



HM Government

# United Kingdom Labour Market Enforcement Strategy 2023/24

Director of Labour Market Enforcement

Margaret Beels

October 2023





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

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of the Immigration Act 2016

October 2023



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## Supporting Documents

Annex A – Emerging Issues around Compliance and Enforcement in the UK Labour Market  
Summary of Stakeholder Evidence

Annex B – Labour Market and Non-compliance Risk Analysis

This Strategy was submitted to Government on 31 March 2023.

# Section 1: Introduction

The Government has made it clear that creating conditions that support economic growth is a priority. In my view economic growth is best delivered by engaged workforces employed by businesses who can be confident that they are not undermined by non-compliant competitors who exploit their workforces.

My Labour Market Enforcement Strategy for 2023/24 is set against an uncertain economic and policy backdrop that together pose an increased threat of labour market non-compliance over the next two years. The Strategy takes into consideration 'big picture' factors underlying this uncertainty and an updated assessment from my Office of the key risks for labour non-compliance. It makes recommendations to address current issues within my area of responsibility under the four themes discussed in my 2022/23 Interim Strategy:

- i. Improving the Radar Picture
- ii. Improving Focus and Effectiveness
- iii. Better Joined-up Thinking
- iv. Engage and Support

This Strategy has been informed by extensive stakeholder engagement, first via a Call for Evidence in spring 2022 eliciting 57 responses, with follow-up submissions on the emerging threats and risks in December 2022, and through a series of stakeholder events to test the themes. I also met with the three Devolved Administrations in Scotland, Wales, and Northern Ireland.

## 1.1 Economic and policy context

### 1.1.1 Economy and labour market developments

Having emerged from the COVID-19 pandemic with its considerable economic and social costs, the UK economy slowed again in the second half of 2022 and latest forecasts suggest the economy will contract slightly (by 0.2 per cent) in 2023, before growth picks up again from 2024 (OBR 2023). Employment remains below pre-pandemic levels, but the pool of available workers has contracted (partly due to increased numbers out of the labour force because of long-term ill-health, retirement, or moving into education, and partly due to reduced migrant labour), resulting in labour shortages, record vacancy rates and strong nominal wage growth in some sectors.

The Office for Budget Responsibility also forecasts a rise in unemployment to 4.1 per cent in 2023 and then to 4.4 per cent in 2024. Although the increase in unemployment is likely to be more muted than in previous downturns, there is nevertheless a heightened risk of non-compliance and worker vulnerability, particularly in sectors such as construction, retail, and hospitality where business and consumer spending tends to be more discretionary.

### 1.1.2 Policy developments

Progress on establishing a Single Enforcement Body (SEB) for labour rights, a previous commitment for this government, has stalled with no sign that Parliamentary time will be found during the term of this government.

Several benefits would have stemmed from a new overarching enforcement body, including making it easier for workers to know where to go for help, more effective use of resources and pooling of intelligence, better support for compliant employers, and new powers and sanctions (BEIS 2021). Crucial enforcement gaps – such as enforcing holiday pay for vulnerable workers and regulation of umbrella companies – remain outstanding. A broader Employment Bill could also have sought to tackle the ongoing uncertainty over employment status, aligning tax and labour law approaches, and in doing so helping those working in the growing gig economy and other sectors.

The benefits of having a SEB are widely recognised. I therefore share the disappointment of the majority of stakeholders who fed into my Call for Evidence in 2022 around the lack of progress here.

In the absence of progress on creating a SEB I am exploring with the enforcement bodies, the Department for Business and Trade (DBT) and Home Office whether and how some of the ambition of a SEB can be delivered, including by ODLME. This should include:

- Gap analysis of non-legislative aspects of the SEB and existing joint, collaborative and complementary activity by the enforcement bodies
- Revisiting DLME's functions to focus on where it can add most value including taking forward non-legislative aspects of the SEB
- Improving strategic focus and governance of the LME Board

I also wish to explore this with wider stakeholders such as the Low Pay Commission and Acas, as well as with the Devolved Administrations.

Since its creation under the 2016 Immigration Act, I feel the government's commitment to the role to the Director of Labour Market Enforcement could have been stronger. Repeated delays in clearing and publishing Strategies that I and my predecessors have delivered on time, have delayed useful progress addressing harm to vulnerable workers and weaken support for compliant employers, raising questions about the value added of my function. I am addressing with Ministers and officials at DBT and Home Office, and with the enforcement bodies how improvements might be delivered.



**Recommendation 1:** DLME undertakes a gap analysis to identify where ODLME and the enforcement bodies are able to deliver benefits that would have come through the creation of a Single Enforcement Body for presentation to the LME Board in May 2023.

