



HM Government

# United Kingdom Labour Market Enforcement Annual Report 2019/20

Director of Labour Market Enforcement  
Margaret Beels

June 2022





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Reporting on the implementation of  
recommendations made in the UK Labour Market  
Enforcement Strategy 2019/20

**Director of Labour Market Enforcement**  
**Margaret Beels**

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

June 2022



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# Foreword

I was appointed as the Director of Labour Market Enforcement (DLME) on 22 November 2021 for a two-year period. My contract commits me to perform the role for two days per week. I am proud to have been chosen to follow my two predecessors: Professor Sir David Metcalf CBE and Matthew Taylor CBE.

The majority of the work on this report has been undertaken by my colleagues who form the Office of the Director of Labour Market Enforcement (ODLME): Steven Ayres, Mark Birch, Michael Flynn, Tim Harrison, Ellie-May Leigh, Alison Smith and Joey Ward, as well as to former secretariat staff Moosa Abbas, Emily Eisenstein and Carolina Martinelli for their contributions in producing this report. I would like to thank them for this and for their commitment to the work demonstrated during the significant interregnum prior to my appointment.

Section 2 of this Annual Report assesses performance over the last 3 years in relation to recommendations made in the 2019/20 Labour Market Enforcement Strategy. This Strategy was presented to Government by Sir David Metcalf in March 2019 and published in July 2019. However, the Government response was not published till October 2020. This delay, coupled with the impact of the pandemic has slowed the implementation of the recommendations in the Strategy. Recognising that recommendations in DLME strategies arise from an assessment of the nature and threat of labour exploitation, I am keen to identify means whereby the process of publishing and implementing the recommendations in the DLME strategies can be speeded up.

**The relevant time period for which we sought evidence of progress against recommendations is from the point the Government response to the 2019/20 Strategy was published, namely October 2020, to the present though relevant work undertaken by the enforcement bodies before this date is also included.**

In publishing its response to the 2019/20 Strategy, of the 44 sub-recommendations the government fully accepted 35, partially accepted eight and rejected one. This is taken into account in the report.

Overall, a great deal of good work has been done. The three bodies to whom the Strategy applies have all found ways of operating as best they could during COVID restrictions and have reported successes. All are subject to resource constraints and recruitment challenges.

Good progress has been made with Theme 1 – prioritisation of enforcement resources and evaluating interventions. The enforcement bodies and sponsor departments are taking steps to raise awareness of employment rights though I am concerned about the growing threat of

non-compliance on on-line recruitment. Also, recognising the pressure on government spending, I believe all three bodies and the sponsor departments need to develop a better understanding of which interventions deliver best value for public money.

Good progress has also been made with Theme 2 – helping employers get it right. I am pleased with the progress that has been made to help improve compliance with the minimum wage: opportunities remain here for HMRC NMW to work with industry partners, to seek out best practice in the provision of guidance, and to improve communication with employers and workers.

Theme 3 covered the use of joint working to tackle more serious and persistent non-compliance in the labour market. Here progress has been relatively slow. There is better sharing of intelligence between the three enforcement bodies, but joint working has been the exception rather than the rule. There are valuable lessons still to be learned from the joint working that took place investigating the Leicester garment industry (“Operation Tacit”). The routine evaluation of the success of interventions by the three bodies is yet to be baked into how things are done. Going forward ODLME will co-ordinate and monitor joint initiatives between the three bodies as regards labour exploitation in the construction industry, in care homes and in the hand car wash sector.

The ODLME current assessment of labour market enforcement threats (Section 3) demonstrates no decrease on the threat over the three years 2018/19 to 2020/21, and in some areas an increase. This is a matter of concern. The 2019/20 Strategy recommended that the Government supports the Director’s role to ascertain the nature and scale of the threat of labour exploitation by providing the funding to undertake a more comprehensive assessment. Although progress has been slow, I am pleased that this funding has been forthcoming such that an Invitation to Tender to undertake this work was launched by ODLME in January 2022 and the project is expected to start in June 2022.

The Government’s response to its 2019 consultation on the setting up of a Single Enforcement Body was published in June 2021. The Government has not yet announced a legislative timetable for the necessary legislation. Changes which increase the effectiveness of the three bodies under my aegis are to be welcomed.

Meantime I see my role as continuing to facilitate closer working between them and to encourage creative thinking about how they build on each other’s strengths and share intelligence and information better to tackle the scourge of labour exploitation.

Exploitation of workers is not just an offence against the individual – which is serious enough. It also undermines the competitiveness of compliant businesses who treat their workers fairly and with consideration. Worker exploitation can also have a destabilising impact on whole communities. For all these reasons I commend this report as a demonstration of useful work in progress while urging all agencies, government, companies and individuals who have the power to do so, to work together even more diligently to make the UK a country that is exemplary as regards the fair treatment of its workers.



**Margaret Beels, OBE**  
**Director of Labour Market Enforcement**

**June 2022**

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# 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 and 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, for approval by the Home Secretary and the Secretary of State for the Department of Business, Energy & Industrial Strategy (BEIS);
- develop the DLME Information Hub; and
- write an annual report setting out for Ministers how, collectively, the enforcement bodies performed relative to the strategy agreed by Ministers.

The Immigration Act 2016 places different obligations on the three bodies regarding implementation of the strategy <sup>1</sup>.

## 1.2 Annual Report – context

This annual report reflects upon the implementation and progress made against the 2019/20 Labour Market Enforcement Strategy recommendations (DLME, 2019).

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<sup>1</sup> Section 2(6) places the requirements on the enforcement bodies, under the oversight of the ODLME to "... have regard to the strategy...". However, schedule 3 of the Immigration Act 2016 places a further requirement on the GLAA: "When carrying out functions during a year to which a labour market enforcement strategy approved under section 2 of the Immigration Act 2016 relates, the Authority and its officers must carry out those functions in accordance with the strategy."

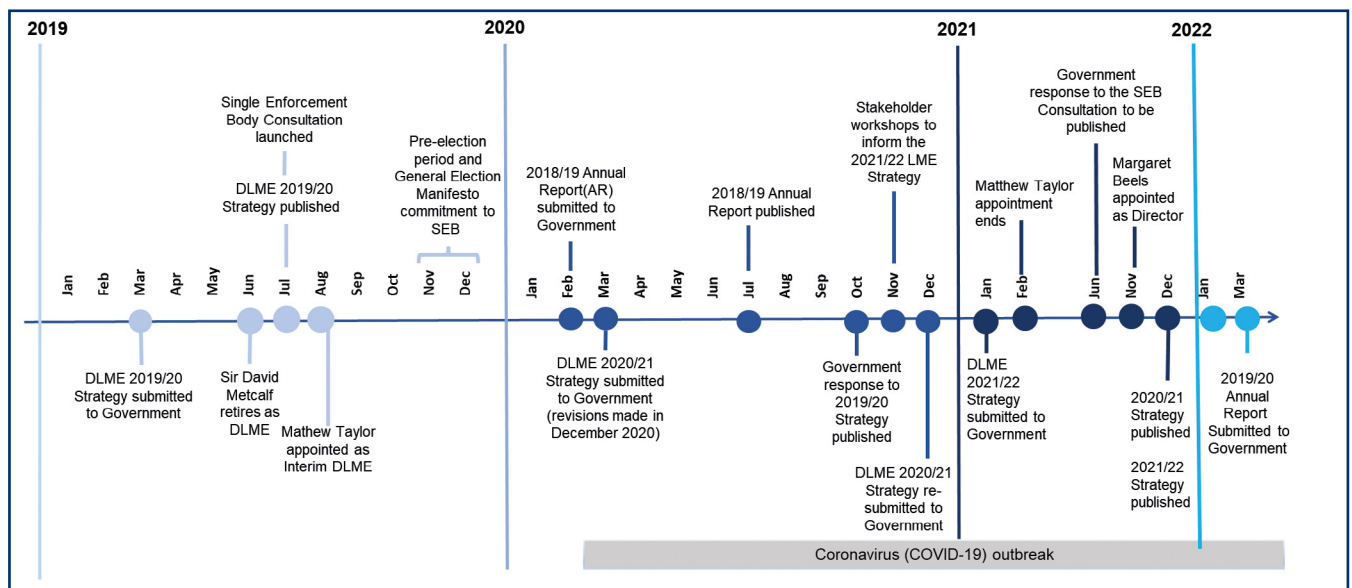


The 2016 Immigration Act<sup>2</sup> requires the Annual Report to report on:

- 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) (education, training and research) 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.

The Immigration Act 2016 requires the Director, as soon as reasonably practicable after the end of each financial year in respect of which the Secretary of State has approved a strategy, to submit to the Secretary of State an annual report for that year. Normally, this would mean reporting on progress made between April 2019 and March 2020 against accepted recommendations. ODLME would then seek to draft and publish its Annual Report for this period within the first half of the 2020/21 financial year.

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



### 1.2.1 Factors impacting on implementation of the 2019/20 recommendations.

The 2019/20 LME Strategy was submitted to government by the first Director of Labour Market Enforcement, Sir David Metcalf, in March 2019. It was then cleared and published by government in July 2019 (DLME, 2019).

The government response to the 2019/20 Strategy was published in October 2020.

**Because of this delay, the relevant time period for which we are seeking evidence of progress against recommendations is from the point the Government response to the 2019/20 Strategy was published namely October 2020, though relevant work undertaken by the enforcement bodies before this date is also included (BEIS and Home Office, 2020).**

As well as the delay noted above, two other factors also need to be borne in mind that have impacted on the implementation of these recommendations.

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

The work of the enforcement bodies was impacted by the Covid-19 pandemic and its knock-on effects. Understandably this caused a shift in their priorities. I commend all three bodies for their rapid responses to these extraordinary circumstances and for their commitment to continue to support vulnerable workers, to support compliant businesses who themselves were adapting to change and to hold non-compliant businesses to account. I take the impact of the pandemic on the working practices of the three bodies into account when making my assessment of the progress made against implementation of the 2019/20 recommendations.

In practical terms, implementation is necessarily tied to business planning cycles for the three enforcement bodies. The delay to publication of the government response impacted the inclusion of the Director's recommendations within the planning of all three bodies in the timescales originally envisaged. Some recommendations have now been fully progressed, but the bodies are still working towards implementing other recommendations.

My intention going forward is to seek a better alignment between the date of submission of the annual LME Strategy and the business planning of the enforcement bodies where the annual planning cycle typically begins in the autumn.

**What is also needed is a faster turnaround to clear and publish LME Strategies and I plan to work with the departments and the enforcement bodies to achieve this. It is important to ensure recommendations are implemented in a timely fashion so as to have the greatest impact on vulnerable workers.**

### 1.3 Annual Report – evidence gathering

I was appointed to the Director role on 22 November 2021. My predecessor's term as interim Director ended in January 2021, thus leaving the role vacant for almost ten months.

During this time my Office continued the preparatory work for this annual report, though recognising a new Director was required to authorise the final document.

Work began in May 2021 to compile the necessary evidence underpinning this report and this was achieved in the following three stages:

1. *May – June 2021*: ODLME requested written evidence from the enforcement bodies and sponsor departments demonstrating progress made against implementing the recommendations relevant to them;
2. *July – August 2021*: once the evidence submissions were received, ODLME assessed these and followed up with bilateral meetings with each body/department to clarify information and to seek to fill evidence gaps;
3. *September – October 2021*: an early draft of the annual report was shared with the enforcement bodies and sponsor departments to check for factual accuracy.

Since my arrival in post, I have been considering the evidence supplied in order to make a final assessment of progress made. A draft of this document was then shared with sponsor departments and the enforcement bodies in February 2022. Further evidence and comments from the enforcement bodies and sponsor departments was incorporated into this final draft in April 2022.

My assessment of progress is presented in the next section.

## Section 2. Assessment of progress against recommendations

This Section lists the recommendations in the 2019/20 Strategy and assesses the progress made against their implementation.

This report is based mainly on information provided by the two sponsoring departments (BEIS and Home Office) and the three enforcement bodies, along with evidence already available. This is supplemented by performance management data, where available, from the three enforcement bodies (Annex A).

The Immigration Act (2016) specified that the Annual Report cover 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 emphasises the importance of the research project to be launched by ODLME in June 2022.

The 2019/20 LME Strategy made 12 recommendations organised across three themes:

- **Theme 1: Prioritisation of enforcement resources to protect the most vulnerable workers** (Recommendations 1-4)
- **Theme 2: Helping employers get it right** (Recommendations 5-8)
- **Theme 3: Using joint working to tackle more serious and persistent non-compliance in the labour market** (Recommendations 9-12)

The 12 broad recommendations were further articulated in 44 sub-recommendations. Of these the government accepted 35, partially accepted eight and rejected one (BEIS and Home Office, 2020).

The 2019/20 Strategy provided further clarity around which enforcement body(ies) or sponsor department(s) are responsible for implementing each sub-recommendation.

The 2019/20 LME Strategy also gave a clear steer for time periods for implementation. The expectation was that the recommendations should be implemented mostly within one year (i.e. by October 2021) or, in some cases, within two years (i.e. by October 2022). For ten of the 44 sub-recommendations I recognise that the enforcement bodies and sponsor departments have yet to reach the deadline for implementation for reasons discussed earlier.

Progress is presented in the assessment tables that follow.

## 2.1 Overview of progress

I have examined the evidence and have scored the implementation of the recommendations using a traffic light rating system (red/amber/green). Ratings themselves are determined by:

- the strength of the tangible and specific evidence presented to ODLME for each sub-recommendation; and,
- the relevance of the time period to which the evidence relates.

Where the evidence we received for this report was generic, it was not always possible to conclude that specific recommendations had been acted upon.

### The traffic light ratings reflect progress against specific recommendations being fully implemented.

A number of the accepted recommendations will take some time to implement in full, extending beyond the assessment period for this report. In these cases, progress is measured as amber, reflecting partial implementation to date. I have taken into consideration all the evidence and the factors impacting on implementation; although there is existing progress for some of these recommendations there is further opportunity to strengthen enforcement.

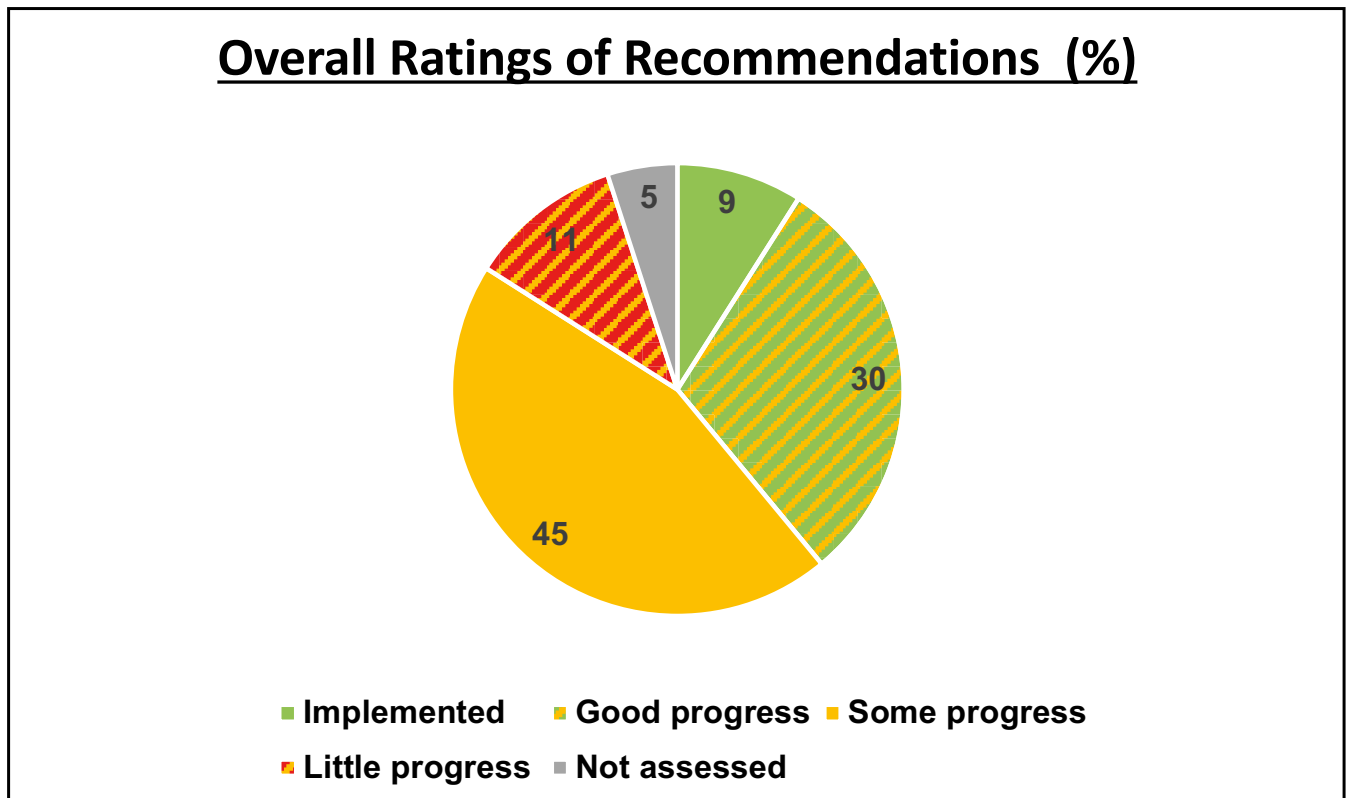
**Table 1: Traffic light ratings assessing progress against full implementation of recommendation**

<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.		

