforcement passing on details of migrants with unclear immigration status to immigration enforcement, particularly when undertaking joint operations.

There is a tension here between two policy aims: ensuring compliance with immigration rules and protecting exploited workers who may often have insecure migration status. The fear from workers (valid or not) that, if they complain to (or cooperate with) labour market enforcement bodies, they will come to the attention of immigration enforcement means that some poor employment practices remain hidden and unenforced. These workers lack any real voice, especially as union presence is usually very low in low-skilled sectors with transient workforces.

I believe there is the potential here to clarify and achieve a better balance between the policy objectives of immigration and labour market enforcement and this is indeed also being considered in relation to victims of crime by other parts of Government (HMICFRS, 2020).

I therefore recommend that the Home Office and BEIS, working with the enforcement bodies, should review the interaction between labour market and immigration enforcement to ensure sufficient protections for migrant workers and improve intelligence flows via safe reporting structures (see Recommendation 6c). This is particularly timely given the development of the Single Enforcement Body, where there is an opportunity to review ways of working and start afresh to build trust with groups who are reticent about reporting exploitation and non-compliance.

Section 6: Future enforcement with the creation of the Single Enforcement Body

6.1 Introduction

At the time of writing, the Single Enforcement Body (SEB) is at an early stage of development. The Consultation on the SEB and other issues was carried out over a year ago but results and ministerial decisions around remit, direction and powers are yet to be published.⁷ As an independent Director, I have not been party to the ongoing discussions between Home Office and BEIS policy officials and Ministers. The views set out below need, therefore, to be seen in this context.

The SEB is an unusual phenomenon – a policy shift which has almost universal support. It is a massive opportunity to redesign the systems to achieve a step change in compliance and enforcement, addressing many long-standing issues for workers and businesses alike. In this Strategy, I have not made recommendations for the SEB itself. Instead, informed by three stakeholder engagement workshops run by my Office in November and December, 2020, I set out below what I see as the key success factors for the SEB across different themes.

Ethos, culture and engagement

The SEB should be a high-profile, outward-facing agency seen as a user-friendly resource to workers and compliant employers. To get this right, it should engage closely with stakeholders when developing and evaluating its policies and practices and invest in its communication capacity.

The critical success factors here would be:

- A strong brand identity and mission;
- Effective and targeted marketing and communication capacity; and
- Effective processes for stakeholder engagement and responsiveness.

Capacity, methods and resources

The SEB should have sufficient capacity to fulfil its mandate but focus its resources on areas with the greatest prevalence and severity of risk. Drawing on successful practice within and beyond the agencies, it should use the best available methods to deter, identify and respond to non-compliance.

⁷ The SEB Consultation response was published in June 2021: <https://www.gov.uk/government/consultations/good-work-plan-establishing-a-new-single-enforcement-body-for-employment-rights#history>

Critical success factors to achieve this would be:

- A strong research base on underlying patterns and forms of non-compliance;
- A comprehensive and robust framework for assessing risk and allocating resources; and
- Evidence-based methods to gather and act on information of non-compliance.

National and local collaboration

The SEB should develop and sustain national and local relationships critical to maximising compliance and minimising non-compliance.

To achieve this, it should build:

- SEB-led and resourced national forums focusing on key issues, bringing together other agencies with an interest in labour market compliance and enforcement;
- a thorough and consistent approach to high-risk sectors based on working with employers and other stakeholders to adopt responsive sector-based strategies and interventions; and
- a comprehensive but flexible local presence ensuring the SEB exists as a relevant and influential force in all areas, able to allocate frontline resources to places facing particular enforcement challenges.

There is much to be positive about with the commitment from the Government to develop a new, joined-up enforcement body for protecting workers and ensuring compliance. The two departments and the enforcement bodies now have an opportunity to focus on what type of organisation they really want the SEB to be, how it will operate, how workers and businesses will interact with it and how it will work in partnership with other organisations. In this Strategy I have set out some of my ideas and thoughts, aided by the wide-ranging conversations with stakeholders, but this only scratches the surface.

I urge Home Office and BEIS to take up the offer for my Office to support the departments to have these conversations around the development of the SEB, but only if the mandate and capacity is made available for this to happen.

Section 7: Director of Labour Market Enforcement workplan 2021/22

While it is standard in these strategies to set out a workplan for the Director and their Office for the following year, this is somewhat difficult this year until a new Director is appointed. He or she will clearly have their own priorities and issues of focus that they will wish to pursue, therefore it is not fitting for me to set out a detailed workplan for the Office beyond its statutory requirements and ongoing projects, which include BEIS and Home Office prioritising the **publication of this 2021/22 Strategy**. Many of the recommendations require swift implementation, ideally within three months of submission.

Similarly, BEIS and Home Office will need to agree and publish my previous **2020/21 LME Strategy**, originally submitted in March 2020. We understand the recommendations will be agreed with Government prior to publication⁸ and, as such, no formal Government response is expected. The Office will continue to work with the enforcement bodies to support progress against the recommendations within this Strategy.

DLME will need to produce the **2019/20 Annual Report**, assessing progress made against the recommendations in the 2019/20 LME Strategy that was submitted in March 2019. This should also provide an opportunity to make an initial assessment of the impact the pandemic has had on the activity of the enforcement bodies in more detail.

My Office will also be seeking to commission the **research project** on the scale and nature of non-compliance in the first half of 2021, in co-funding partnership with ESRC. This is a major project and will take two to three years to complete. Our aim is for the project work to commence early in the 2021/22 financial year.

The Office will continue, in partnership with the enforcement bodies, to review the **risk assessment** to understand the impact of the pandemic and other economic and policy changes on the risks and trends in non-compliance.

Finally, and as I set out in Section 6, I very much hope that the new Director is provided with a substantial and clear role in the **development of the SEB**. The ODLME is well placed to support the two departments and enforcement bodies in their work to determine the shape and form of this new organisation should they be provided with the remit and capacity to do so. This should be a major part of the ODLME workplan for 2021/22.

⁸ The 2020/21 Strategy was originally submitted in March 2020 and revised in December 2020.