In the light of the Board discussion and in co-operation with the enforcement bodies and wider stakeholders, DLME prepares an implementation plan to present to the LME Board by November 2023 with output to feed into DLME Strategy for 2024/25.

**Timeframe for Delivery:** 1) May 2023, 2) November 2023

**Lead/Involved:** ODLME/SDs/EBs/LME Board

## 1.2 Scale and nature of non-compliance

### 1.2.1 Scale and nature assessment

Previous LME Strategies have highlighted the challenge of producing a robust measure of the scale of non-compliance. Earlier work by ODLME identified a research approach to help fill this gap and this project is now in train, reporting later next year.

Meantime, proxy indicators suggest a mixed picture of risk. Although the number of workers paid minimum wage fell in 2022, this pool is expected to grow again in 2023 with the marked increase from April in the National Living Wage (NLW) and National Minimum Wage (NMW).

Agency employment was strong in 2022 but has slowed in early 2023 with modest growth in temporary worker demand (REC 2023).

Referrals of potential victims of labour exploitation into the National Referral Mechanism (NRM) continue to increase though much of the recent increase involves exploitation overseas rather than in the UK (Home Office 2023).<sup>1</sup>

Overall, these indicators reflect risks of non-compliance for the three enforcement bodies across the spectrum ranging from errors to serious exploitation.

### 1.2.2 Issues raised by stakeholders

Responses to my Call for Evidence in spring 2022 raised particular concerns around non-compliance within my remit.

**Umbrella companies (IR35)** were the most common concern raised by stakeholders. In what is a growing sector, there is evidence of scams and lack of transparency around pay and enforcement of workers' rights. Closely related to this is a new and emerging use of **Joint Employment Models**, where both employer and umbrella company bear joint responsibility for the worker. Though currently considered to be lawful, stakeholders believed such models could further weaken worker protections. Stakeholders argue that the scope of Agency Regulations should be widened to include umbrella companies.

I understand the government will soon be following up on its 2021 Call for Evidence on umbrella companies and therefore I do not make any recommendations on this issue in this Strategy.

<sup>1</sup> In 2019 30 per cent of adult potential victims of modern slavery had been exploited overseas compared to 55 per cent in the UK. By 2022 this was 47 per cent and 40 per cent respectively. The remainder, broadly the same in both years, suffered exploitation both in the UK and overseas.

I received representations from unions operating in the **UK maritime/fishing** sector following the P&O Ferries case in early 2022. The Government has recently enacted new legislation to protect the pay of seafarers (Department of Transport 2023). I am encouraged that action has been taken to improve worker protections but will want to monitor its effectiveness.

Stakeholders also expressed concerns for those working in sectors such as **care** and **agriculture**, both of which have been opened up to migrant workers recently. Care and other migrant (often female) domestic workers were seen to be at particular risk, working in isolated environments, suffering poor conditions, not having formal contracts, or not receiving minimum wage.

Acute labour shortages have also affected the **hospitality sector** (where vacancy rates are amongst the highest of any sector currently – see Annex B). At the same time, stakeholders reported widespread underpayment of the National Living Wage or National Minimum Wage.

Issues around digital **platform-based employment models** were also raised in the Call for Evidence responses. The **gig economy** continues to pose risks where misclassified and falsely self-employed workers are falling outside of employment protections. **Online recruitment scams and fraud** are also becoming more widespread. Industry led and government supported interventions such as JobsAware are welcomed but stakeholders felt it will require a more robust and sustainable funding model to scale up the necessary compliance and enforcement response.

It is recognised that within their statutory remits, the enforcement bodies do seek to address many of the issues raised and that there are resource challenges and limitations to their powers.

### 1.2.3 Risk model

The updated ODLME risk model shows that the sectors/areas considered to pose the greatest non-compliance risk are largely the same as last year and, indeed, previous years, namely: **agriculture, hand car washes** and **construction** (Table 1.1 below).

Only in two sectors – **warehousing** and **food manufacturing** – is the non-compliance risk assessed to have reduced, albeit only marginally. In contrast, risk in the **care sector** is assessed as having increased over the year, as there is now greater evidence of deliberate non-compliance.

That the same high-risk sectors remain the most non-compliant raises questions in my mind as to whether more or different activity should be undertaken. This question informs the focus of this Strategy.