Of the 43 accepted sub-recommendations from the 2019/20 Strategy, 39 per cent are rated as either implemented or showing good progress, 45 per cent have made some progress and 11 per cent have demonstrated only little progress.<sup>3</sup>

<sup>3</sup> Two recommendations (2b – rejected by government – and 4c) have not been assessed in this Annual Report. See Section 2.3 below.

Figure 2.1: Implementation progress – overview



## Director's Overall Assessment by Theme

**Good progress has been made with Theme 1 – Prioritisation of enforcement resources and evaluating interventions.** The enforcement bodies and sponsor departments are taking steps to raise awareness of employment rights and I am pleased that government funding is being provided to ODLME to fund research to better understand the threat of worker exploitation. I am concerned about the growing threat of non-compliance on online recruitment. Also, recognising the pressure on government spending, I believe all three bodies and the sponsor departments need to develop a better understanding of which interventions deliver best value for public money.

**Good progress has been made with Theme 2 – Helping employers get it right.** I am pleased that good progress has been made to help improve compliance with the minimum wage: addressing issues related to the NMW regulations; changes made to the operation of the Naming scheme; and overhaul of the guidance. Opportunities remain to work with industry partners to design more sector-specific guidance, to seek out best practice in the provision of guidance, and to communicate better with employers and workers.

**Progress has been slower for Theme 3 – Using joint working to tackle more serious and persistent non-compliance in the labour market.** There is better sharing of intelligence between the three enforcement bodies, but joint working is the exception rather than the rule. There are valuable lessons still to be learned from the joint working that took place investigating the Leicester garment industry (“Operation Tacit”). The routine evaluation of the success of interventions by the three bodies is yet to be baked into how things are done. I recognise progress here, but it is not clear what lessons learnt exercises are being conducted. Going forward ODLME will co-ordinate and monitor a joint initiative between the three bodies as regards labour exploitation in the construction industry. This is part of a wider programme of joint working involving the hand car wash and social care sectors too.

Detailed discussion against each recommendation is covered in section 2.2. Table 2 summarises the progress rating for all the recommendations made in the 2019/20 Strategy grouping the recommendations under the three high level themes. My high-level assessment of progress with each of the themes is above.

**Table 2: Summary assessment of progress with implementation of the 2019/20 Strategy recommendations**

<b>Theme 1: Prioritisation of enforcement resources to protect the most vulnerable workers (Recommendations 1-4)</b>				
<b>Recommendation 1 – Develop better understanding of – and alignment of resources to tackling – existing and emerging non-compliance threats</b>				
BEIS/HO	1a) Government to provide necessary investment to undertake research into measuring the scale and nature of non-complaint.	2 years	Good progress	
HMRC NMW/BEIS	1b) HMRC NMW/BEIS focus their enforcement efforts further along the non-compliance spectrum.	2 years	Good progress	
HMRC NMW	1c) Review the role and effectiveness of its strategic intelligence functions with a view to integrating with, and thereby strengthening, its risk modelling and hence improving the effectiveness of targeted enforcement.	2 years	Some progress	
GLAA	1d) Provide stronger evidence of managing risk in the shellfish gathering and agriculture sectors and undertake more unannounced visits.	1 year	Some progress	
BEIS/EAS	1e) BEIS to lead a comprehensive review of the threat to labour hire compliance from online and app-based recruitment. This should build on the work carried out to date by EAS and SAFERjobs, but involve other partners (for instance drawing on data analytics expertise and wider government interests in online policy). This review should be completed by the end of 2019 with findings to feed into my 2020/21 Strategy.	1 year	Good progress	
<b>Recommendation 2 – Better understand how enforcement interventions impact on reducing labour market non-compliance</b>				
All bodies with ODLME	2a) Commence a programme of evaluation work, beginning with discrete evaluation of specific compliance and enforcement interventions in the short term.	2 years	Some progress	
BEIS	2b) The deterrent effect of the current NMW penalty multiplier should be assessed.	Not assessed – Rejected by Government		
<b>Recommendation 3 – Resourcing for the three enforcement bodies</b>				
BEIS	3a) EAS resourcing in 2019/20 be at least doubled from its current staffing levels.	1 year	Implemented	
HMRC NMW	3b) Funding increased in line with inflation and that, from 2019/20, HMRC NMW better demonstrate the cost-effectiveness of its suite of triaging interventions.	1 year	Some progress	
GLAA	3c) Increased funding in line with inflation. Furthermore, GLAA should achieve financial self-sufficiency for its licensing scheme by the end of 2022.	2 years	Good progress	
<b>Recommendation 4 – Improving awareness of worker rights</b>				
All bodies	4a) Further develop strategies to target and improve awareness of employment rights, particularly for vulnerable, at-risk and hard-to-reach communities.	1 year	Good progress	
BEIS/HMRC NMW	4b) Establish and promote an information-sharing protocol for third-party information.	1 year	Little progress	

BEIS	4c) Acas may wish to review the statutory Code of Practice on grievance procedures, in consultation with key stakeholders, to create practical guidance for collective as well as individual grievance processes.	1 year	Not assessed	
<b>Theme 2: Helping employers get it right (Recommendations 5-8)</b>				
<b>Recommendation 5 – Reviewing guidance</b>				
All bodies	5a) Updating guidance in closer collaboration with trade associations and trade unions.	1 year	Good progress	
All bodies	5b) Do more to coordinate the guidance and subsequent messaging between themselves, where there is overlap of issues.	1 year	Little progress	
All bodies	5c) Draw upon examples of good practice beyond their remits to consider introducing a toolkit of interactive online compliance tools and additional guidance resources.	1 year	Little progress	
BEIS	5d) Review and consolidate guidance on NMW/NLW with HMRC and evaluate the impact of this guidance.	1 year	Good progress	
BEIS with HMRC NMW input	5e) Focus on sector-specific naming rounds coupled with an education campaign. The cut-off for naming should be on the basis of average arrears per worker per employer and the threshold set at average arrears in excess of £500.	1 year	Good progress	
BEIS with HMRC NMW input	5f) Produce supplementary sector-specific advice booklets for those sectors where trends of certain types of breaches emerge or where the regulatory landscape is particularly complex.	1 year	Some progress	
<b>Recommendation 6 – Improving consistency of caseworker interpretation and application of NMW regulations</b>				
HMRC NMW	6a) Providing additional training on how to interpret and apply the legislation, particularly for emerging problem areas for underpayment, such as uniform deductions.	1 year	Some progress	
	6b) Reviewing and improving the internal operational guidance offered to caseworkers by the Professionalism, Learning and Guidance team.	1 year	Some progress	
	6c) Conducting independent audits of a sample of enforcement activity to ensure that application of the regulations and outcomes are consistent.	1 year	Some progress	
	6d) Assigning caseloads to inspectors by specialism to develop sector- and issue-specific expertise.	1 year	Some progress	
<b>Recommendation 7 – Consulting on NMW regulations</b>				
BEIS	7a) Record-keeping requirements.	1 year	Implemented	
	7b) Deductions for the benefit of workers.	1 year	Good progress	
	7c) Pay averaging.	1 year	Implemented	
	7d) Clarifying issues around uniform payments, working time and time recording, salary sacrifice and pension schemes.	1 year	Good progress	
<b>Recommendation 8 – Increasing the volume and targeting of awareness-raising</b>				
All bodies	8a) Promote and advertise all changes to the regulations and guidance.	1 year	Good progress	
All bodies	8b) Consider how to promote and insert their messaging across wider government communications.	1 year	Some progress	
All bodies	8c) Look to use The Pensions Regulator's approach to distributing educational material as an example of best practice.	1 year	Some progress	

<b>Theme 3: Using joint working to tackle more serious and persistent non-compliance in the labour market (Recommendations 9-12)</b>			
<b>Recommendation 9 – Improving intelligence-sharing and joint operational activity</b>			
All bodies	9a) Review the joint working Memoranda of Understanding as a priority to ensure that the intelligence flow and subsequent tasking processes are operating as effectively as possible.	1 year	Implemented
GLAA/EAS	9b) Intelligence-sharing between GLAA and EAS is improved as a matter of priority.	1 year	Good progress
HMRC NMW	9c) Consider how to better identify relevant intelligence at the start of the intelligence triage process in order to optimise opportunities for targeted enforcement.	1 year	Some progress
All bodies	9d) Develop an understanding of the extent to which offences within their remit occur alongside other violations and where non-compliance is deliberate. This will involve further developing of relationships with law enforcement and other government departments in order to identify and access relevant data sources.	1 year	Some progress
All bodies	9e) Proactively share information on Labour Market Enforcement Undertakings/Orders with the Insolvency Service in order to inform their targeting decisions and potentially streamline their investigations.	1 year	Little progress
<b>Recommendation 10 – Aligning activity with DLME priority sectors</b>			
All Bodies	10a) Consider how to use the Evidence and Analysis Group, Labour Market Enforcement Board and Strategic Coordination Group respectively, to identify, agree and facilitate joint activity in the sectors on which the Director recommends the bodies focus. This process should, of course, allow for the fact that not all sectors will be relevant to all bodies.	1 year	Some progress
All bodies	10b) Establish how best to utilise Labour Market Enforcement Undertaking/Order powers jointly, in order to address non-compliance across the whole spectrum of offences.	1 year	Little progress
<b>Recommendation 11 – Engaging in joint working with wider partners</b>			
All bodies	11a) Engage with strategic partnerships and anti-slavery networks.	1 year	Good progress
All bodies	11b) Explore how different agency powers can be used collectively to support sustained and long-term disruption of non-compliance, with a focus on recidivists and deliberate offenders.	1 year	Some progress
All bodies	11c) Further engage with local authorities to ensure that their inspectors have the necessary information to identify the signs of non-compliance and the channels through which to share actionable information in return.	2 years	Some progress
All bodies	11d) Work more closely with local authorities to tackle labour market non-compliance and exploitation, particularly in those sectors not within HSE's enforcement remit, such as warehousing.	2 years	Some progress
<b>Recommendation 12 – Evaluation of joint working</b>			
All bodies	12a) Conduct a full evaluation of the Leicester pilot in order to understand what works and whether this is a good model for elsewhere.	2 years	Some progress
All bodies	12b) Establish success criteria at the start of operational activity, evaluating immediate outcomes through processes such as multi-agency debriefs as well as monitoring of the longer-term disruption effect.	2 years	Some progress
All bodies	12c) Conduct ongoing evaluation of the impact of Labour Market Enforcement Undertakings/Orders, both in terms of immediate outcomes and the longer-term disruption effect.	2 years	Some progress



## 2.2 Implementation of the accepted recommendations

This section considers each of the 2019/20 recommendations in turn and sets out the evidence presented to ODLME, along with my assessment of the progress made to implement these recommendations.

### 2.2.1 Theme 1: Prioritisation of enforcement resources to protect the most vulnerable workers (Recommendations 1-4)

State enforcement of worker rights is mainly funded by the taxpayer and I have an obligation to ensure compliance and enforcement interventions undertaken by the three bodies under my remit are providing value for money. This requires even closer attention during periods of fiscal constraint as we are experiencing currently.

Whereas the first full LME Strategy in 2018/19 began to focus on resourcing for the three bodies and embedding a culture of continual assessment and improvement, the 2019/20 LME Strategy undertook a much deeper examination into how their resources were being utilised and to ask questions around value for money. With the common purpose of protecting vulnerable workers, it is imperative the enforcement bodies have the best possible understanding of the non-compliance threat and then design interventions that can be targeted appropriately to have real impact. Moreover, this needs to be a learning process to allow responses to adapt and, where necessary, seek to improve effectiveness of interventions.

This theme focuses on the following issues:

- Improving understanding of non-compliance threats and aligning enforcement resourcing accordingly;
- Improving understanding of how compliance and enforcement interventions impact on reducing labour market non-compliance;
- Overall resourcing for state enforcement in the labour market (within my remit);
- and, how the enforcement bodies can improve workers' knowledge of their rights as well as where and how to seek help.

## Director Assessment of Theme 1: prioritisation of enforcement resources and evaluating interventions

Overall, **good progress** has been made with implementation under this theme.

Of the 13 sub-recommendations:

- At least some progress has been made on 10 of them, with good progress achieved on five and one fully implemented (Rec 3a).
- One (Rec 2a) shows some progress to date but is still within a two-year implementation window.
- Two recommendations were not assessed. These are discussed further in section 2.3 below.

Other points I would wish to highlight here are:

- Resourcing – I am pleased that the recommended increases in funding for the enforcement bodies (Rec 3), as well as for ODLME's research to evidence the scale and nature of labour market non-compliance (Rec 1a), have been delivered thus far. However, financial pressures arising from the recent Spending Review potentially pose a threat to both these areas moving forward. A commitment is therefore needed from government to safeguard resourcing here.
- Evaluation and value for money – A big gap remains in the understanding of the extent to which compliance and enforcement interventions make a difference (Rec 2a). Evidence to date suggests this is an area that still needs to be gripped by the sponsor departments and the enforcement bodies. Again funding pressures in the current climate make this even more urgent to be able to demonstrate the effectiveness of different approaches to enforcement activity (Recs 1b, 1c, 1d).
- Enforcement gaps – the threat of non-compliance in online recruitment is growing and getting on top of this remains a priority. I therefore urge EAS to continue to strengthen its focus on this sector, working closely with industry and wider government to identify appropriate safeguards and solutions.
- Awareness of worker rights – it is clear that the enforcement bodies and sponsor departments are taking a variety of steps to promote complaints channels and raise awareness of employment rights among vulnerable workers (Rec 4). The bodies should continue to seek opportunities for joined-up messaging and developing a more focused approach to ensure the relevant information gets to hard-to-reach groups. Allied with this, there need to be mechanisms to identify the relative success of these communications with a view to learning lessons and adapting the approach if necessary.
- Third Party Complaints – The fact that companies, individuals and worker representative bodies have a perception that reports they make to enforcement bodies about non-compliance appear not to have received attention undermines confidence in the enforcement bodies. This is why progress with Rec 4b is important (see below).

## Recommendation 1 – Develop better understanding of – and alignment of resources to tackling – existing and emerging non-compliance threats

BEIS/Home Office	<b>1a)</b> Government support the Director in meeting obligations under the Immigration Act 2016 by providing the necessary investment to undertake robust research in 2019/20 into measuring the scale and nature of non-compliance in the labour market.	2 years	Good progress	
HMRC NMW/BEIS	<b>1b)</b> Regarding HMRC NMW's prioritisation of cases, HMRC NMW/BEIS focus their enforcement efforts further along the non-compliance spectrum, thereby seeking to tackle more serious cases.	2 years	Good progress	
HMRC NMW	<b>1c)</b> Review the role and effectiveness of its strategic intelligence functions with a view to integrating with, and thereby strengthening, its risk modelling and hence improving the effectiveness of targeted enforcement.	2 years	Some progress	
GLAA	<b>1d)</b> In time for my 2020/21 Strategy, I recommend that GLAA provide stronger evidence of managing risk in the shellfish gathering and agriculture sectors. GLAA should also undertake more unannounced visits of labour providers across the regulated sectors as a whole to identify unlicensed operators.	1 year	Some progress	
BEIS/EAS	<b>1e)</b> BEIS to lead a comprehensive review of the threat to labour hire compliance from online and app-based recruitment. This should build on the work carried out to date by EAS and SAFERjobs <sup>4</sup> , but involve other partners (for instance drawing on data analytics expertise and wider government interests in online policy). This review should be completed by the end of 2019 with findings to feed into my 2020/21 Strategy.	1 year	Good progress	

### a) Resourcing research into the scale and nature of labour market non-compliance

One of my statutory obligations<sup>5</sup> is to make an assessment of the scale and nature of non-compliance in the labour market. The challenges of achieving this have been set out in previous LME Strategies<sup>6</sup> and DLME has identified the need for investment in substantial research to seek to fill this evidence gap.

In its response to the 2019/20 Strategy the government gave its support to providing the necessary funding for this work. Further detail on progress made to commence this research project is provided in section 3 below. I am pleased government has recognised the importance of this work. This project will commence early in the 2022/23 financial year and will require between two and three years to complete. It is important this project remains a funding priority throughout the Spending Review period.