**Table 1.1 – Sectors/areas at highest risk of labour market non-compliance**

Sector SIC	Description	2022 Impact of Non-compliance	Trend	2021 Impact of non-compliance
01 Crop and animal production, hunting and related service activities	Agriculture	A	No change	A
41 Construction of buildings	Construction	A	No change	A
43 Specialised construction activities	includes interior construction activity	A	No change	A
81299 Cleaning services (other than disinfecting and extermination services) n.e.c.	Hand car washes	A	No change	A
52 Warehousing and support activities for transportation		B	Decrease	A
87 Residential care activities	Care sector	B	Increase	B/C/D
Models		B	No change	B
IT/Online		B	No change	B
10 Manufacture of food products	Food processing & packaging	B/C	Decrease	A
96020 Nail bars		B/C/D	No change	B/C/D

Source: ODLME analysis; Notes: The list presents the highest risk in terms of the impact of non-compliance which ranges from A (including elements of Modern Slavery), B (Deliberate Non-compliance), C (Serious Non-compliance), D (Interpretation, non-compliance) to E (Error).

## Section 2: Improving the Radar Picture

My Office's Information Hub, working with the enforcement agencies both within and beyond my remit, has built up an extensive picture of non-compliance risk (see Annex B). Where legal gateways exist, the enforcement bodies can and do share information which enriches and develops their own and common understanding of the compliance landscape, for example in relation to hand car washes and the care sector. But the challenge of having the best possible picture of existing and emerging risks never recedes. We must strive continually to improve in this area.

### 2.1 Filling data and information gaps

#### 2.1.1 Greater insight from existing information sources

The enforcement bodies receive data, information, and intelligence from a variety of sources including information/intelligence from other enforcement bodies, complaints from workers and so-called 'open source' information (e.g., press and academic reports). All sources feed into risk modelling to prioritise and target compliance and enforcement activity. It is clear there remain sources of information, including, official, commercial and survey data, that are as yet untapped by the labour market enforcement bodies. We require a better understanding of what data sources we are underutilising, which would in turn enrich the current evidence base.

The scope for the three bodies within my remit to utilise these different sources is very much dependent on the resources available to them. The NMW enforcement team can draw on very large and sophisticated risk modelling used elsewhere in HMRC, giving them much greater insight. Access to this capability is subject to strict safeguards, but I would like the bodies to explore further what sharing may be possible in this space. Having a clear understanding across the three bodies (and potentially other enforcement agencies) as to who holds what information, how this may be accessed and what insights can be drawn from this and what are the barriers to sharing data would be helpful to improve the radar picture.



**Recommendation 2:** Building on the existing joint agreement, the DLME will work with the three enforcement bodies to undertake a mapping of what data is currently held and a review of how data is shared under the existing gateways between HMRC NMW, EAS and GLAA including whether improvements to the present arrangements might benefit any of the three bodies.

This review should also consider the barriers to data sharing between the enforcement bodies and third parties and the extent to which these might be overcome.

**Timeframe for Delivery:** 1) LME Board updates (July & November 2023); 2) November 2023

**Lead/Involved:** EBs/LME Board

### 2.1.2 Maximising use of third-party information

Stakeholders articulate the potential value of the enforcement bodies working more closely with businesses and worker representatives, such as unions and NGOs, to enrich understanding of the threat picture and to become aware of new and emerging risks.

Making better use of third-party information is an area I believe the enforcement bodies can explore.

Although third parties can be a vital source of information, we are told that information received by enforcement bodies is not specific enough to make it useful for enforcement purposes. I am pleased to see that the bodies themselves are addressing this through public webinars on intelligence sharing, what constitutes high quality and useful intelligence and what they do with the information shared with them.

**Recommendation 3:** To increase the quantity and improve the quality of third-party information received by the enforcement bodies to supplement their strategic planning, I recommend the three enforcement bodies:

1. continue to focus on educating third parties to provide more useful information and reporting, building on initiatives such as the information sharing webinars;
2. evaluate and assess the quality of information received, for instance via the online complaints form.

**Timeframe for Delivery:** 1) ongoing, 2) November 2023

**Lead/Involved:** EBs/LME Board

## Section 3: Improving Focus and Effectiveness

The International Labour Organisation (ILO) recommends staffing resources for labour standards and health and safety enforcement of one inspector for every 10,000 workers (ILO 2006).

Although it can be argued that this is an oversimplified measure of a country's investment in labour market enforcement, the UK operates well below this benchmark at around one inspector per 20,000 workers. Stakeholders in their response to my Call for Evidence often praised the three enforcement bodies for their work but were vocal too in calling for resourcing levels to be increased towards the ILO benchmark.

### 3.1 Demonstrating value for money

Funding for the three enforcement bodies recently peaked at £35.1 million. Real terms funding though has fallen since 2020/21<sup>2</sup> and current pressures on the public purse will require a sharper focus on how taxpayer money is being spent. Stretching existing, limited resources will be even more difficult in the present high inflation economy. The bodies are also facing recruitment and retention difficulties. The resourcing outlook I believe remains challenging.

Some stakeholders expressed concerns in relation to the performance of the enforcement bodies in recent years in terms of outcomes and whether their focus was most appropriately targeted. I understand GLAA is already re-assessing its approach to re-focus its resources more effectively. This will have to be a prominent theme for all the bodies to demonstrate good use of the taxpayer money they receive, before any additional funding could be considered.

The challenge for all three enforcement bodies is how to prioritise their resources such that they can simultaneously deliver against their remit, achieve value for money and understand where their work has greatest impact. The suite of interventions available involves striking a balance between compliance work (where violations may be as a result of error and can be addressed via education, helping business get it right) and enforcement action (where violations are more severe and/or deliberate, thus requiring intervention involving monetary penalties, public naming and shaming, license revocation or public prosecution).

The introduction of Labour Market Enforcement Undertakings and Orders (LMEUs and LMEOs) in 2017 provided an additional and more graded response involving compliance oversight but with court-backed enforcement if needed. For workers the aim is to seek redress and reimbursement and to do so quickly. For non-compliant employers the aim is to change behaviour, using either carrot or stick (or both) responses.

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<sup>2</sup> See DLME (2023) Section 2.5.8

Deterrence approaches have been used less over time: minimum wage prosecutions have averaged just one per year since 2007. Previous LME recommendations have argued to raise financial penalties, but I recognise that this runs the risk of delaying financial compensation to workers. However, more could be done to make use of reputational penalties. For example, the NMW Naming Round has not been used in over a year<sup>3</sup>. In 2018 these were quarterly and as such arguably achieved a greater profile and impact.

Metrics used to monitor performance of the enforcement bodies (e.g., workers assisted, and value of monies reimbursed; cases completed, or investigations undertaken with value of arrears identified and penalties issued) tell only some of the story. The need for appropriate means of demonstrating effectiveness has been a focus in previous LME Strategies and remains a priority.

## 3.2 Learning what works

A recurrent theme across LME Strategies has been the need for evaluation of – and learning from – specific interventions by the enforcement bodies. I am pleased to see progress being made here, notably by HMRC NMW in conjunction with the DBT Minimum Wage policy team, where there is now a sharper focus on testing and learning and making greater use of behavioural insights analysis. It is important that both GLAA and EAS can move forward on this too, where the barrier appears to be around capability and capacity.

I have been encouraged by recent work by HMRC NMW in their development of new processes and approaches, such as their “Geographic Compliance Approach”, where evaluation is built in from the outset. HMRC NMW are also focused on learning more about the longevity of their compliance interventions.

Examples such as those cited above demonstrate the thinking already underway to understand better the impact of HMRC NMW’s interventions. I would like to see greater collaboration between HMRC NMW/DBT and EAS and GLAA to share best practice and, with support from the ODLME Information Hub, a sharing of resource and capability to help build a stronger sense of learning across the piece. This should help give greater confidence in how enforcement body resources are being deployed, followed by increased effectiveness and performance. Such work could also draw on the expertise of Acas and the Cabinet Office Evaluation Task Force (Cabinet Office 2023).

All the enforcement bodies tell us how much more difficult it is for them to gauge the effectiveness of “prevent” activity in terms of influencing behaviour among workers and employers. Raising awareness of employment obligations to try to help employers get it right and avoid making errors in the first place should translate into improved compliance but evidencing the sustained impact of this is clearly a challenge. I understand work is being done in this space by DBT which might usefully be shared with all three enforcement bodies.

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<sup>3</sup> At the time of writing the last was in December 2021 (BEIS 2021b). DBT subsequently announced the next Naming Round in June 2023 (DBT 2023)



**Recommendation 4:** Following recommendations from earlier LME Strategies, I recommend that the DLME's Information Hub work with sponsor departments and the enforcement bodies to:

1. build overall capability and capacity to undertake effective learning from compliance and enforcement interventions.
2. develop a robust and consistent approach to measuring the impact of compliance-based interventions, sharing good practice, recognising the specific methodological challenges of evaluating the impact of compliance-based interventions.

**Timeframe for Delivery:** ongoing but clear progress by end FY 2023/24

**Lead/Involved:** ODLME/HO/DBT/EBs

### 3.3 Strategic alignment

Under Section 4 of this Strategy, I make the case for more joined-up thinking across the three enforcement bodies and beyond to address broader non-compliance risks in the wider labour market.

Although there has been an increase in joint working – either more data and intelligence sharing or joint operational activity – over recent years, there is still work to be done to really tackle ongoing non-compliance in a number of high-risk sectors (see Risk Model in Annex B). Only through more focused and collaborative intervention can progress be made here.

Protocols developed by the enforcement bodies mean that they routinely consider each other's interests for example:

- Sharing of intelligence and complaints
- Making contact with another enforcement body where there is interest or overlap for them.
- Expanding the HMRC NMW Geographic Compliance Approach to include other bodies.