### b) Prioritisation of NMW cases to tackle more serious non-compliance

There is a question too about *how* the three enforcement bodies use their resources: assurance is needed that value for money is being achieved and in doing so ensure resources are targeted at the most serious cases. Here, the 2019/20 Strategy made three recommendations for HMRC NMW and one for the GLAA.

Recommendation 1b proposed that HMRC NMW should shift its focus to tackling more serious cases (Rec 1b). Related to this was a recommendation that HMRC NMW should be able to demonstrate the cost-effectiveness of its suite of triage interventions (see recommendation 3b below).

4 JobsAware (formerly SAFERJobs) is supported by DWP, BEIS, the Metropolitan Police and other government and industry organisations. See their website for further information: <https://www.jobsaware.co.uk/>

5 Section 2(2) of Immigration Act 2016 <https://www.legislation.gov.uk/ukpga/2016/19/section/2/enacted>

6 <https://www.gov.uk/government/collections/labour-market-enforcement#strategies>

In response, HMRC NMW noted that in 2017/18 they had been given additional funding to investigate large employers (e.g. in the retail sector.) These cases accounted for the majority of total arrears in 2016/17 and in 2017/18. Although the aggregate amounts recovered were larger, the arrears per worker was below average in these cases.<sup>7</sup>

HMRC NMW operates in accordance with a Service Level Agreement with BEIS which requires them to consider all complaints regardless of severity. As such HMRC NMW cannot ignore lesser violations (referred to as ‘technical breaches’ in the 2019/20 LME Strategy<sup>8</sup>) in favour of tackling the more serious ones.

Previous LME Strategies have emphasised the really good progress HMRC NMW has made in re-organising its compliance and enforcement efforts to achieve a clearer pathway and scale of intervention linked to severity of minimum wage violation. Having a clearer understanding of cost-effectiveness of the various types of intervention would then allow resourcing to be shifted along the spectrum to handle the more serious cases. While we did not receive evidence of this per se from HMRC NMW, it was clear that BEIS, as part of its renewed SLA with HMRC NMW has introduced targets to achieve increased volumes of serious non-compliance cases and LMEUs/Os, as well as a rise in referrals of potential prosecution cases to their Fraud Investigation Team.

### c) Review HMRC NMW’s strategic intelligence function

The 2019/20 Strategy recognised the value of HMRC’s overall risk modelling approach for targeted enforcement activity. However, the strategy proposed that this could be strengthened by using data and intelligence on non-compliant employers from other related enforcement areas such as health and safety and food standards (subject of course to legal gateways being established). That Strategy also identified an opportunity for HMRC NMW to make greater use of strategic intelligence, by expanding HMRC’s centralised intelligence function to include more NMW-specific intelligence reporting.

In their response to ODLME HMRC NMW stated that:

*The NMW Risk Strategic Report assessment includes complaints and intelligence analysis and these form part of the monthly review at HMRC NMW Risk Governance Board. As part of each sector and risk area review throughout the year the RIS Analytical report includes analysis into the relevant sector or risk area and is derived from Risk Model information, Complaints and Intelligence Analysis. The NMW Risk Strategic annual report makes clear links to our assessment of intelligence information. When planning and evaluating each project/sector that features in the NMW Target Enforcement Plan we review the intelligence analysis.*

HMRC NMW further told us that they had undertaken a review of intelligence function processes and that they had satisfied themselves that beyond ongoing business as usual improvements no further changes were necessary. This provides some reassurance in terms of addressing the concerns raised in the 2019/20 Strategy. I continue to encourage HMRC NMW to bolster its strategic intelligence function by drawing on wider sources or by making use of sectoral data at its disposal.

### d) Managing risks in GLAA’s regulated sectors

Agriculture and shellfish gathering are two of GLAA’s four regulated sectors yet have consistently ranked as posing a high non-compliance risk in DLME’s annual risk model (see section 3 below). A major concern for Sir David Metcalf, he recommended GLAA provide stronger evidence of

<sup>7</sup> See Table 8 in National minimum wage: government evidence to the Low Pay Commission on compliance and enforcement, 2017 (BEIS, 2017) and Table 7.1 in National Living Wage and National Minimum Wage: government evidence on compliance and enforcement, 2018 (BEIS,2018).

<sup>8</sup> See p.17 DLME 2019

their enforcement efforts in these sectors. Progress against this recommendation, especially in agriculture, was hampered by the onset of the pandemic in spring 2020, where compliance visits were initially curtailed. The GLAA's operations group has however published an updated strategy for this sector (GLAA, 2020a). GLAA also told us a new multi-agency shellfish working group has been established to ensure that the response to risk in this sector is proportionate.

The 2019/20 LME Strategy also noted that unannounced compliance visits could be a more potent intervention in the regulated sectors. While lockdown has prevented unannounced visits at a labour user's site, GLAA will need to be able to demonstrate these can be systemically recorded once access improves. The GLAA Compliance Strategy published in July 2021 committed to the greater use of unannounced spot checks (GLAA, 2021b).

### *e) Review of threat from online and app-based recruitment*

Risks to those seeking work via online and app-based recruitment were highlighted as a real concern in the 2019/20 Strategy. The likelihood is that this risk may potentially have grown since DLME first made recommendations here, such that DLME has since made further recommendations on this issue in its 2021/22 LME Strategy (DLME, 2021b).

Again, there is a significant evidential challenge in this area of labour market enforcement and DLME recommended BEIS lead a comprehensive review to better understand the threat landscape, to then help inform later LME strategies.

Since that recommendation was made (and subsequently accepted by government) EAS told us it has been working closely with JobsAware (formerly SAFERjobs), the Association of Compliance Organisations (ASCOR) and other partners to understand the challenge of regulating online and app-based recruitment companies. EAS told us they are working with JobsAware to deepen their understanding of the scale of false or misleading online job adverts. At the same time valuable intelligence from both EAS and JobsAware continues to feed into DLME's Information Hub, helping us make a clearer assessment of overall current and future risk across the labour market.

Of course, the challenge faced by EAS as an enforcement body is not unique to its area of work. In March 2020 and April 2021 the GLAA undertook an initiative with Crimewatch UK to heighten awareness of online job scams (See response to Rec 4).

More broadly, scams and other malpractices are a feature of the wider digital economy and very often occur beyond UK borders – hence out of the reach of current UK legislation and regulation.

## **Recommendation 2 – Better understand how enforcement interventions impact on reducing labour market non-compliance**

All bodies with ODLME	<b>2a)</b> Commence a programme of evaluation work, beginning with discrete evaluation of specific compliance and enforcement interventions in the short term, with a view to considering wider impact evaluation in the longer term once better measures of labour market non-compliance have been developed.	2 years	Some progress
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NB: Recommendation 2b was rejected by the government and is discussed in section 2.3 below

Related to effective use of enforcement resources is the need to understand the impact the various tools and interventions used by the enforcement bodies have on tackling non-compliance.

A DLME-commissioned feasibility study commissioned in 2018 noted that an overarching evaluation of the impact of enforcement interventions on reducing labour market non-compliance would not be possible until a better understanding of the scale and nature of non-compliance was better understood (hence the major research initiative in recommendation 1a above).

Until that requirement was met, DLME recommended the enforcement bodies focus instead on evaluating the effectiveness of their own specific compliance and enforcement interventions. (This Annual Report also considers separately evaluation of joint working between the three bodies under section 2.2.3 below).

Our evidence gathering for this report found some good examples of progress, but it was clear that overall all three bodies are still very much in the early stages of addressing this recommendation. Moreover, in the evidence provided to us it was difficult to distinguish between ongoing case reviews and more robust evaluation which sought to assess impact of interventions.

Most progress on the latter has been made in HMRC NMW, where we are told extensive in-house monitoring and evaluation already happens, particularly around their Promote and Serious Non-Compliance (SNC) activities. In addition to this BEIS and HMRC NMW are currently working towards forming an evaluation framework to evidence the impacts and effectiveness of NMW enforcement activity.

Although GLAA and EAS do their own case level reviews to understand what has worked well, there is as yet very little progress on seeking to identify the difference particular interventions make to tackling non-compliance. That said, GLAA has completed a significant overhaul of its performance reporting framework, and this is a major step forward to being able to undertake robust evaluation work.

The need for better analysis of the impact of public funded interventions was an issue flagged by the National Audit Office, *Evaluating Government Spending* Report and is an area therefore in which I encourage much greater focus in the coming year (NAO, 2021).

### Recommendation 3 – Resourcing for the three enforcement bodies

BEIS	<p><b>3a)</b> EAS resourcing in 2019/20 be at least doubled from its current staffing levels:</p> <ul style="list-style-type: none"> <li>to effectively carry out its business-as-usual work;</li> <li>to provide a dedicated analysis resource to maximise the benefits of its new case and intelligence management system; and</li> <li>to properly undertake the additional enforcement work given the expansion of EAS's remit to enforce umbrella companies.</li> </ul>	1 year	Implemented	
HMRC NMW	<b>3b)</b> HMRC's funding for NMW enforcement be increased in line with inflation and that, from 2019/20, HMRC NMW better demonstrate the cost-effectiveness of its suite of triaging interventions.	1 year	Some progress	
GLAA	<b>3c)</b> Funding for GLAA also be increased in line with inflation. Furthermore, GLAA should achieve financial self-sufficiency for its licensing scheme by the end of 2022.	2 years	Good progress	

In 2018/19 overall state resourcing for the three enforcement bodies stood at £33m, up significantly from £25m and £18m in the two preceding years. Noting these substantial increases my predecessors were keen that, for the most part, state funding continued to rise in 2019/20 at least in line with inflation for both HMRC-NMW and the GLAA (Recs 3b and 3c respectively). This objective has been met, with funding for the two bodies rising to £27.4m and £6.55m respectively in 2019/20. What remains to be evidenced though is a demonstration by HMRC NMW of the cost-effectiveness of its suite of triaging interventions (discussed further under recommendation 1b above).

In GLAA's case around £1m of its annual revenue comes directly from labour supplier licensing fees, though this meets only half the cost of administering the scheme. The 2019/20 Strategy recommended GLAA achieve financial self-sufficiency for its licensing operation. Since that recommendation was made GLAA has undertaken a comprehensive review of its licensing

regime (GLAA, 2021e) and have committed to review licence fees as part of its 2021/22 business plan. I will report further on GLAA progress on the fees issue once that process has concluded (likely to be in 2022/23).

DLME took a different approach to its recommendations around EAS resourcing. The 2019/20 Strategy highlighted EAS's under-resourcing for the scale of their current work, as well as their need to be sufficiently resourced to undertake future obligations to oversee and enforce regulations relating to umbrella companies. As such a doubling of staff resources (front-line inspectors) was recommended (Rec 3a). Again, this has been implemented: EAS funding rose from £0.725m to £1.125m in 2019/20, and significantly again in 2020/21 to over £1.5m. The number of inspectors grew from 9 to 18 FTE by 2019/20.

EAS have recruited to support their growing intelligence capability, although it is noted that this is a work in progress. EAS have stated they will continue to actively review the team's capability to compliment this growing specialism.

In summary, the bodies have made good progress against DLME resourcing recommendations: total funding for labour market enforcement now exceeds £35m. An area to watch going forward is how the outcome of the current Spending Review for the period up to 2024/25 impacts on future funding levels, particularly with even greater pressure now on the public purse following the pandemic. In 2020/21 funding levels have remained essentially flat cash – a real terms decrease. (see Table A.1 in Annex A).

#### Recommendation 4 – Improving awareness of worker rights

All bodies	<b>4a)</b> Further develop strategies to target and improve awareness of employment rights, particularly for vulnerable, at-risk and hard-to-reach communities.	1 year	Good progress	
BEIS/HMRC NMW	<b>4b)</b> Establish and promote an information-sharing protocol for third-party information.	1 year	Little progress	

NB: Recommendation 4c has not been assessed. This is discussed in section 2.3 below

##### *a) Strategies to promote awareness of employment rights*

The 2019/20 LME Strategy focused on ensuring workers have sufficient awareness of their rights and feel empowered to raise complaints. The Strategy emphasised actions by the bodies, sponsor departments and Acas to ensure workers are aware of their legal protections and the appropriate channels to seek redress. This is particularly important for hard-to-reach groups and for ensuring workers do not accept non-compliance as standard practice in their industry.

Businesses struggling to attract or retain workers do, of course, have a clear interest in ensuring that their workers are aware of and receive their statutory rights as a minimum.

In its response to the 2019/20 Strategy, Government accepted this recommendation and highlighted that the three enforcement bodies already provide a range of information on employment rights, available in different languages and formats to meet the diverse needs of workers (see Box 1 below).

Actions taken to improve the awareness of employment rights more generally include:

- the provision (from April 2020) of a day one written statement of rights mandatory for all workers and a Key Information Document for all agency workers registering with an employment business.
- a government publicity campaign to raise awareness of workers' holiday pay rights, which has been identified as an area of significant non-compliance.

- continued provision by Acas of free and impartial guidance and advice to both workers and employers of workplace rights and best practice.

The Government response also stressed that the enforcement bodies should continue to review and develop strategies to reach out to vulnerable workers and raise awareness of the employment rights they enforce. This includes opportunities for the bodies to work together and with wider stakeholders.

The enforcement bodies have clearly demonstrated a variety of interventions to target hard-to-reach workers and those working in high-risk sectors. However, I would like to see a clear and overarching strategy to drive further progress, ideally with evidence to assess the degree of success in reaching these groups of workers.

## Box 1: Interventions to improve awareness of employment rights

### HMRC NMW Enforcement

HMRC NMW have targeted low paid and hard-to-reach workers via bulk letter and SMS texts to workers, distributing multi-lingual leaflets, providing advocate training, radio activity, press notices, webinars, social media and stakeholder messaging. HMRC NMW engaged with a total of 879,000 contacts in 2019/20.

- HMRC NMW distributed multi-lingual worker orientated leaflets as part of NMW Textile Response Team engagement visits. Additional language versions added by request include Bulgarian and Somalian. HMRC increasingly targets its outreach activity at hard-to-reach workers, e.g. multilingual leaflets produced in Leicester to support Operation Tacit<sup>9</sup>.
- Within the social care sector efforts have been made to raise awareness of NMW entitlement, underpayment risks and routes of redress amongst low paid workers. This includes training worker advocates, worker webinars, social media activity, one-to-many campaign letters to workers, leafleting at-risk workers, bulk SMS texting, stakeholder communications and referrals agreement with Northern Ireland Labour Relations Agency.
- Ongoing programme to promote worker routes to query their situation and raise a complaint where necessary. This includes amending GOV.UK pages, and worker orientated videos.
- Targeted communications campaign with apprentice stakeholders including SMS bulk text campaign to communicate the annual rate increase to apprentices (n=c416,000)<sup>10</sup> (HMRC NMW, 2021).
- Training sessions delivered to worker advocate groups to help identify underpayment concerns and encourage complaints direct to HMRC – for instance, Unseen and Citizens Advice, and working with Hope for Justice in Leicester on one-to-one worker engagement through food banks and other community touch points using multi-lingual compliance officers.
- Letters sent to workers flagging underpayment risks and encouraging complaints. Sectoral one-to-many letter releases to workers; textiles (18,500), fast food takeaway (33,000) and cleaning (40,500).

<sup>9</sup> Discussed further in section 2.2.3 below

<sup>10</sup> <https://www.gov.uk/government/publications/national-minimum-wage-for-apprentices-communication-resources>



- When promoting the ease and benefits of making a NMW complaint, the translation service offered via the Acas route is routinely highlighted.
- BEIS and HMRC run a yearly National Minimum Wage publicity campaign. This campaign is supported by a web page Check Your Pay which highlights how to complain.
- To increase visibility of complaint routes the NMW complaint link has been added to the GOV.UK Reporting Fraud Page<sup>11</sup> and HMRC have worked with the fraud team to refer any cases to them.
- Social media activity through HMRC accounts and issuing press notices. In August 2021 HMRC published a list revealing the absurd excuses for not paying National Minimum Wage (HMRC and BEIS, 2021)<sup>12</sup>.