But each of the enforcement bodies works to their own designated remit in accordance with the underlying employment laws for which they have enforcement responsibility. This primary accountability combined with a tighter resourcing climate can impede the strategic alignment between the bodies.

Stronger mechanisms need to be in place to achieve the necessary collaboration and strategic aims, which taken together will result in a more effective, collective effort to improve compliance with employment rights for workers, particularly where the risk of harm is greatest.

The respective business plans, strategic objectives and service level agreements could be improved through awareness of the wider compliance and enforcement challenges in these high-risk sectors.



**Recommendation 5:** Recognising the operating mandate of the enforcement bodies, I recommend that the enforcement bodies lead the creation, design and completion of a Strategic Collaboration Plan, mapping areas of responsibility and interest across the labour market. The enforcement bodies will share this with the DLME.

The three enforcement bodies to present a proposal of the Strategic Collaboration Plan, mapping areas of responsibility and interest across the labour market to the LME Board.

**Timeframe for Delivery:** deliver to LME Board – July 2023

**Lead/Involved:** HO/DBT/EBs

## Section 4: Better Joined-up Thinking

A primary objective underpinning the creation of my role was to bring greater coherence to labour market enforcement across the three bodies within my remit. Good progress has been made with collaboration and joint working. I welcome the ministerial support I have received in this area.

I believe there is scope to go further. Worker exploitation does not fit into neat categories that match the defined remits of the three enforcement bodies. Recent work in the care sector has demonstrated this. Adverse experiences of some workers recruited under the Seasonal Workers Visa scheme are another example. The ODLME Strategic Co-ordination Group (SCG) has multiagency attendance to share information and spot opportunities where one agency's work might be enhanced by engagement with others. As well as delivering to their own remits, the enforcement bodies, working with other partners from law enforcement and elsewhere, need to take a holistic and strategic approach to tackling issues across the labour market.

Cross agency working is not straightforward: sharing data can be problematic; devoting resources may detract from meeting agency-specific operational targets; different methodologies and terminologies can get in the way. But I believe having the mindset that is alert to wider harm, coupled with tools that channel its investigation in the appropriate way, should be encouraged.

This wider thinking also needs to apply to improve awareness among government policymakers where there may be unintended labour compliance risks from changes to any employment-related legislation, including right to work arrangements.

### 4.1 Expanding multi-agency working

Lessons learned from Op Tacit (the multi-agency response to allegations of labour exploitation in the Leicester garment sector) has influenced the approach to a subsequent multi-agency operation (Op Topaz) into tackling non-compliance in the care sector in 2022. Within Topaz, the enforcement bodies are collaborating closely not only in relation to enforcement but also in promoting compliance and prevention activity. I see much value in progressing joint working in high-risk sectors during 2023/24.

Recent work led by SCG has seen an increased focus on co-ordinated activity in three high-risk sectors: care, construction, and hand car washes. However, enforcement gaps remain, and further work is needed, requiring, as appropriate, the bodies to commit the necessary resource. There should be regular reporting to the LME Board to review and test the effectiveness of this activity.

To enhance this joined up working, I would also like the SCG to introduce a dynamic approach to checking every six months which priority sectors merit joint interventions assessing performance and testing whether the approach is delivering an agile, co-ordinated, and effective response to emerging threats.

**Recommendation 6:** To ensure the most appropriate joint non-compliance threats are identified and addressed in a timely fashion, I recommend that:

1. The SCG evolves its sectoral approach based on its risk modelling and intelligence sharing to lead a more agile response to emerging joint threats by sector.
2. The EBs provide for the LME Board their strategic plans and operational approach to tackle these threats, along with progress updates at subsequent Boards.
3. The SCG/EBs embed a learning approach to joint operational interventions and share the findings with the LME Board.
4. The SCG continues to understand and map the challenges to delivering successful joined up interventions.

**Timeframe for Delivery:** 1) SCG/EBs (monthly), 2) EBs/LME Board (quarterly),

**Lead/Involved:** SCG/EBs/LME Board

#### 4.1.1 Care sector

The increasing demand for care from an ageing population and the difficulty of finding a sustainable funding model to ensure universal quality care is placing huge pressure on the sector. Pay for care workers is barely above the National Living Wage. Vacancy rates remain high (Skills for Care 2022).

Migrants represent a significant share of the care workforce (Migration Advisory Committee 2022) and, following Brexit, the reduced access to migrant labour from the EU has resulted in the introduction of the Health and Social Care Skilled Work Visa in 2022. There has since been a sharp increase in carers recruited from overseas. But there has also been a rise in labour non-compliance, manifested in the form of illegal recruitment fees, debt bondage, wage underpayment and other forms of labour exploitation.