## GLAA

- During 2019/20, working with Crimestoppers, the GLAA undertook an initiative on Facebook aimed at prevention of deceptive recruitment through online platforms, specifically targeting Romanian men aged 18-34. The campaign reached 1,975,621 people, achieving 31,152 link clicks and 34,480 engagements. There was a 13 per cent increase in reports relating to modern slavery, and a 400 per cent increase in modern slavery reports relating to Romanian victims.
- A variety of worker leaflets, spotting the signs posters and content is available in multiple languages on the GLAA website. Additionally, any web page on the website can be converted into the language, using the “browse aloud” function. In August 2019, the GLAA developed a quarterly partnership bulletin which goes to 3,000 stakeholders promoting good practice and awareness of exploitation.
- In October 2019 supported a workshop by De Montfort University to engage with the community in Leicester, aid their understanding, and action against labour exploitation, supporting Leicester City Council’s own engagement strategy (GLAA,2019).<sup>13</sup>
- In 2019/20 the GLAA supported the development of the Clewer Initiative’s “Farm Work Welfare App”<sup>14</sup> (launched July 2020). It allows both farmers and workers to flag up concerns about labour exploitation or modern slavery and seek help. The GLAA was a key partner and provided much of the content for the app which provides practical information on licensed labour providers, document verification and rights of workers.
- In January 2021, the GLAA launched the new qualification for students in partnership with the Skills and Education Group, the University of Nottingham’s Rights Lab and Boston College in Lincolnshire. The 10-hour course has been designed specifically for those entering the world of work. GLAA undertook a pilot using funding from the Home Office to deliver the qualification to a diverse range of settings including:
  - Charities specialising in resettlement programmes for people with addiction;
  - Employer in the recruitment and fashion and textiles industries;
  - General Further Education Colleges;
  - Private Training Providers specialising in adult education; and
  - Youth Offender Institutes;

11 <https://www.gov.uk/government/organisations/hm-revenue-customs/contact/report-fraud-to-hmrc>

12 <https://www.gov.uk/government/news/hmrc-reveals-absurd-excuses-for-not-paying-national-minimum-wage>

13 <https://www.gla.gov.uk/whats-new/press-release-archive/28102019-leaders-encouraged-to-protect-communities-from-modern-slavery/>

14 <https://theclewerinitiative.org/campaigns/the-farm-work-welfare-app>

GLAA will strategically aim to increase uptake of the qualification in areas of the economy where a high risk of labour exploitation is identified e.g. construction, textiles, agriculture.

- In February 2021, the GLAA developed a new 10-point checklist for workers in the UK poultry industry to help them understand their rights in the workplace and spot the signs of labour exploitation. Educational posters created by the GLAA were distributed to a dozen poultry sites in England, Wales and Scotland as part of a six-week pilot project starting which has been backed by the British Poultry Council.
- In October 2021, GLAA delivered training on how to spot the signs of labour exploitation for frontline employees at the University of Nottingham to mark Anti-Slavery Day (October 18). In the same month, the GLAA were invited by TSB to disseminate knowledge and awareness of modern slavery and labour exploitation to their 6,000 employees.

## EAS

- EAS has worked with a number of partners to build its public profile and developed communications material to provide a wider reach of awareness for workers. EAS carried out work to promote the introduction of a Key Information Document (KID) for agency workers. The new regulation came into effect from 6th of April 2020.
- In October 2019 EAS produced a booklet to help agencies ensure that they are compliant with EAS' legislation (BEIS and EAS, 2019a).
- EAS has had a number of leaflets relevant to agency workers translated into different languages reflecting the worker mix.

### *b) BEIS/HMRC establish and promote an information-sharing protocol for third party information*

The 2019/20 Strategy focused on the importance of making provisions for complaints and information provided through third-party or anonymous sources. HMRC NMW commits to consider every 'worker complaint', but third-party information, such as information collated by trade union representatives on behalf of workers, will not, however, constitute a 'worker complaint' and will not be considered in the same way. Stakeholders reflected concerns of not being aware of existing routes to submit third-party information and for BEIS and HMRC to establish and promote an information-sharing protocol for third-party information.

The Government partially accepted this recommendation. The importance of a third-party complaints channel was recognised both for workers and the value of the intelligence this provides for NMW enforcement efforts.

However, instead of taking forward a third-party information sharing protocol as recommended in the 2019/20 Strategy, HMRC NMW considered the best way of achieving the aims of this recommendation was through publicising the complaints channels that already exist, including:

- The ability of individuals or third parties to make complaints anonymously through HMRC public facing web pages and online forms;
- Signposting by Acas to HMRC's complaints procedure on their website, which makes it clear that you can report issues about yourself or in connection with someone else or an employer;
- An annual National Minimum Wage publicity campaign carried out by BEIS and HMRC NMW, which includes a web page Check Your Pay which highlights how to complain<sup>15</sup>;

<sup>15</sup> <https://checkyourpay.campaign.gov.uk/>

- BEIS NMW guidance that includes information on how to take forward NMW Wage complaints.

BEIS also told us that they and HMRC NMW regularly engage with the Trade Unions and attend the quarterly Trade Union Congress Enforcement Group, using this engagement to highlight the channels to provide third party intelligence.

It remains to be seen whether the approach proposed by BEIS and HMRC NMW serves to meet fully the aim of this recommendation. As the 2019/20 Strategy set out, the issue here boils down to greater awareness of this channel for reporting complaints (I recognise that Section 18 of the Commissioners Revenue Customs Act (CRCA) currently prevents the sharing of progress updates on individual ongoing cases). I remain of the view that achieving more effective use of third-party information needs more proactive and specific promotion of such channels across a wider range of organisations to encourage its submission and to help build evidence of labour market exploitation.

### **2.2.2 Theme 2 Helping employers get it right (Recommendations 5-8)**

As I have highlighted above, DLME has sought to emphasise the importance of promoting employer compliance (by educating employers, labour providers and employment businesses about their legal obligations by providing adequate information and assistance, and clearly communicating these expectations) rather than just a focus on enforcement. The 2019/20 LME Strategy recommendations target improving the available advice and guidance, clarifying regulations, improving consistency of NMW enforcement, and reviewing some reputational and financial penalties.

The 2019/20 Strategy cited the work of the Pensions Regulator and international comparators of compliance tools used by labour inspectorates in other countries as good practice. This might include tailored guidance for specific audiences, step-by-step guidance to processes, jargon busters/glossaries, pay calculators, enforcement bulletins, free online training, template documents, checklists, public information campaigns and wider engagement with employers to how they can meet legal duties.

Within this theme, the focus here is on the following:

- Reviewing compliance guidance
- Improving consistency of caseworker interpretation and application of NMW regulations
- Consulting stakeholders on guidance as regards NMW regulations
- Increasing the volume and targeting of awareness-raising amongst employers

My broad conclusions as regards this theme are set out below.

## Director Assessment of Theme 2: Helping employers get it right

Overall, **good progress** has been made with implementation under this theme. Of the 17 sub-recommendations:

- at least some progress has been made on 15 of them, with good progress achieved on six and two fully implemented (Recs 7a and 7c).
- little progress has been made with the remaining two sub-recommendations, mainly around co-ordination and innovation in providing guidance for stakeholders (Recs 5b and 5c).

Other points I would wish to highlight here are:

- it would be encouraging to have more evidence that the three bodies themselves are looking to identify best practice as regards the provision of guidance from a wider range of sources (Rec 5a and 5c). Their resources are limited so benefiting from the experience of others – notably trade unions and trade associations – would be cost effective.
- From the viewpoint of both individuals and companies it would be helpful if there were greater consistency of content and presentation as regards public communications and guidance from the enforcement bodies (Rec 5b).
- Significant barriers remain for HMRC NMW and EAS to maximise their communication to employers and workers. Equally I received no evidence of any of the bodies working with [GOV.UK](https://www.gov.uk) more generally to assist with the promulgation of messaging.
- There also needs to be greater consideration in the long term of how to develop guidance and engagement with industry considering a sectoral approach (Rec 5f). This is a recurring theme across LME Strategies.

## Recommendation 5 – Reviewing compliance guidance

All bodies	<b>5a)</b> Look to produce and update their guidance in closer collaboration with trade associations and trade unions.	1 year	Good progress	
All bodies	<b>5b)</b> Do more to coordinate the guidance and subsequent messaging between themselves, where there is overlap of issues.	1 year	Little progress	
All bodies	<b>5c)</b> Draw upon examples of good practice beyond their remits to consider introducing a toolkit of interactive online compliance tools and additional guidance resources.	1 year	Little progress	
BEIS	<b>5d)</b> With HMRC enforcement, review and consolidate guidance on NMW/NLW to create a single, comprehensive and overarching guidance document. An evaluation of the impact of this guidance should be undertaken two years from its introduction.	1 year	Good progress	
BEIS (with input from HMRC NMW)	<b>5e)</b> Focus on sector-specific naming rounds coupled with an education campaign to maximise the impact of naming and to raise awareness. At the same time, in order to expose the most serious NMW/NLW infringements, the cut-off for naming should be on the basis of average arrears per worker per employer and the threshold set at average arrears in excess of £500.	1 year	Good progress	
BEIS (with input from HMRC NMW)	<b>5f)</b> BEIS, with input from HMRC enforcement, produce supplementary sector-specific advice booklets for those sectors where trends of certain types of breaches emerge or where the regulatory landscape is particularly complex (i.e. such as issues around uniform deductions within retail and hospitality, pay averaging, salary sacrifice, etc.).	1 year	Some progress	

### *a) All bodies to update guidance in closer collaboration with trade associations and trades unions*

The 2019/20 Strategy identified an opportunity for guidance from all of the three enforcement bodies to be better informed by experience and expertise of trade associations and the trades unions.

The Government accepted this recommendation, stating that relevant trade associations and trade unions are routinely involved in the development of guidance. ODLME understands that BEIS does consult with trade unions to seek feedback on its guidance, though it is unclear how frequently or how influential this is. Our evidence gathering during the latter half of 2021 did not elicit any specific examples to demonstrate action had been taken to implement this recommendation.

We were told that work was underway to review and update the enforcement bodies' guidance. As part of this, the enforcement bodies will be considering other good practice approaches and explore whether additional guidance resources are necessary. We were not given a timeframe for when this work would be completed.

Following consultation, BEIS and EAS have published guidance on the changes to AWR (Agency Workers Regulations) arising from the removal of the Swedish derogation. EAS has also issued guidance on the introduction of the Key Information Document. EAS has published in hard copy, an agency worker's leaflet to advise work seekers on their rights and simplified guidance for employment business on how to ensure they are complying with the law. Both documents will be made available on EAS website as soon as possible. This was carried out in consultation with trade unions and associations (BEIS and EAS, 2018).

EAS has undertaken sectoral-focused work with continued engagement with trade bodies, associations and sectors leads. As part of this they have held seminars, including with teaching unions. EAS also continues to support the growth of worker led intelligence collection through organisations like JobsAware and trade unions.

### *b) Co-ordination of guidance and messaging between enforcement bodies where there is an overlap of issues*

We discuss joint working activity between the three enforcement bodies in section 2.2.3 below. Greater collaboration between the three bodies is important too in the context of coordinated and consistent messaging and guidance across their respective remits. EAS reported that they are working closely with HMRC and GLAA colleagues on messaging and improving promotion of each other activities.

However, aside from generic references to working with colleagues from the other bodies on messaging and improving the promotion of each other's activities, we received no specific evidence to demonstrate how and where this had been done or indeed the benefits that had been derived from such activity.

I am starting to see more progress being made by the enforcement bodies in this area (for instance via the increased use of stakeholder webinars). Not only are these being taken forward by individual enforcement bodies, but I am greatly encouraged to see joined-up approaches involving participation of all the enforcement bodies.

This remains an important area of work and I am pleased that further joint webinars will be taking place later in 2022. I recognise the existing constraints of the gov.uk platform that both HMRC NMW and EAS face that ultimately prevent a better and more powerful use of communications and messaging channels.

### *c) Draw upon examples of good practice beyond their remits to consider introducing a toolkit of interactive online compliance tools and additional guidance resources.*

The 2019/20 Strategy drew on examples from New Zealand and Canada (Ontario), as well as from The Pensions Regulator in the UK, where significant efforts had been made to present guidance and help to workers and employers in a more accessible way. These often used, but were not restricted to, online media to help improve messaging and guidance.

The Strategy also noted that regulators tend to take a risk-averse approach to creating guidance and advising on difficult areas of interpretation. However, the guidance issued can be on the one hand too high level to be useful or in essence a reproduction of the statutory position which does not illuminate what is meant. Clearly there is an important balance to be struck here, but I welcome the work BEIS has undertaken, for instance, to improve its NMW/NLW guidance (discussed immediately below).

### *d) Consolidation of NMW/NLW guidance*

BEIS told us they recently undertook a comprehensive review of minimum wage guidance, drawing on the expertise of a readership panel comprising employer and worker representatives, as well as technical and legal experts. The guidance was published on 1 March 2021 and includes more detail and examples (BEIS, 2021b). It is also published in an "online manual" format, aiding accessibility and easing navigation. According to BEIS further updates to specific sections are planned.

Changes made to the guidance to date include:

- Changing the format and reducing the document's size to a simpler, more accessible online manual;
- Working with digital colleagues in BEIS to improve accessibility and use of language, particularly on the use of plain English;

- Adding a checklist for employers outlining the common causes of minimum wage underpayment with links to relevant sections of the guidance<sup>16</sup>;
- Updating the guidance to reflect new legislation affecting seafarers;
- Updating the guidance to reflect changes on salaried hours work;
- Continuing to improve and signpost the Checkmypay NMW calculator<sup>17</sup>;
- Regularly updating the guidance to reflect the uprating of National Minimum Wage and National Living rates; Updating the guidance on paying the correct minimum wage rate to apprentices expanded to set out statutory apprenticeship agreements and contracts of apprenticeship;
- Updating the guidance in light of the Supreme Court judgement on sleep-in shifts<sup>18</sup>. This includes a series of examples to help illustrate how those principles might apply to particular scenarios.

*e) Undertake sector-specific naming rounds for NMW/LW and education to maximise the impact of naming and shaming*

Since 2011, BEIS has used reputational enforcement – naming – as an instrument to achieve greater compliance with the NMW/NLW. Employers are publicly named when they are found to have underpaid workers. The 2018/19 LME Strategy (DLME, 2019)<sup>19</sup> made a series of recommendations to evaluate and improve the BEIS Naming Scheme to assess its impact. BEIS reviewed and subsequently amended the naming scheme to improve its effectiveness.

In February 2020, BEIS announced that the Naming Scheme had been reviewed. The changes introduced as a result of the review are listed in Box 2 below.

While the review was carried out, the Naming Scheme was suspended for almost two and half years from July 2018. Since resuming in late 2020 there have been three further naming rounds (in December 2020 (Round 16), August 2021 (Round 17) and December 2021 (Round 18)). Between them they identified £10 million in wage arrears for 141,000 workers (BEIS, LPC and Paul Scully MP 2020, 2021 a and b).

Short educational bulletins were also published alongside these naming rounds, summarising common reasons for underpayment and signposting to the relevant guidance. The August 2021 round included a bulletin focused on underpayment of apprentices.

Although the impact of the revised scheme cannot be measured at this time, it is clear that the Naming Scheme does result in increased media attention (especially for larger employers) and in doing so raises awareness of NMW entitlements. Reputational penalties do therefore appear to act as a deterrent effect for employers.

16 <https://www.gov.uk/guidance/calculating-the-minimum-wage/a-checklist-for-employers>

17 <https://www.gov.uk/am-i-getting-minimum-wage>

18 In March 2021, the Supreme Court unanimously dismissed the appeals. The judgement held that sleep-in workers should receive an allowance and not the NMW unless they were awake for the purpose of working. The government is considering the implications of the judgment and will update the Calculating National Minimum Wage guidance.  
<https://www.supremecourt.uk/cases/uksc-2018-0160.html>  
<https://www.gov.uk/guidance/calculating-the-minimum-wage/working-hours-for-which-the-minimum-wage-must-be-paid>.

19 2018/2019 UK Labour Market Enforcement Strategy

Recommendation 15: Evaluation of the BEIS Naming Scheme to assess its impact.

Recommendation 16: 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.

The 2019/20 Strategy recommended a focus on sector-specific naming rounds along with an education campaign to maximise the impact of naming and to raise awareness. It also called for a higher threshold of £500 of identified arrears per worker per employer as the cut-off for inclusion of employers in a naming round. This was partially accepted by Government in October 2020.

In its response to the 2019/20 Strategy, the Government stated that the scheme would not take forward sector-specific naming rounds, but instead continue to name a range of sectors in each round to demonstrate that all employers and all sectors are responsible for NMW compliance.

## Box 2: Naming Scheme Revisions (BEIS, 2020a)

- Naming more frequently to increase the momentum behind, and coverage of, the scheme.
- Increasing the threshold at which employers are considered for naming from £100 to £500, to ensure that the most serious cases of non-compliance are highlighted.
- Publishing additional contextual information alongside the employers named, to better detail the reason(s) why they have been named.
- Publishing a quarterly educational bulletin, to highlight and explain common reasons for the Minimum Wage underpayment covered in naming rounds.

### f) Sector-specific advice booklets

The government partially accepted the recommendation to produce supplementary advice booklets, stating they would:

*...publish new thematic guides on topics where breaches are common, for example deductions including uniforms; apprentices; and unpaid working time. This is to ensure that employers from all sectors can find relevant guidance. Thematic guides, rather than sector-specific guides, avoid duplication, as several issues are relevant to many sectors.*

BEIS also convenes a Guidance Readership Panel, comprising both business and worker representatives, to review these products.

HMRC NMW told us they already undertake a series of employer-oriented webinars, e-learning, online forum, and campaign letters and emails to help educate employers to get it right. Furthermore, these approaches evolve to address emerging issues and stakeholder feedback. HMRC NMW has also recently started proactively visiting selected new, small businesses to educate them about NMW and support them in getting their practices right from the start.

Although this recommendation was targeted at improving NMW compliance, GLAA also told us that had also been producing a series of industry profiles giving an insight into the prevalence of labour exploitation within specific sectors. These are released by the GLAA to raise awareness and aid legitimate employers. Between 1 June 2020 and 30 June 2021 their Industry profiles page and its sub-pages had 7,320 views. GLAA has also been carrying out sectoral focused working in the construction sector and continuing to support the construction protocol and working with major infrastructure projects.

These examples begin to demonstrate the interventions being made by both HMRC NMW and GLAA to focus compliance information and advice on particular sectors and issues. However, beyond what had been reported in the Government response to the 2019/20 Strategy, we received little additional evidence to demonstrate further progress against this recommendation.



## Recommendation 6 – Improving consistency of caseworker interpretation and application of NMW regulations

HMRC NMW	<b>6a)</b> <u>Providing additional training</u> on how to interpret and apply the legislation, particularly for emerging problem areas for underpayment, such as uniform deductions.	1 Year	Some progress
	<b>6b)</b> <u>Reviewing and improving the internal operational guidance</u> offered to caseworkers by the Professionalism, Learning and Guidance team (PLG) as the first point of contact to clarify the regulations and operational application. This should be carried out in tandem with the review of external guidance for employers.	1 Year	Some progress
	<b>6c)</b> <u>Conducting independent audits</u> of a sample of enforcement activity to ensure that application of the regulations and outcomes are consistent. This could build upon the PLG's current work to conduct quarterly moderation on Key Stage Indicators for the NMW Management Board. Audit findings should be used to inform and improve internal operational guidance.	1 Year	Some progress
	<b>6d)</b> <u>Assigning caseloads to inspectors by specialism</u> to develop sector- and issue-specific expertise, as far as is practicably possible within resourcing constraints, to improve the quality of interactions and achieve better consistency.	1 Year	Some progress

### *a) Developing training on how to interpret and apply the legislation, particularly for emerging problem areas for underpayment*

HMRC told us they continually review the current training and guidance and that they look to make improvements where appropriate. For example, 2019/20 several operational guidance notes have been issued including one on uniforms, providing HMRC enforcement officers with detailed guidance on how to investigate NMW risks including the details of the type of evidence required.

Once guidance notes are issued national telephone workshops, led by operational advisers, are held to discuss the guidance and ensure a consistent understanding across the business.

During the pandemic training for compliance workers shifted to online training, allowing cost savings to be made as well as greater accessibility. We were told that HMRC NMW had further supported training through their own Learning and Coaching team that delivers a structured 12-month training programme which includes virtual training events, on job coaching and a quality assurance framework that involves trainees collecting a portfolio of evidence to demonstrate that they meet the required HMRC professional standards for compliance officers. In addition to this there are bespoke NMW training products and operational guidance for experienced officers. For example, in 2020/21 every officer attended mandatory training on the changes to Salaried Hours Regulations. The training and operational guidance is continually reviewed and updated to cover changes in NMW law and operational enforcement of the NMW regulations.

### *b) Internal operational guidance*

Consistency of interpretation of minimum wage guidance and sufficient technical knowledge by HMRC NMW case workers was raised as a key concern in the 2019/20 Strategy. Our recommendation therefore had been to review and seek to improve the internal operational guidance offered to case workers, and for this to be done in conjunction with the review of external guidance by BEIS (see Rec 5d above).

The government response to the 2019/20 Strategy set out that:

*HMRC continually reviews the current training materials and guidance and looks to make improvements where appropriate. For example, this year a number of operational guidance notes have been issued including one on uniforms. These notes provide HMRC enforcement officers with detailed guidance on how to investigate NMW risks including the details of the type of evidence required. The issue of the guidance notes is followed up with national telephone workshops, led by operational advisers to discuss the guidance and ensure a consistent understanding across the business.*

HMRC NMW also told us that internal guidance is continually reviewed and where there are emerging issues operational guidance notes are issued in real time. The internal guidance moved to a new platform in 2018 and PLG have built on it over time. I am aware that at the time of writing (May 2022) HMRC NMW are, like the other enforcement bodies, experiencing recruitment and retention challenges. In a climate of high staff turnover this reinforces the important of – and need for – good quality staff training.

### **c) Conducting independent audits**

The Government only partially accepted this recommendation, stating in its response in October 2020 that:

*...audits already take place routinely and will continue to do so. The Professionalism, Learning and Guidance team (PLG) carry out quarterly quality reviews and provide quarterly and annual reports on the outcomes of the reviews. There is a mandatory referral process for investigations where an employer/accountant challenges the investigating officers' interpretation of the regulations. These cases are reviewed by the operational adviser team in PLG and where appropriate a full technical review is carried out by an independent technical team (Status and Employment Rights Technical Team (SERT)). The NMW programme is subject to oversight from Individuals & Small Business Compliance (ISBC) Professionalism within HMRC, which includes independent audits. The results of these audits are used to inform and improve the work done by the NMW team. The NMW team constantly review their professionalism standards, working closely with ISBC colleagues, and will continue to do so.*

HMRC NMW told us that no further specific work had been undertaken under this recommendation, beyond business-as-usual changes.

### **d) Assigning caseloads to inspectors by specialism**

This recommendation was made on the premise that having HMRC NMW staff with sector or issue-specific knowledge would result in better quality and more consistent decision-making on cases. This recommendation was accepted by Government, stating that work was already underway to achieve this. The Government response set out that:

*Cases involving similar investigative specialisms are managed through the NMW Targeted Enforcement project support process. Targeted enforcement cases within sectors are monitored by the Project Lead. NMW Project Leads produce guidance, share lessons learnt and best practice for our NMW projects/sectors that feature in the Target Enforcement plan. They also run regular conference calls on all projects to share guidance and best practice with caseworkers. They carry out quality checks on cases and provide feedback to ensure consistency of our NMW investigations within the project/sector.*

HMRC NMW told us that they provide all caseworkers with guidance around the sector worked, for example on common risks. Where appropriate casework will be allocated by specialism but in general guidance is provided to ensure caseworkers are able to deal with the risks that occur in any sector. In addition to this, project leads are assigned to provide guidance and support on the sectors being investigated to share best practice and emerging risks.

HMRC NMW also told us that certain parts of their work require dedicated resource, particularly the allocation of specific resource to tackle deliberate and persistent offenders through their Serious Non-Compliance (SNC) teams and to tackle non-compliance in large and complex business (e.g., umbrella companies) through their Specialist Enforcement Teams (SET).

Specialist sector teams are used where necessary, for instance where HMRC NMW set up three temporary teams to deal with care sector employers during the Social Care Compliance Scheme, and the Textile Response Team for the recent garment sector operations. However, beyond this, HMRC NMW does not view the establishment of specialist sector teams as necessary. Going forward I shall be keen to understand how HMRC NMW is making the most of the expertise it has across a number of sectors at high risk of labour non-compliance, in particular in relation to future planned SCG work.

### Recommendation 7 – Consulting on NMW regulations

BEIS	7a) <u>Record-keeping requirements</u> : to set out the minimum requirements needed to keep sufficient records and to extend the time period for which employer records must be kept, to align with the period of liability under the National Minimum Wage Act 1998.	1 year	Implemented	
	7b) <u>Deductions for the benefit of workers</u> : to review the regulations underpinning deductions from pay, to consider how best to enable low-paid workers to access genuine, non-cash workplace benefits within the scope of the NMW provisions.	1 year	Good Progress	
	7c) <u>Pay averaging</u> : under current regulations pay can be averaged in some circumstances but not others, but there is no clear policy rationale for this.	1 year	Implemented	
	7d) <u>Clarifying issues</u> around uniform payments, working time and time recording, salary sacrifice and pension schemes.	1 year	Good progress	

#### a) Record keeping requirements

The 2019/20 Strategy recognised the need to increase the record keeping requirements to meet the period of liability for NMW to six years. In its response to the Strategy, the Government partially accepted this recommendation, recognising the fact that the existing requirement to keep records for three years was out of step with the period of liability for NMW, thereby leaving firms vulnerable to being unable to prove their compliance for longer than the three years minimum.

The time periods for reporting have now been aligned. In April 2021, Regulation 2(5) extended the period required for employers to keep records relevant to NMW from three to six years (regulation 59(8) of the 2015 Regulations). The extension also applies to records made before 1st of April 2021 if the employer was already required under the rules to keep the records prior to that date.

The Government also stated it would continue to monitor whether setting out minimum requirements for sufficient record-keeping is appropriate.

### *b) Deductions for the benefit of workers*

Once again, Government only partially accepted this recommendation citing an earlier internal review of the regulations that had been carried out and their lack of desire to make further legislative changes here. The 2019 BEIS review of salary sacrifice schemes highlighted the risks that worker protections may be reduced as a result of further changes to the regulations. However, recognising that breaches are common in this area, BEIS told us it:

- Will offer further helpline support to employers operating deduction or salary sacrifice schemes;
- Will waive financial penalties for employers for certain breaches of rules relating to salary sacrifice and pay deductions (subject to eligibility criteria); and,
- May exempt employers from the NMW Naming Scheme in these cases.

I shall continue to monitor the effectiveness of these changes to understand whether further regulatory changes might still be needed.

### *c) Pay averaging*

BEIS told us that the regulations on pay averaging had been reviewed through the consultation on Salaried Hours Work and Salary Sacrifice Schemes<sup>20</sup>. BEIS also reviewed the regulations on salaried workers and made a number of amendments to the NMW regulations to ensure fairness while minimising burdens on employers. As a result the NMW regulations had been amended to increase the range of compatible payment cycles to salaried hours workers (such as payments every two weeks or four weeks – previously only weekly or monthly payment cycles were compatible). The amended regulations enable employers to specify the ‘calculation year’ for their salaried workers. In addition to this, premium payments to salaried hours workers were also made compatible with the regulations.

### *d) Clarifying NMW compliance issues*

In its response to the 2019/20 Strategy the Government accepted the recommendation to provide clarity on issues around uniform payments, working time and time recording, salary sacrifice and pension schemes and other technical issues through updating and producing new NMW guidance.

The regulations have since been reviewed internally and while there are no plans to amend them at this time, BEIS has reviewed and improved the existing guidance to clarify some of these issues.

In addition to this BEIS consulted on Salary Sacrifice schemes in 2019 (BEIS, 2020b), resulting in an increase in the range of compatible payment cycles to salaried hours workers (such as payments every 2 weeks or 4 weeks – previously only weekly or monthly payment cycles were compatible). The amended regulations enable employers to specify the ‘calculation year’ for their salaried workers. Premium payments to salaried hours workers were also made compatible with the regulations. Previously the rules did not allow for premium payment arrangements in respect of the worker’s basic hours.

Since February 2020 financial penalties for employers can be waived for certain breaches of rules relating to salary sacrifice and pay deductions (subject to eligibility criteria). Under these limited circumstances, employers will also be exempt from the NMW Naming Scheme.

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<sup>20</sup> The consultation opened on 17 December 2018 and closed on 1 March 2019. The Government response was published in February 2020.

BEIS undertook a review of the existing minimum wage guidance and relaunched the document, 'Calculating the minimum wage' (BEIS, 2021b) in March 2021. The changes made drew on the expertise of a readership panel of employer and worker representatives, as well as technical and legal experts. In 2019/20 there were over 13,000 web site views of the guidance.

In August 2021 the guidance was updated further<sup>21</sup>. This seeks to address many of the concerns raised in the 2019/20 Strategy.

BEIS also told us that they continue to engage with, and to seek feedback from, stakeholders when developing the guidance, including its readership panel to review proposed changes. This is done on a rolling basis, for instance updating the sections on: sleep-ins following the Supreme Court judgment; and the apprenticeships section with the most recent Naming round.

Again, this is an area I will wish to monitor closely going forward.

### Recommendation 8 – Increasing the volume and targeting of awareness-raising

All bodies	<b>8a)</b> Promote and advertise all changes to the regulations and guidance, to set clear expectations against which to enforce. I appreciate that this activity should be proportionate to the scale and impact of the changes.	1 year	Good progress	
All bodies	<b>8b)</b> The bodies, particularly GLAA and EAS, consider how to promote and insert their messaging across wider government communications, such as through GOV.UK's 'step by step' guide for new employers.	1 year	Some progress	
All bodies	<b>8c)</b> Look to use The Pensions Regulator's approach to distributing educational material as an example of best practice, such as by producing similar newsletters and bulletins for employers on a regular basis. In particular, more use should be made of case study examples to highlight both good and bad employer behaviour as a practical guide to compliance.	1 year	Some progress	

#### a) Advertising changes to regulations and guidance

The 2019/20 Strategy explored how to provide better education and support for employers to reduce 'accidental'/'non-deliberate' non-compliance. HMRC's 'Promote, Prevent and Respond' approach uses a variety of techniques to promote awareness. The continued delivery is aimed at employers, workers and their advisors/advocates. This work includes employer educational activities such as webinars, one-to-many letter campaigns, social media campaigns, Q&A events, promoting guidance, bulk emails, input to the BEIS educational bulletin to accompany the naming scheme, one-to-one email nudges, and online forums.

In 2019/20, HMRC's Promote team encouraged nearly 900,000 employers and workers to seek further information regarding the minimum wage. This is an increase from the previous year (around 264,000). The increase is largely due to text message (SMS) related search activity (over 200,000) and mass email mail outs (over 500,000). This activity also targets high-risk sectors for underpayment of minimum wage. Some examples in July 2019 include sending out 18,000 letters to small, new employers (6-24 months trading and employing 5-20 workers) in high-risk sectors and 28,500 letters to employers in the fashion and marketing sectors in relation to unpaid internships and the payment of minimum wage.

21 Available here: <https://www.gov.uk/guidance/calculating-the-minimum-wage>

## Box 3: HMRC ‘Promote’ activity for 2019/20

### National Living Wage and National Minimum Wage: government evidence on compliance and enforcement (BEIS, 2021c)

- Over 500,000 mass emails opened.
- Over 3,500 views of live minimum wage material, (e.g. live webinars, face-to-face presentations and online events).
- Over 6,600 views of pre-recorded minimum wage content (e.g. YouTube videos, e-learning material and recorded presentations).
- 235,000 SMS related searched activity.
- Nearly 30,000 views of the work experience and intern’s guidance and over 10,000 views of the technical manual.

EAS reported that they have produced a booklet specifically aimed at agencies to help them understand the legislation and drive-up compliance. Detailed guidance and templates are also available on the Key Information Documents.

In support both of this recommendation and Rec 4a (Improve awareness of workers’ rights) GLAA provided the following examples to demonstrate their work advertising regulatory and guidance changes. In summary the activity comprised:

- Working with Crimestoppers, the GLAA undertook an initiative on Facebook aimed at prevention of deceptive recruitment through online platforms, specifically targeting Romanian men aged 18-34. This approach has since been used targeting Romanian workers in the agricultural sector and will be a tactic the GLAA uses again to raise awareness within the Romanian community.
- A variety of worker leaflets, spotting the signs posters and content are available in multiple languages on the GLLA website.
- In August 2019, the GLAA developed a quarterly partnership bulletin which goes to 3,000 stakeholders promoting good practice and awareness of exploitation.
- In April 2020, the GLAA issued a brief to provide guidance on employment law changes coming into force from 6 April 2020 (GLAA, 2020).
- In June 2020, the GLAA ran its first live 1-hour Twitter Q&A to answer questions about the work of GLAA generating high levels of engagement.
- In 2019/20 the GLAA supported the development of the Clewer Initiative’s “Farm Work Welfare App” (launched July 2020).
- In January 2021, the GLAA launched the new qualification for students in partnership with the Skills and Education Group, the University of Nottingham’s Rights Lab and Boston College.
- In February 2021, the GLAA developed a new 10-point checklist for workers in the UK poultry industry to help them understand their rights in the workplace and spot the signs of labour exploitation.

### *b) Promoting messaging across wider government communications (GLAA and EAS)*

In their evidence to ODLME, the GLAA reported that their website now has dedicated pages for both EAS and HMRC NMW to promote their work<sup>22</sup>. The GLAA website has a large repository of resources aimed at helping vulnerable workers – available in several different languages – in addition to resources aimed at raising awareness amongst employers and the wider public about labour exploitation.