Abuse of the Student Visa route has exacerbated the problem: some students working in this sector are being made to work in excess of their permitted 20 hours a week, and/or are switching out of the student route within months of arriving in the UK to become care workers and in doing so circumvent the stronger controls that exist in the Skilled Worker route.

The engagement of frontline practitioners and the relevant agencies in reviewing the operation of the Health and Social Care Skilled Work Visa and seeking opportunities for improvement is pressing.

#### 4.1.2 Seasonal working in agriculture

Migrant labour has been the primary source for seasonal working in horticulture in the UK for decades, with source countries varying as immigration policy has evolved.

Since the end of free movement of EU nationals into the UK, the Seasonal Worker Visa scheme operators shifted their sourcing of labour first from eastern to central Europe and then, with the conflict in Ukraine, a further shift towards Central Asia, as well as to Nepal and Indonesia.



Labour supply uncertainty has been further impacted by late government announcements on the Seasonal Worker Visa, leaving growers and scheme operators with little time to find new sources of workers.

The result in 2022 was a scramble for labour from over 60 countries, including countries where safeguards in the recruitment processes fall far short of what is lawful or acceptable in the UK and where it has been hard to engage with confidence with relevant government agencies. Reports of workers being charged recruitment fees (which are unlawful in the UK) have emerged. Workers have been charged excessive amounts by intermediaries for visa applications and travel costs. This issue has already led to GLAA removing the GLAA licence from a Nepalese labour provider. One of the scheme operators has also had their operator licence removed.

Monitoring and enforcement is fragmented with UK Visas and Immigration (UKVI) responsible for the operation of the scheme and for ensuring that the operators discharge their scheme licence obligations, including responsibilities to individual workers. The GLAA is only overseeing the scheme operators' compliance with GLAA licence requirements. These are precisely the gaps that create risk of exploitation of workers.

As the Scheme expands in 2023 (Defra 2022), a number of improvements have been made by government including:

- Home Office strengthening its compliance oversight. Scheme operators have clear responsibilities too under the scheme guidance and I am encouraged to see signs that operators are restricting the number of source countries for labour which should help improve due diligence and hence reduce vulnerability around recruitment of seasonal workers.
- The Department for Environment, Food and Rural Affairs (Defra) working more closely with stakeholders to improve worker welfare.

I welcome both of these steps by government, along with an industry-led Seasonal Worker Scheme Taskforce to seek to raise standards as regards recruitment, payments to workers and worker welfare. Following the non-compliance challenges experienced in this sector during the 2022 season, the direction of travel is now more encouraging. Seeking to maximise the effectiveness and achieve coherence across these interventions should be a priority during 2023.

Concerns around labour non-compliance in care and agriculture now have a much higher profile. There is clearly an urgent need for greater joined up thinking here. I therefore welcome the announcement by the Migration Advisory Committee (MAC) to focus more on labour exploitation as part of their research and advice to government on immigration (MAC 2022b). The MAC is also undertaking an inquiry into the Seasonal Worker Visa, to report later in 2023 (MAC 2023).

Equally I support the recommendations made by the Independent Chief Inspector of Borders (ICIBI) following his inspection in 2022 of the immigration system as it relates to the agricultural sector (ICIBI 2022).

But, as the Seasonal Workers Visa Scheme continues to evolve, interested stakeholders must continue to work together better and more closely. I believe DLME has a role it could usefully play to improve linkages within government departments and between departments and the industry.

**Recommendation 7:** Recognising the lessons learned for the operation of the SWV scheme during 2023, with its stronger focus on compliance and worker welfare, while these changes take effect and improvements delivered, I recommend ODLME works closely with government and wider stakeholders to:

1. facilitate a more joined-up approach to monitor SWV impacts on worker welfare.
2. raise awareness of worker rights via improved communications for workers and business
3. strengthen intelligence in this sector to respond to emerging labour non-compliance threats.

**Timeframe for Delivery:** Quarterly stakeholder meetings beginning in May 2023

**Lead/Involved:** ODLME/Defra/UKVI/EBs/stakeholders

### 4.1.3 Policy development

More broadly, greater attention needs to be given to the potential non-compliance risks around worker rights across all new labour market related policies during their design phase. This will require a clearer understanding of those government departments who have responsibility in this policy area and then trialling, initially with a small sample of departments, an approach to mitigate any unintended labour non-compliance risks.

The recent announcement to extend the Shortage Occupation List to five occupations in the construction sector may need closer examination in terms of potential labour non-compliance risks.

**Recommendation 8:** To help minimise the unintended consequences of risks to workers from new labour market-related policy development, I recommend:

1. ODLME undertakes an initial mapping exercise of government departments and agencies with labour market-related policy powers; and
2. Pilots an approach with its sponsor departments (DBT and Home Office) to identify at an early stage in their labour market policy development processes where non-compliance risks may occur. This should be reviewed after 12 months.