Neither HMRC NMW nor EAS provided any evidence to support progress against this sub-recommendation. To some extent this is to be expected as other LME Strategies<sup>23</sup> have highlighted the communications barriers that currently exist and act to prevent helpful and timely messaging. In this regard only the GLAA has the freedom to use such channels independently and effectively.

This recommendation had highlighted the potential benefits of using communications platforms such as the gov.uk ‘step by step’ guide for new employers<sup>24</sup>. We received no evidence in relation to this specifically nor regarding the use of other government communications messaging opportunities.

### *c) Distributing educational material as examples of best practice*

Only HMRC NMW provided us with evidence supporting progress against this sub-recommendation, even though this was accepted in the Government response in October 2020.

HMRC NMW told us that educational materials and opportunities for employers are made available through a variety of channels including email nudges, letters, webinars, online forums and Q&A events. They also cautioned against the use of employer case studies which can be problematic because of confidentiality issues. That said, they do use generalised case studies in stakeholder webinars.

HMRC NMW told us that they had considered the public facing approach and materials used by The Pensions Regulator (TPR). However, it was not clear to them what learning had been gained about the effectiveness of such approaches to promoting compliance through the distribution of educational materials, newsletters or case studies.

## **2.2.3 Theme 3 Using joint working to tackle more serious and persistent non-compliance in the labour market (Recommendations 9-12)**

A multitude of organisations exist with an interest in improving compliance in the labour market. Three enforcement bodies fall within my remit and a primary reason for establishing this Director role was to achieve greater coherence and join-up across these and other bodies, including other law enforcement agencies, local government and organisations representing employer and worker interests respectively.

Having so many actors in this space (often with a very specific remit) can engender silo-ed working and increase the risk of labour violations falling between the cracks. Stronger multi-agency working allied with building effective relationships with wider partners therefore helps identify and tackle non-compliance that pervades many enforcement remits. This is especially so for more persistent and deliberate non-compliance.

22 <https://www.gla.gov.uk/who-we-are/employment-agency-standards-inspectorate/>  
<https://www.gla.gov.uk/who-we-are/national-minimum-wage/>

23 <https://www.gov.uk/employing-staff>

This is in addition to other LME recommendations for a) a web portal linking all enforcement agencies (Recommendation 4b from the 2018/19 LME Strategy) and b) better communications channels for EAS and HMRC NMW (Recommendation 3a from the 202/22 LME Strategy)

24 <https://www.gov.uk/employ-someone>

The 2019/20 LME Strategy sought to strengthen joint and partnership working by:

- Improving intelligence sharing between enforcement bodies;
- Increasing and align enforcement focus on the sectors deemed to be at highest risk;
- Strengthening working relationships with strategic partners and local authorities;
- and introducing a sharper focus on learning from operational interventions.

My assessment of overall progress with Theme 3 is set out below.

## Director Assessment of Theme 3: Using joint working to tackle more serious and persistent non-compliance in the labour market

Compared to the previous two themes progress on implementation under this theme has been **relatively slow**.

- Of the 14 sub-recommendations at least some progress has been made on 12 of them, with one fully implemented (Rec 9a).
- Little progress has been made with the remaining two sub-recommendations (9e and 10b – both related to maximising the use of Labour Market Enforcement Undertakings and Orders (LMEUs/LMEOs).

Key points I wish to make under this theme are:

- I am pleased to see that good progress has been made with respect to intelligence sharing between the three enforcement bodies.
- The initial review by Home Office of LMEUs/LMEOs is clearly a priority, so we can understand how well these are working and what may need to change. I look forward to seeing the completed review by Home Office during 2022. Joint operational working between the three enforcement bodies is still the exception rather than the rule. More demonstrable progress on better joined up working (and learning from it) is a priority. The forthcoming joint operational activity in the construction, care and hand car wash sectors, co-ordinated and monitored respectively by the ODLME Strategic Co-ordination Group (SCG) and the DLME Board is an important step in this direction. Similarly, learning from Operation Tacit will be invaluable too.
- More generally, at the operational level, it is important that robust and well-designed evaluation is built in as a matter of course to measure the cost-effectiveness and impact of these interventions.



## Recommendation 9 – Improving intelligence-sharing and joint operational activity

All bodies	<b>9a)</b> Review the joint working Memoranda of Understanding as a priority to ensure that the intelligence flow and subsequent tasking processes are operating as effectively as possible.	1 year	Implemented	
GLAA/EAS	<b>9b)</b> Intelligence-sharing between GLAA and EAS is improved as a matter of priority.	1 year	Good progress	
HMRC NMW	<b>9c)</b> Consider how to better identify relevant intelligence at the start of the intelligence triage process in order to optimise opportunities for targeted enforcement.	1 year	Some progress	
All bodies	<b>9d)</b> Develop an understanding of the extent to which offences within their remit occur alongside other violations and where non-compliance is deliberate. This will involve further developing of relationships with law enforcement and other government departments in order to identify and access relevant data sources.	1 year	Some progress	
All bodies	<b>9e)</b> Proactively share information on Labour Market Enforcement Undertakings/Orders with the Insolvency Service in order to inform their targeting decisions and potentially streamline their investigations.	1 year	Little progress	

### *a) Review joint working intelligence Memoranda of Understanding*

We were told by the enforcement bodies that the Memorandum of Understanding between them had been reviewed following the 2019/20 Strategy recommendation and that no changes were identified as being required. The enforcement bodies said they continue to keep it under review and any subsequent changes will be tested to ensure the intelligence flows and tasking processes operate effectively.

We were told that the pandemic has impacted on the level of intelligence shared between law enforcement partners due to other priorities, such as maintaining public order and safety during lockdown restrictions, and ability to act on that intelligence. Once the impact of the pandemic eases, it is anticipated that intelligence flows and joint working will revert to normal.

HMRC NMW, together with GLAA & EAS, share information with each other on the use of LME Undertakings and LME Orders monthly. This includes discussions on best practice and successes with regard to affecting on-going compliance.

### *b) Improve intelligence sharing between GLAA and EAS*

We were told by GLAA and EAS that the recommendation to improve intelligence flows between them was made at time when the relationship here was not deemed to be fully effective. Concerns had been raised that information regarding revocation of licences was not shared with EAS. (These labour providers were able to supply workers into non-licensed sectors.) GLAA and EAS report that information sharing has improved, though this could go further as there have been incidents where there has been a lack of consideration of the broadest range of enforcement powers and the need for intelligence sharing.

### *c) Better identification of intelligence at the start of the NMW triage process*

The Government's response to the 2019/20 Strategy highlighted the steps that HMRC NMW take to identify relevant intelligence in the process of triage. This entails working within NMW as well as other HMRC departments and external stakeholders.

In accepting this recommendation to become better at identifying relevant intelligence at the start of the HMRC NMW's intelligence triage process, Government stated that:

- All intelligence is risk assessed as part of the NMW Triage Process.

- Steps were taken in 2019/20 where HMRC undertook several targeted, sector specific enforcement projects throughout the year. Each project had an allocated project lead to evaluate outcomes and feed back through the Risk Governance Board.
- Intelligence trends are discussed on a monthly basis at NMW Risk Governance Board and this feeds into Target Enforcement planning. (NMW Risk Governance board is made up of NMW Risk lead, project leads, representatives from HMRC compliance and HMRC Risk Intelligence Service (RIS)). NMW representatives also attend HMRC taskforces meetings, HMRC Hidden Economy meetings and GLAA meetings to improve sharing of intelligence and maximise opportunities for joint working. HMRC uses these meetings to review the triage process and to identify opportunities for targeted enforcement and will continue to seek ways to improve.

HMRC NMW offered us no further information beyond this as they stated that they believed this action now to be closed.

*d) All bodies to develop better understanding of overlap between non-compliance in their remit with broader non-compliance.*

The enforcement bodies told us they are engaged and work with wider stakeholders tackling non-compliance under their respective responsibilities. While this work will encompass the spectrum of non-compliance, ODLME is not sufficiently sighted on specific examples (aside from Operation Tacit discussed below) and their impact to evaluate the progress of this collaboration.

Further to this, the Government response highlighted there is wider work undertaken with SCG stakeholders as shown with the overlaps for illegal working (for HMRC NMW and GLAA) and engagement with the NCA.

ODLME understands that the enforcement bodies will continue to work with each other, other Government departments, the Police and local authorities where appropriate to encompass the risks of non-compliance that are identified. The bodies will also identify offences that fall into the labour market space and the findings will be shared across other enforcement bodies to ensure links are made.

*e) Sharing Labour Market Enforcement Undertaking and Labour Market Enforcement Order information with Insolvency Service*

As a possible means of disrupting persistent non-compliant businesses and providing a deterrent against the abuse of director status the 2019/20 Strategy recommended all bodies share information on LMEUs/Os with the Insolvency Service. This would reduce the risk of 'phoenixing' if a company director abuses their position to enter into formal insolvency to evade the sanctions and recreate a near identical business to continue non-compliance.

HMRC NMW told us LMEUs are a voluntary and confidential mechanism for an employer to improve their compliance before any escalation to the implementation of an Order and that it would not be appropriate to share this information with the Insolvency Service. We however think a way could be found to address this, for instance via an intel-sharing protocol.

Conversely LMEOs come as a result of a court process and can be shared. However, HMRC NMW reported that there has not yet been the opportunity to share data involving a LMEO.

While it has not been possible to implement this recommendation, the sharing of this information would be beneficial to wider enforcement. The enforcement bodies should therefore continue to consider further data sharing opportunities.

## Recommendation 10 – Aligning activity with DLME priority sectors

All bodies	<b>10a)</b> Consider how to use the Evidence and Analysis Group, Labour Market Enforcement Board and Strategic Coordination Group respectively, to identify, agree and facilitate joint activity in the sectors on which the Director recommends the bodies focus. This process should, of course, allow for the fact that not all sectors will be relevant to all bodies.	1 year	Some progress	
All bodies	<b>10b)</b> Establish how best to utilise Labour Market Enforcement Undertaking/Order powers jointly, in order to address non-compliance across the whole spectrum of offences.	1 year	Little progress	

### a) Identify and agree joint activity in DLME-recommended sectors

The 2019/20 LME Strategy recognised that although some progress had been made in terms of operational joint working between the three enforcement bodies, the approach to joint working remained limited.

To help improve this – recognising joint working should only be pursued where it is appropriate to do so – it was recommended that ODLME’s own functions could be utilised to facilitate closer operational working between the three bodies and beyond. This could be achieved via:

- The Strategic Coordination Group (SCG) made up of operational leads from the three bodies plus partner agencies and a forum for information sharing and joint work planning;
- The Evidence and Analysis Group (EAG) meets on an ad-hoc basis to undertake analytical deep-dives into specific sectors of interest. The EAG consists of analysts from DLME, public bodies, academic, NGOs and industry, though participation varies according to the sector(s) under consideration; and,
- The Labour Market Enforcement (LME) Board which meets quarterly with the senior representatives of the enforcement bodies and the two sponsor departments. The LME Board provides sign-off on operational plans, on the one hand, and holds the enforcement bodies accountable on progress on the other.

Initial work has been carried out in early 2021 through the SCG to agree on a joint working framework. This has been followed in the second half of 2021 with an intelligence analysis of the construction sector (which ranks highly in the DLME risk model and where all three enforcement bodies have a compliance interest). This work is part of a wider programme of joint working led by ODLME to tackle non-compliance in the care and hand car wash sectors too.

### b) Utilising Labour Market Enforcement Undertaking/Order powers jointly

At the time of the 2019/20 Strategy the enforcement bodies had yet to secure a combined LMEU/O where multiple offences occur across the remit of the three bodies. Combined LMEUs/LMEOs can only be issued or applied for by the GLAA. Hence, in theory, EAS and NMW could identify the basis for a combined LMEU, that did not involve the GLAA, but would require the GLAA to administer it.

In accepting this recommendation the government stated that the enforcement bodies *regularly engage with each other to proactively look for appropriate cases to utilise combined LMEU/LMEOs and will continue to do so.*

Although the majority of LMEUs issued individually by HMRC NMW and the GLAA have been in the hand car wash sector, in their evidence to us GLAA and HMRC-NMW stated that to date there have been no cases where sufficient cross-cutting risks were identified to apply for a combined LMEU (GLAA did report however that one was currently under consideration).

The ability to issue a combined LMEU is also limited by the Code of Practice. This should be an area for examination as part of the initial evaluation of LMEUs/LMEOs being led by Home Office (Rec 12c).

### Recommendation 11 – Engaging in joint working with wider partners

Both the 2018/19 and 2019/20 LME Strategies stressed the potential benefits of the enforcement bodies developing relationships with established strategic partnerships, local authorities and other relevant networks at national, local or sectoral level. Gains are likely to be realised through joint working, information sharing and seeking to maximise the use of the available agency powers across the enforcement bodies and beyond.

All bodies	<b>11a)</b> Engage with strategic partnerships and anti-slavery networks.	1 year	Good progress	
All bodies	<b>11b)</b> Explore how different agency powers can be used collectively to support sustained and long-term disruption of non-compliance, with a focus on recidivists and deliberate offenders.	1 year	Some progress	
All bodies	<b>11c)</b> Further engage with local authorities to ensure that their inspectors have the necessary information to identify the signs of non-compliance and the channels through which to share actionable information in return.	2 years	Some progress	
All bodies	<b>11d)</b> Work more closely with local authorities to tackle labour market non-compliance and exploitation, particularly in those sectors not within HSE's enforcement remit, such as warehousing.	2 years	Some progress	

Joint working initiatives can take the form of the sharing of intelligence and information between the bodies to inform independent activity, and joint operational activity on the ground. The majority of the joint working is at the risk assessment stage or 'joint visits'. Although this will not always be appropriate in all cases, joint working can be hugely beneficial in the right circumstances. The enforcement bodies told us they continue to maintain and develop links with strategic partnerships. At a regional level, there is a plethora of partnerships and networks across local authority and police areas. Achieving consistent and effective engagement with each one can be a challenge for the enforcement bodies.

In broad terms, the pandemic has again impacted greatly on the ability of the three enforcement bodies to undertake joint operational activity. There is therefore little evidence for us to draw on to assess progress made here, so this remains an area I will want to watch closely in future.

That said, the response to tackling labour exploitation in Leicester since mid-2020 has been a clear demonstration of what is possible to achieve through joint working. In the summer of 2020, the Leicester garment industry became the subject of intense media and political scrutiny due to reports of modern slavery and breaches of health and safety, poor working conditions potentially leading to increased COVID-19 infections (Labour behind the Label, 2020; Lewis, 2020; Bland and Campbell, 2020). The response was Operation Tacit, details of which are set out in the box below.

## Box 4: Tackling alleged labour exploitation in the Leicester garment industry

Operation Tacit (Op Tacit) was an intensive period of enforcement activity commenced in July 2020 involving the labour market enforcement bodies, police, National Crime Agency (NCA), and the Health and Safety Executive (HSE) acting in partnership with the City Council and community and workers' groups.

Op Tacit is the first time an operation of this scale and breadth – in terms of the number and range of the cross government, law enforcement and wider public authority participants – has been undertaken to tackle labour market and wider non-compliance. The ODLME has also had direct involvement. My predecessor gave evidence on this matter to the Environmental Audit Committee at the end of 2020.

The operation, led by GLAA, involved close working with a wide range of law enforcement bodies to develop the intelligence picture to share and analyse intelligence, and develop a formal structure for strategic co-ordination and tactical tasking.

Op Tacit built on earlier pilot operational work recommended and co-ordinated by ODLME in 2018 and other work already underway in HMRC-NMW to investigate the supply chain in this sector. By December 2021 over 300 garment manufacturing businesses in Leicester had been visited.

In parallel with Op Tacit has been a cross agency, industry, NGO and trade union stakeholder group (The Apparel and General Merchandising Public/Private Protocol) working to improve information sharing, looking at opportunities to support each other, and encouraging the industry itself to take greater responsibility for compliance.

Investigations in the garment sector in Leicester continue. All departments and enforcement bodies are considering lessons from Operation Tacit. What has been apparent is the power of retail brands to influence the behaviour of their suppliers. While it is still too early to say whether this influence is wholly positive, initial indications seem to be that major brands can play a role in assuring labour market compliance. At the same time caution is needed as the risk remains that seriously non-compliant businesses are being driven underground.

Op Tacit has been resource-intensive but has demonstrated the capability of the labour market enforcement bodies to undertake joint working from re-evaluating the baseline risk and threats and developing a tactical response. Op Tacit provides an opportunity to incorporate lessons learnt for further sectoral approaches as I and my predecessors have recommended.

I have undertaken to lead a more comprehensive review of Op Tacit during 2022 working closely with those who took part and drawing on ODLME expertise, its existing relationships with the enforcement bodies and my independent status.

Aside from Op Tacit, we received some evidence from the enforcement bodies both in relation to recommendation 11 and its four sub-recommendations and wider partnership working more generally. The first two had a delivery timeframe of one year, while the latter two are to be implemented over two years (hence by October 2022). This evidence is summarised below.

### *a) All bodies – Engagement with strategic partnerships and anti-slavery networks*

HMRC NMW told us that overall in 2019/20 HMRC National Minimum Wage team have completed almost 200 joint visits with other HMRC teams and labour agencies with the vast majority of these (approximately 95%) including one or more external partner, with HMRC Serious Non-Compliance officers taking the lead in majority of these operations. External partners have included the police, GLAA, Home Office Immigration Enforcement, HSE, EAS and local authorities.

In terms of strategic partnership working HMRC NMW reported to us that they have existing links with strategic partnerships and other networks throughout the country notably working closely with the Modern Slavery & Illegal Working leads, local authorities, and GAIN (Government Agency Intelligence Network) coordinators.

In their evidence to us, the GLAA reported that they:

- Have been working with the Home Office and Defra around the operation of the Seasonal Worker Scheme (SWS), specifically on issues in recruiting countries and assisting with enquiries from SWS operators;
- Tasked analysis with JSTAC (Joint Slavery and Trafficking Analysis Centre) to support their sectoral analysis, and understand models of exploitation in advance of planned changes to Immigration rules.
- Engage with specific anti-slavery networks where experience has shown a greater need for liaison to support effective discharge of operational activity and increase awareness by external bodies. In some areas GLAA have longstanding arrangements with the network.
- Held a construction focused webinar in November 2020 featuring a range of experts from the GLAA the Office of the Independent Anti-Slavery Commissioner, to discuss the exploitation of workers in the industry. The webinar discussed key trends and information and how exploitation can be prevented as Covid-19 impacted on the labour market.
- Supported the Nottingham Rights Lab's MSPEC funding research on the [impact of Covid on Romanian seasonal labour migrants in the UK](#) with emerging findings presented to GLAA at its Joint Liaison meeting in March 2021 for labour users, labour providers and NGO/worker representative groups.
- Worked with the Responsible Car Wash scheme, supported further bids for additional funding for pilot activity, analysis by Nottingham Trent University, and liaison with Land Registry.

EAS told us they:

- they work closely with the National Crime Agency Modern Slavery and Human Trafficking (NCA MSHT) and Organised Immigration Crime (OIC) partners;
- are developing links with key sectors to build resilience in supply chains whilst supporting awareness of modern slavery OIC risks both within the UK and abroad. This includes developing bespoke sector led training programme under a newly formed UK MS Training Group;
- are on the Welsh Government Modern Slavery Leadership panel;
- chair the cross-government board covering MSHT/OIC looking specifically at Prevent, Promote, and Protect;

### *b) All bodies – Exploring how different agency powers can be used collectively*

We received the following evidence to demonstrate progress made on how the three bodies could use different agency powers collectively to support sustained and long-term disruption of non-compliance.

GLAA told us it had created the Shellfish Working Group following activity in that sector and the Authority works with other partners such as police, Sea Fisheries, Food Standards Agency, and Environmental Health. This is in addition to continued GLAA involvement in Operation Aidant (led by the National Crime Agency) educating vulnerable workers and tackling severe labour exploitation.

EAS reported they work with other governmental partners such as Crown Commercial Services, HMRC, HM Treasury, the Department for Education, the Department for Transport and the Maritime and Coastguard Agency (MCA);

We received no evidence specific to this sub-recommendation beyond the three bodies' work on Op Tacit.

***c) All bodies – Ensuring local authority inspectors have necessary information to identify signs of labour non-compliance***

The only tangible evidence of explicit activity we received in relation to this sub-recommendation was from the GLAA who told us GLAA works with local authorities in relevant enforcement cases where appropriate.

They highlighted their work with the Local Government Association and specific local authorities, as part of the Responsible Car Wash Scheme (RCWS) pilot (April to March 2020), with further work in relation to landowners in the following months to the operational visit phase of the pilot.

HMRC NMW reported that Serious Non-Compliance teams continue to engage with local authorities on an operational basis and will share information where appropriate, particularly evident in the ongoing work in Leicester and the textiles sector (Op Tacit).

The rationale for this recommendation was to ensure that local authority inspectors were better informed such that they could become channels providing actionable information. No evidence was provided on this.

***d) All bodies – Closer working with local authorities to tackle exploitation in sectors not covered by HSE***

Responsibility for health and safety compliance is split between the Health and Safety Executive (HSE) and local authorities. HSE will lead at the national level in higher risk sectors such as construction, whereas local authorities will enforce in their own localities in sectors such as warehousing and hand car washes.

Responsibility for health and safety in several of the sectors deemed to be at high risk of labour non-compliance (according to the ODLME risk model) sits at local level. The number of local authorities (343 in England and Wales alone) can present an added challenge for how the labour enforcement bodies can undertake joint working in those sectors.

The enforcement bodies have two years (until October 2022) to demonstrate progress here but to date we have received almost no information about the implementation of this recommendation. The exception to this is the RCWS pilot discussed above which could prove to be a promising joint working model involving the enforcement bodies, local authorities and academics and is led by the industry itself (supported by funding from Home Office).

In February 2021 the National Enforcement Powers Guide was launched to support collaboration between law enforcement partners and non-governmental organisations (Home Office, 2021). This has been produced by the National Network Coordinators Forum (NNCF) and the Modern

Slavery and Organised Immigration Crime Unit and features all three enforcement bodies under my remit. It aims to facilitate a faster multi-agency response by acting as a reference document to assist planning and considering who should be involved at different stages:

*“The purpose of this guide is to help facilitate a faster tactical multi-agency response and to use the appropriate legislation available to gain entry into commercial and residential premises, where intelligence has indicated that there could be a potential case of exploitation or modern slavery. Likewise this guide can be used to support agencies to understand and develop key processes when finding victims and offenders of exploitation, as well as wider serious and organised crime.*

*This guide is aimed at all professionals in law enforcement and associated organisations who may encounter victims and perpetrators of exploitation and modern slavery, along with other forms of serious and organised crime, in their day-to-day activities. It is suggested that this guide should be used as a reference document for agencies to assist in planning and working with partner agencies when considering who should be involved at the various stages of conducting activity, in order to respond to potential victims and offenders of exploitation, modern slavery and other crimetypes.<sup>25</sup>”*

Overall, evidence of progress of implementing recommendation 11 is at best mixed. The National Enforcement Powers Guide should assist collaboration between law enforcement partners. I would encourage the enforcement bodies to provide a clearer demonstration of what they can achieve here over the next year.

## Recommendation 12 – Evaluation of joint working

Recommendations discussed in section 2.2.1 above touched on the importance of evaluation such that the enforcement bodies could better understand what works and deploy their resources more effectively.

Under this recommendation the same principle is applied but at an operational level, where again a better and clearer understanding of the impact of different operations can provide valuable learning for future interventions.

All bodies	<b>12a)</b> Conduct a full evaluation of the Leicester pilot in order to understand what works and whether this is a good model for elsewhere.	2 years	Some progress
All bodies	<b>12b)</b> Establish success criteria at the start of operational activity, evaluating immediate outcomes through processes such as multi-agency debriefs as well as monitoring of the longer-term disruption effect.	2 years	Some progress
All bodies	<b>12c)</b> Conduct ongoing evaluation of the impact of Labour Market Enforcement Undertakings/Orders, both in terms of immediate outcomes and the longer-term disruption effect.	2 years	Some progress

### a) Evaluation of the Leicester garment industry pilot

Recognising longstanding concerns around labour market non-compliance in the garment industry in Leicester, the 2018/19 Strategy called for a pilot operation to be undertaken by the three enforcement bodies to understand better the scale and nature of the issue.

This pilot was carried out in autumn 2018, alongside a parallel operation by the Health and Safety Executive (HSE), with an interim evaluation by ODLME in mid-2019. Compliance and enforcement activity continued thereafter with a view to completing a full evaluation of the pilot in 2020.



In the summer of 2020, there were widespread media reports about labour abuses and allegations of modern slavery in the Leicester textiles sector. This led to Operation Tacit (discussed under recommendation 11) and work here remains ongoing. All departments and enforcement bodies are considering lessons from Operation Tacit. BEIS took the first step to collating information to reflect on lessons learnt. I will be undertaking a fuller evaluation in order to learn from such an exercise for future joint operations.

Not only will this help make progress in tackling ongoing concerns in this sector in Leicester, but it should also prove invaluable in terms of lessons learned for wider partnership working.

### *b) Establishing success criteria for operational activity*

What I and my predecessors have observed with operational compliance and enforcement activity is the absence of a robust framework against which to measure impact and success. This is critical to understanding what works and, furthermore, whether public funds are being spent wisely.

Therefore I remain keen to encourage the bodies to focus on this part of their work. I recognise that the more explicit recognition of lessons to be learned requires a shift in approach and possibly a shift in culture. But setting success criteria and building evaluation into operations will allow those involved to have input, as opposed to the activity being subject to external scrutiny after the event.

The Government accepted this recommendation though noted that establishing success criteria at the start of an operation and evaluating outcomes was already a standard part of any joint operation. That said, the only evidence presented to support this was around HMRC NMW developing a model to measure the disruptive impact of its enforcement activities. It said progress updates on this would be provided to the Strategic Coordination Group (SCG).

Once again, with the help of my Office, this is an area in which I would like to see further progress. Evaluation will form an integral part of the programme of joint working for the construction, care and hand car wash sectors (discussed under recommendation 10a above). Relevant and meaningful success criteria will be built into that joint operational working from the outset.

### *c) Evaluation of the impact of Labour Market Enforcement Undertakings/Orders*

The use of powers for Labour Market Undertakings and Orders is set out in the Code of Practice between the three enforcement bodies. In their evidence to us the enforcement bodies stated that they regularly discuss best practice as well as the most appropriate and effective use of LMEUs/Os, and that they continue to develop more innovative uses of these powers.

The Government accepted the recommendation to conduct ongoing evaluation of the impact of LMEUs/Os. It noted that LMEUs/Os were first used only in March 2018, and, given they can be placed on employers for a period of up to 2 years, highlighted that in practice evaluation of their impact would only be possible from mid-2020 onwards. I fully recognise this. In addition, it is still early days for this new intervention with fewer than 100 LMEUs and only eight LMEOs used to date.

Home Office have agreed to lead an initial review of LMEUs/Os, with input from the enforcement bodies and my Office. Initial work on the review began in late 2020 but resourcing pressures led to its postponement in February 2021. Home Office told us work on the review resumed in January 2022 and should be completed during 2022. Delivery on this recommendation would still therefore be within the two-year implementation period. I am further encouraged by the substantive reporting HMRC NMW has recently submitted to help inform the review.

## 2.3 Recommendations not assessed

Two sub-recommendations from the 2019/20 Strategy are not assessed as part of this Annual Report:

- 2b – which was rejected by government in its response in October 2020;
- 4c – relating to Acas and thereby falling outside of my remit.

<b>Recommendation 2b</b>	The deterrent effect of the current NMW penalty multiplier should be assessed and I recommend that BEIS commission an independent evaluation to report by the end of 2019. This could potentially lead to a reconsideration of the case for supporting the raising of penalties in the future and/or increasing enforcement resources across all three labour market enforcement bodies.	<b>Not assessed</b>
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The view of ODLME is that we should as far as possible be seeking to *help employers be more compliant* – that is, helping them to get it right, as discussed further in section 2 above. However, there will remain those who deliberately and/or persistently violate employment rights and for whom a greater focus on *deterrence* is needed to enforce employment rights.

One such instrument is the penalty multiplier used against employers underpaying NLW/NMW. Since first introduced in 2009, the size and structure of these penalties have increased markedly<sup>26</sup> resulting in penalty revenue reaching £18.5m in 2019/20, compared to less than £2m each year prior to 2016/17.

Despite this, the number of penalties issued in 2019/20 (992) is only marginally higher than volumes recorded in 2010/11 and 2011/12. The number of employers being penalised is therefore little changed suggesting a weak deterrence effect of NMW penalties.

In its response to the 2019/20 Strategy the government rejected, for now, a DLME recommendation to independently evaluate the deterrence effect of the NMW penalty multiplier, arguing that six years would need to elapse (the period over which HMRC NMW can enforce breaches) from the time the new penalty rates were introduced in April 2016. This would mean an evaluation would be possible from 2022 onwards, though BEIS has no immediate plans at this stage to undertake this work due to other priorities. They argue too that setting a multiplier above current levels risks these cases being classified as a criminal rather than a civil sanction. BEIS told us this would likely result in delays in returning arrears to workers, which is the primary aim of minimum wage enforcement.

<b>Recommendation 4c</b>	Acas may wish to review the statutory Code of Practice on grievance procedures, in consultation with key stakeholders, to create practical guidance for collective as well as individual grievance processes.	<b>Not assessed</b>
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BEIS accepted this recommendation to work with Acas and stakeholders to consider the issue of collective grievances and the implications of including guidance in the statutory Code of Practice on disciplinary and grievance procedures (Acas, 2015).

In their response to our evidence gathering earlier this year BEIS told us that the Acas Council had considered the suggestion to review the statutory Code of Practice on grievance procedures but felt there was little wider evidence of demand to look at this and that other issues should take priority. Recognising that Acas does not fall within my remit, I am grateful to the Acas Council for considering this issue. Going forward I am keen to build a strong partnership with Acas to consider relevant opportunities to continue to work together on similar issues.

<sup>26</sup> See 2019/20 LME Strategy section 3.2

# Section 3. The Information Hub activities since 2019/20

## 3.1 Overview

The Information Hub (hereafter ‘The Hub’) was established as a core function of the Office by the Immigration Act 2016, setting out its role to ‘gather, store, process, analyse and disseminate information relating to non-compliance in the labour market.’<sup>27</sup> The Hub is staffed by intelligence analysts and social scientists with the purpose of building a stronger evidence base around non-compliance and to use this to encourage better targeted enforcement interventions.

The Hub gathers anonymised data and information from partner organisations, stakeholders holding intelligence on labour market non-compliance and law enforcement agencies. The Office does not have a role in operational decisions or live individual case investigations.

The Hub also has a research function looking at data and analysis, working with academia and wider sources, including commissioning the Director’s research programme. Another core role of the Hub is to facilitate collaborative working between the enforcement bodies and wider partners through intelligence-sharing or joint operations.

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.

## 3.2 Statement of activities

Section 4(2)(c) 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 2019/20 covering:

- Strategic intelligence assessment of the risk and threats from non-compliance;
- Improving information networks and partnerships;
- Research and analysis activity; and

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<sup>27</sup> Section 8 Immigration Act 2016  
<https://www.legislation.gov.uk/ukpga/2016/19/contents/enacted>

- the Information Hub's workplan.

### 3.2.1 Strategic Intelligence Assessment and Risk Model

The Director's key role is to develop strategic priorities across the remit of the three state enforcement bodies. This includes an assessment of the main 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)<sup>28</sup> 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. As part of the work to increase the scope of the DLME Risk Model, all industries recognised by the Office of National Statistics under Standard Industry Codes are included in the analysis. This helps to broaden the understanding of the risks and threats for labour market non-compliance across the UK economy.

**Table 3 MoRiLE assessment of labour market enforcement threats**

Sector	Threat Description	2018/19 assessment	2019/20 assessment	2020/21 assessment
<b>Hand Car Washes</b>	Vulnerable workers are being exploited, some cases indicative of modern slavery. Many more in the sector are not receiving NMW/NLW.	Severe	Severe	Severe
<b>Agriculture (seasonal workers)</b>	Vulnerable seasonal workers are being exploited, some cases indicative of modern slavery. Many more in the sector are not receiving NMW/NLW.	Severe	Severe	Severe
<b>Care Sector</b>	Vulnerable workers are being exploited, some cases indicative of modern slavery. Many more in the sector are not receiving NMW/NLW.	High	High	High
<b>Construction</b>	Vulnerable workers are being exploited, some cases indicative of modern slavery. Many low- skilled workers in construction are not receiving NMW/NLW.	Medium	Medium	High
<b>Hospitality</b>	Vulnerable workers are being exploited, some cases indicative of modern slavery. Many more in the sector are not receiving NMW/NLW.	Medium	Medium	Medium
<b>Shellfish gathering</b>	Unlicensed activity and illicit gathering from closed beds present opportunities for exploitation to occur.	Medium	Medium	Medium
<b>Nail bars</b>	Vulnerable adults, and in some cases children, are being exploited. Some cases indicative of modern slavery. Some workers not receiving NMW/NLW.	Medium	Medium	Medium
<b>Poultry and eggs</b>	Many workers in the sectors are not receiving NMW/NLW.	Medium	Medium	Medium
<b>Warehouses and distribution centres</b>	Many workers in the sectors are not receiving NMW/NLW.	Medium	Medium	Medium

28 MoRiLE is a structured methodology applied across law enforcement agencies to support prioritisation, providing a consistent approach to identifying tactical and strategic policing. MoRiLE methodology assesses impact, physical, psychological and financial harm to individuals, the community, public expectation and environmental impact; likelihood, confidence and organisational position, taking account of an organisation's capacity and capability to address the threat.