**Timeframe for Delivery:** 1) by summer 2023; 2) from autumn 2023; 3) autumn 2024

**Lead/Involved:** ODLME/HO/DBT

## Section 5: Engagement and Support

Awareness among employers and workers of their respective employment rights and obligations, as well as where to go to for help, have been a centrepiece of Labour Market Enforcement Strategies to date.

But we know significant gaps remain: businesses find it difficult to locate guidance that best meets their specific needs; workers can still find it difficult to seek support with employment issues, due to a mixture of not understanding their rights, not knowing who to turn to for support, or not having the resources or confidence to pursue remedies.

### 5.1 Work of the Enforcement Bodies

As noted in Section 3, employers are benefitting from more compliance-focused interventions by enforcement bodies to help them avoid accidental non-compliance. All three bodies have made great strides here and this was acknowledged by stakeholders.

Notable progress has included holding webinars and some joint initiatives (CIPP 2022) to encourage and support business to understand what they need to do to be compliant. HMRC NMW, for example as part of their Geographical Compliance Approach, have also encouraged businesses to use a self-correct system and the offer of minimum wage compliance 'health checks'. It is surprising and disappointing that the take-up of this facility has not been greater.

Respondents to my Call for Evidence signalled that resources should continue to focus on developing an effective system which seeks to educate, enable, and enforce regulatory measures for smaller firms. They highlighted that HMRC NMW should continue to work with key stakeholders to co-ordinate their approach around education and guidance, and for DBT to further clarify overall NMW guidance.

GLAA engages with key stakeholders through its two liaison groups (one aimed at business, the other at workers and their representatives) as well as running webinars and issuing subject briefs on topical issues. In January EAS presented at workshops hosted by Food Skills Cymru in partnership with Welsh Government aimed at safeguarding workers' rights in the food and drink sector in Wales.

The three enforcement bodies have recently agreed to create a joint Strategic Communications Plan. I agree that it will be useful to review the various approaches to communication being taken by the enforcement bodies and to explore how increased co-ordination would further enhance the results. This review should include a coordinated stakeholder mapping exercise with the aim of identifying the most useful and targeted stakeholder engagement. It should include



the considerations of both workers (including various worker groups) and businesses and the engagement with stakeholders undertaken by ODLME. I see this work as not only being useful to the bodies themselves but that it will give insight to the LME Board.

Stakeholders often cite the lack of feedback loop when they have submitted specific information relating to non-compliance to the enforcement bodies. For good reason the enforcement bodies cannot provide a running commentary on ongoing investigations. But I do believe there are opportunities to promote the good work they are doing. GLAA enjoys greater freedom around media usage and issues a quarterly partnership bulletin summarising its activities. I believe that HMRC NMW and EAS could benefit from moves in this direction too.

**Recommendation 9:** DLME welcomes and endorses the proposal by the enforcement bodies to create a Strategic Communications Plan and recommends that it includes DLME stakeholder engagement as well as that of the enforcement bodies and that it is presented to the LME Board.

Furthermore, within the strategic communications plan the enforcement bodies should consider what opportunities there might be to report on their operational work that might better meet the needs of external stakeholders.

**Timeframe for Delivery:** deliver to LME Board – November 2023

**Lead/Involved:** EBs/ODLME

## 5.2 Closer and more effective working with industry

All employers need support to know what they must do to be compliant and the potential consequences of non-compliance for them. This may involve rectifying a genuine mistake, or receiving penalties for example, having a licence revoked, a fine, a ban on trading, or criminal conviction. Non-compliant businesses may also suffer reputational damage.

The three bodies have a lead role to play in championing and enforcing compliance. But statutory mechanisms also have limitations. Legislative reform is a slow process. Industry-led self-regulation can play a part in raising standards. Those on the front line are better placed to spot the early signs of non-compliance and help raise the alarm before poor practice becomes a bigger problem. One encouraging example of business-to-business collaboration has been the Modern Slavery Information Network led by businesses in agriculture.

Trade associations can play a role notably where membership of the organisation can be clearly associated with compliance. This requires the association to have strong governance and enforced standards.

Other agencies can also support compliant businesses. What role could local authorities or business roundtables play in supporting particularly smaller businesses?

Where SME businesses operate within a supply chain to larger business, that business can play a key role in determining whether there is compliance at every level. For example, larger businesses should consider whether any of their buying practices jeopardise workers in their supply companies. More positively, they should also look at ways they can help their SME suppliers to get it right: having an open dialogue, keeping them alert of new legislation and sharing best practice and implementing tangible support mechanisms to keep the business community thriving.