Sector	Threat Description	2018/19 assessment	2019/20 assessment	2020/21 assessment
<b>Food Industry (processing and packing)</b>	Many workers in the sectors are not receiving NMW/NLW.	Low	Low	Medium
<b>Garments and textiles</b>	Serious non-compliance, with workers not receiving NMW/NLW.	Low	Low	Medium

\* The 2018/19 Strategy reported a list of 'high priority sectors'. This table provides additional information from that analysis.

What is apparent from the table above is that there has been little change in risk after three iterations of MoRiLE. In order to gain a deeper understanding, my predecessor, Matthew Taylor, commissioned a review of the process and methodology for MoRiLE. The aim with a revised risk model was to better demonstrate the size of the sector, prevalence of non-compliance and the severity of non-compliance.

Work undertaken by the DLME Information Hub in the past year has led to an extension of the risk model to capture these requirements and provided an updated list of high priority sectors for the 21/22 Strategy.

Working closely with the enforcement bodies and a range of law enforcement and regulatory partners, the DLME Information Hub carried out a full review of the MoRiLE process to date, considering:

1. how alternative methodologies might enhance the analysis;
2. how existing data could be better utilised for more nuance and granularity;
3. which broader sources of evidence could be incorporated to fill knowledge gaps; and
4. how to present these findings in the most accessible and actionable manner for policy and strategic considerations alike.

The model continues to be further refined, as we seek to fill remaining information and intelligence gaps. However, overall, the new process provides a more robust and comprehensive analysis.

The updated assessment is included in the 2021/22 DLME Strategy published in Dec 2021.

### 3.2.2 Improving information networks and partnerships

#### *a) Strategic Co-ordination Group (SCG)*

An important mechanism for the Hub facilitating information flows and partnerships is via DLME's monthly Strategic Co-ordination Group (SCG), which meets monthly. Core members of this group are: HMRC NMW, EAS, GLAA, HSE, Home Office Immigration Enforcement, DWP and the National Crime Agency (NCA).

The SCG provides an effective forum for the enforcement bodies and wider partners to tackle labour exploitation. The forum shares updates on planned joint working operations, feedback on those completed, discusses legal barriers that prevent them from sharing and receiving intelligence from other agencies, compares how they are using LMEU/LMEOs and considers the current non-compliance priorities for the Director and plans to tackle these.

The SCG continued to support joint working such as the Leicester pilot during 2019/20 with an interim evaluation of the pilot presented to the DLME Board. The SCG played a further role in the summer of 2020 with Op Tacit (see section 2.2.3 above) to address concerns over working conditions during the pandemic combined with concerns of severe exploitation.

Similarly, the SCG continued to play a co-ordinating 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. While the GLAA leads Project Aidant, the three enforcement bodies are all involved in different aspects of the project alongside police forces. The SCG supports the work and receives regular reports on what it has delivered.

The SCG has also acted as a co-ordination point to enable liaison with specific NCA and Metropolitan Police operations involving labour exploitation and other crime types, between the bodies and wider stakeholders.

The SCG is taking a lead role in the joint intervention planned for the construction, care and hand car wash sectors (see Recs 10a and 12b).

### *b) Developing relationships with wider partners*

The Information Hub team continues to develop relationships with other enforcement partners. For example, the Hub engaged with a police force to examine intelligence flows relating to labour exploitation and dissemination to the enforcement bodies. This developed understanding of different handling and can be used to assist relationships with other police forces where intelligence flows could benefit from further development.

Beyond this example the Information Hub regularly engages with:

- JobsAware to identify and tackle threats in online recruitment;
- The Apparel and General Merchandising Group to help protect and improve the employment rights and working conditions in the UK apparel sector;
- Operation Tacit – the SCG continues to play a co-ordinating and information sharing role;
- Illegal Working Threat Board (Home Office Immigration Enforcement) – this group considers emerging threats from illegal working. Although ODLME does not engage with Immigration Enforcement on individual cases, this forum is valuable for sharing information at an aggregated level on key sector threats.
- National Crime Agency (together with planning for Operation Aidant) – an ongoing joint operation, under the NCA's national remit, to tackle MSHT (Modern Slavery and Human Trafficking) threats. The GLAA provide a lead for the labour enforcement bodies, with DLME's Information Hub contributing to planning and intelligence sharing.

### **3.2.3 Research and analysis activity**

Arriving at a robust assessment of the scale and nature of non-compliance in the labour market presents a significant challenge. To help meet my obligations to be able to provide an improved assessment, ODLME has undertaken a major programme of work including:

- a scoping study (Cockbain et al., 2019) which examined different approaches to measuring non-compliance. The study 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.
- building on this scoping study in August 2020 the ODLME and the ESRC hosted a virtual international workshop with leading academic experts to help shape a robust methodological approach to our proposed research and to provide reassurance that such an innovative approach could help fill the existing evidence gaps in this area.

- having secured the ESRC as a funding partner for this research, DLME held a pre-market Engagement Research Supplier Event in December 2020: “Assessing the Scale and Nature of Labour Market Non-compliance in the UK” to inform potential bidders about the upcoming competition for this research contract and the procurement process.
- As preparation for this major research ODLME commissioned in late 2019 an initial analysis aimed to estimate the changing scale and nature of precarious work in the UK over the last decade. This focus reflects the evidence that precarious workers are likely to be at a higher risk of experiencing labour market non-compliance. This was published in December 2021 (Posch et al., 2021).
- In addition to the above, in 2019/20, as part of the evidence base for the 2020/21 LME Strategy, ODLME commissioned four small research projects looking at workers’ experiences across social care, hand car washes, construction and agriculture. This provided an in-depth understanding of the day-to-day experience, employment conditions, entry into the sectors, levels of awareness of employment rights and the way they view their future in these sectors.

During 2021 ODLME has been working against a backdrop of resourcing uncertainty both in terms of the one-year spending round for 2021/22 and preparation for the 3-year Spending Review for 2022/23 onwards. ODLME secured funding commitments for this project from both BEIS and ESRC in September 2021 and the invitation to tender was launched in winter 2021/22. The contract was awarded in April 2022. Work will start in June 2022 and the project should complete by the end of 2024.

### 3.3 Information Hub Work Plan

Looking ahead the work plan for the Hub during 2022/23 will be focused on:

- Progressing the scale and nature research project once it goes live
- Continuing work to develop and refine the risk model
- Co-ordinate the construction, care and hand car wash sector operational activity involving all three enforcement bodies
- Undertaking further, small research projects to examine international examples of best practice in compliance and enforcement on the one hand, and, on the other, how big data and machine learning approaches can be used to identify and tackle labour market non-compliance.

## Section 4. Concluding remarks

This second Annual Report published by the ODLME brings out the continued hard work and dedication of all those working within the three enforcement bodies within my remit, ably supported by the officials in ODLME's two sponsor departments, BEIS and Home Office. I would like to thank them all for their engagement and assistance in compiling this report.

As has already been noted, the 2019/20 LME Strategy was delivered to government in March 2019, but the Government Response only appeared some 18 months later in October 2020. While it is very positive that so many of that Strategy's recommendations were accepted – in full or in part – the delay in their implementation is a cause for concern. Remembering that the sum of all this work is aimed at protecting vulnerable workers, improving the timeliness of implementing Strategy recommendations is a priority for me during my tenure as Director of Labour Market Enforcement.

In October 2020 the public health response to the pandemic was still the priority. The pandemic had knock-on effects for how the three enforcement bodies were able to carry out their normal business. Each of them also faced additional challenges and adaptations. I fully recognise this and, in making my assessment, I have sought to strike a fair balance between making allowance for these extraordinary circumstances and giving an account of what has been delivered. Individually and collectively the three bodies have delivered a great deal. This should be commended.

In terms of delivering against the 2019/20 recommendations, overall there has been progress – in some cases good progress that is really pleasing to see.

- There is now a sharper focus on improving understanding of the non-compliance threat and utilisation of enforcement resources. Supplementing this with a better understanding of 'what works' is the next step here. Entering a tight spending review period will require clearer evidence of value for money.
- Some progress has clearly been made in helping employers be more compliant. This is especially the case in making minimum wage regulations and guidance clearer for external users. But there is more to do, and I encourage all three bodies to continue to seek out new and innovative approaches to improve communication with workers and employers alike.
- Of the three broad themes in the 2019/20 Strategy, slowest progress has been made in the area of joint working. Since ODLME was established, great strides have been made in terms of better communication and information between not only the three bodies but with other law enforcement organisations too. What remains to be seen is just what benefits can be



realised through joint operations. The recent “Op Tacit” joint working in the garment sector and forthcoming joint sectoral working instigated by the ODLME Strategic Coordination Group (SCG) provide promising opportunities to test this.

Looking ahead, my aim is to publish my next Annual Report in early 2023. This will assess progress against implementation of the recommendations from both the 2020/21 and 2021/22 LME Strategies. These Strategies were produced by my predecessor, Matthew Taylor but not published until December 2021. I will be assessing implementation progress by the three enforcement bodies and sponsor departments up to the end of 2022.

As part of the preparation for that Annual Report I am keen to work closely with the enforcement bodies and the DLME Board to ensure we are receiving strong evidence in support of their reported progress in implementing recommendations. I look to them to grasp in full the opportunity to provide strong examples of what they have done to implement the recommendations and to communicate the breadth and depth of the hard work they are doing.

At the time of writing (May 2022) we still await news of when parliamentary time is to be made available for the creation of a Single Enforcement Body which has been on the government’s agenda since December 2018. Every opportunity to strengthen labour market compliance and enforcement is one to be grasped, and I look forward to playing my part in that process and to working even more closely with the enforcement bodies.

# Annex A: Performance

## A.1 Reflection of the pandemic from the perspective of the enforcement bodies

Following the impact of COVID-19 the enforcement bodies adjusted their way of working to carry out business as usual. The bodies had to adapt by shifting from face-to-face inspections to predominantly remote inspections. At this time it is particularly difficult to make an assessment of some of the impact that this change in approach has had. The operating environment is constantly evolving, the labour market has experienced some step changes including the disruption from the pandemic and impact of Brexit. Some sectors have suffered; others have flourished. The impact on the labour market is wide and varied. The enforcement bodies continue to monitor the situation.

Face to face investigations allow for a better insight into businesses, how many workers are there in practice and provides an opportunity to talk to workers on site. Some of the particularly challenging issues experienced include:

- Difficulty in contacting workers to provide supporting evidence.
- Some industries ceasing to operate or operating at a reduced capacity particularly during lockdown periods.
- Impact of lockdown measures meaning less likelihood of inspectors spotting signs of exploitation/limited intelligence.
- Difficulty in obtaining like for like data to measure the scale and nature of non-compliance during this time.
- Concern around the displacement of exploited workers into new sectors during the pandemic.
- Influx of umbrella companies during this time and absence of regulation.
- Fluctuation of complaint numbers. Some increase in allegations concerning contractual arrangements, safety at work and working hours.

However, there have also been some positive changes on the ways of working for instance training for HMRC compliance workers shifted to online training; this has allowed cost savings and greater accessibility. GLAA has been able to make savings on its travel and subsistence budget. Virtual meetings have increased the potential for individuals to attend.

Additional achievements outside of the normal scope include:

- EAS secured Coronavirus Job Retention Scheme status for agency workers and those working under umbrella companies.
- EAS worked with the recruitment sector and the Education and Skills Funding Agency to ensure the sector was kept fully aware of proposed changes to the apprentice levy and had an opportunity to provide comments on them.

The pandemic impacted on enforcement activities and outcomes across all three enforcement bodies (see Section A.2 below), despite overall funding reaching record levels in 2020/21. Once the impact of the pandemic eases I would expect to see a resurgence in activity and I will monitor whether some of the new ways of working, effectively enforced by the pandemic, begin to bear fruit.

## A.2 Resourcing for the Labour Market Enforcement Bodies

**Table A.1: Resourcing for the three labour market enforcement bodies, 2017/18 to 2020/21**

	2017/18	2018/19	2019/20	2020/21
<b>Funding (Total – £million)</b>	<b>30.6</b>	<b>33.3</b>	<b>34.7</b>	<b>35.1</b>
HMRC NMW	25.3	26.2	26.3	26.4
GLAA	4.8	6.4	7.3	7.2
EAS	0.5	0.7	1.1	1.5
<b>Staffing (FTE)</b>	<b>530.0</b>	<b>566.0</b>	<b>584.0</b>	<b>567.8</b>
HMRC NMW	400	429	442	420
GLAA	118	122	115	119
EAS	12	15	27	28.8

## A.3 Performance Indicators

**Table A.2: HMRC National Minimum Wage team (HMRC NMW)**

	2017/18	2018/19	2019/20	2020/21
<b>Enforcement activities</b>				
Closed cases	2,402	3,018	3,376	2,740
...of which complaint-led	1,408	1,353	1,179	956
...of which targeted	994	1,665	2,197	1,784
Closed cases with arrears	1,016	1,357	1,260	994
Strike rate*, all cases (%)	42	45	37	36
Strike rate, targeted cases (%)	39	37	38	32
Strike rate, complaint-led cases (%)	44	55	49	50
<b>Enforcement outcomes</b>				
Arrears identified (£m)	15.6	24.4	20.8	16.8
...of which HMRC-assessed (£m)	9.7	13.8	12.7	10.7
...of which self-corrected** (£m)	5.9	10.6	8.1	6.1
Workers owed arrears	201,785	221,581	263,350	155,196
Arrears per worker (£)	77	110	79	108
Penalties issued	810	1,008	992	575
Total value of penalties (£m)	14	17	18	14
* Strike rate is the ratio of cases closed with arrears to the total number of closed cases.				
** £6m of self-corrected arrears in 2018/19 and £0.25m in 2019/20 were the result of the Social Care Compliance Scheme, which opened in November 2017, and closed to new applications in December 2018.				
Source: BEIS, HMRC				

**Table A.3: Gangmasters and Labour Abuse Authority (GLAA)**

	2017/18	2018/19	2019/20	2020/21
<b>Licencing activities</b>				
Total licences	1,103	1,114	1,049	1060
New licence applications*	145	176	147	na
Application inspections	134	137	68	152
Average days to complete*	na	na	66	80
ALCs issued***	22	28	42	36
<b>Enforcement activities</b>				
Compliance inspections****	90	197	163	64
Average days to complete*	na	na	88	171
Licences revoked	12	19	23	17
Enforcement investigations	181	478	350	295
<b>Enforcement outcomes</b>				
Victims identified	3,876	1,658	7,396	7,728
Money recovered (£k)	94	95	167	15
Arrests	107	48	29	16
Enforcement notices	75	17	36	17
Warnings	107	31	16	14
NRM referrals initiated	58	47	30	10
NRM notifications under Duty to Notify	86	51	75	92
<p>* This statistic was not regularly reported in the GLAA's annual performance reports, so the table is incomplete.</p> <p>** In addition to government funding, the GLAA received roughly £1m per year in licencing fees from licenced gangmasters.</p> <p>*** Additional Licence Conditions. In some cases, a licence is issued with additional specific requirements for the licence holder to correct non-Critical Standards where the GLAA identified non-compliance.</p> <p>**** Operation TACIT included over 300 additional factory visits, but these were recorded as a single entry in the case management system.</p> <p>Source: GLAA</p>				

**Table A.4: Employment Agency Standards Inspectorate (EAS)**

	2017/18	2018/19	2019/20	2020/21
<b>Enforcement activities</b>				
Complaints received	1,261	1,935	1,698	1,827
Complaints cleared	1,267	1,805	1,836	1,800
<b>Enforcement outcomes</b>				
Targeted inspections	145	261	303	177
Infringements found	1,071	1,242	1,490	900
Warning letters issued	321	415	382	267
Source: EAS				

**Table A.5: Labour Market Enforcement Undertakings and Orders issued by the labour market enforcement bodies**

	2018/19	2019/20	2020/21	Total
<b>LMEUs</b>	<b>25</b>	<b>30</b>	<b>29</b>	<b>84</b>
HMRC NMW	7	26	24	57
GLAA	14	3	5	22
EAS	4	1	0	5
<b>LMEOs</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>4</b>
HMRC NMW	0	0	0	0
GLAA	1	0	0	1
EAS	0	3	0	3

## Annex B: 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

**DfE:** Department for Education

**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

**HCW:** Hand Car Wash

**HMRC:** HM Revenue and Customs

**HMSP:** The Hertfordshire Modern Slavery Partnership

**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



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