Various business led schemes were cited in response to the DLME Call for Evidence as promoting compliance and informing businesses. I recognise that none is perfect, and no scheme is likely to fit all sectors.

A troubling recent development has been the demise of the Responsible Car Wash Scheme. This initiative was intended to test the scope for self-regulation in the hand car wash industry. Notwithstanding substantial resources being deployed by HMRC NMW, GLAA and other agencies, including the police, the ODLME risk model has consistently shown hand car washes to be a high-risk sector, chronically non-compliant across a range of regulations: environmental standards; national minimum wage; and immigration offences. My predecessors have supported a licensing scheme being introduced. If the government continues to discount licensing, I believe it must propose an alternative effective step change for this sector.

There is considerable interest in the role of financial institutions in promoting compliance in the businesses with whom they intersect through loans, insurance or other financial vehicles. Evidence is still emerging as to the effectiveness of this. It is an area to explore.

**Recommendation 10:** I recommend that ODLME:

- work with the enforcement bodies to formally assess business initiatives designed to promote compliance in their areas and think creatively about additional means of engaging with businesses to promote compliance.
- explore the role that ESG (Environmental, Social and Governance) factors might play in creating non-statutory incentives on businesses to raise standards and improve compliance as regards workers' rights throughout their supply chains.

**Timeframe for Delivery:** reporting on both issues to LME Board – November 2023

**Lead/Involved:** ODLME/EBs

## 5.3 Improving awareness of employment rights

The complexity of state enforcement of employment rights continues to represent a major barrier for those seeking support for workers. This is a particular issue when working through an employment chain that includes an umbrella company.

Useful work is done by employers, by the enforcement bodies, by trade unions, and by third sector bodies in supporting workers to understand their rights.

For workers, the GLAA in collaboration with the Skills and Education Group, Nottingham Rights Lab and Boston College have brought a level 1 qualification in workers' rights onto the UK curriculum (GLAA 2021). HMRC NMW work closely with NGOs and organisations such as Citizens Advice and the Refugee Council, delivering awareness sessions for both community workers and refugees.

Given the risk of non-compliance faced by younger workers in particular (Low Pay Commission 2023) it is encouraging to see employment rights and responsibilities taught as part of the Personal, Social, Health and Economic (PHSE) (Department for Education 2021) education curriculum for school children aged 14 and over. However, PHSE is a wide-ranging area, and I would like to explore whether more could be done to ensure that young people are well informed about workers' rights and obligations when they leave school/college.



Engagement and support are essential to ensure that workers understand their rights and know where to get support and accurate advice. Services need to be readily available when they need it most and provide a quick means of resolution and financial remuneration. The operation of Employment Tribunals is beyond my remit, but I note with concern that respondents to the DLME Call for Evidence referenced long delays when workers seek to enforce their rights through Employment Tribunals.

In some cases, worker exploitation relates to employment status. The Government has published its response to its consultation on Employment Status (BEIS, HMRC, HMT 2022). It concluded:

*“The Government recognises that boundaries between the different statutes can be unclear for some individuals and employers. However, the benefits of creating a new framework for employment status are currently outweighed by the potential disruption associated with legislative reform.”*

This is disappointing as I believe that the lack of clarity creates risk of workers being exploited, and I hope that the government will return to the matter soon.

**Recommendation 11:** ODLME working with government, the enforcement bodies, trade union representatives, other worker representation groups and NGOs to continue to explore and promote means to enhance knowledge of workers employment rights including through formal educational channels.

**Timeframe for Delivery:** report to LME Board – February 2024

**Lead/Involved:** ODLME/EBs/stakeholders

## 5.4 Stronger support for hard-to-reach workers

The three enforcement bodies have invested resources in outreach to workers activities either individually or combining their efforts with other enforcement bodies and non-government organisations including working with unions.

So called “hard to reach” workers pose additional challenges. They may work in very dispersed locations or have antisocial hours – for example, office cleaners. There may be language barriers – both relating to their command of English but also because compliance terminology is unfamiliar. ESOL training may be a first step. They may look for support within their own communities or ethnic group. Local support and faith groups are seen as trusted within the community and have wider cultural and generational reach (Patient Information Forum). They are seen as places where workers feel comfortable to share their concerns without fear. I have seen at first hand how the FAB-L project in Leicester is a good example of unions and community workers working together to educate both employers and traditionally hard-to-reach workers.

Research also supports such an approach where enforcement bodies engage in sustained partnerships with community-based organisations, unions, and NGOs in support of low paid workers in sectors with a high risk of non-compliance (Fine et al. 2021). Research further suggests this joint working can be even more effective when used in tandem with a strategic enforcement approach (DLME 2018). But the fact that this is recognised not to be a quick fix, has resource implications for enforcement bodies which may be difficult for them.

The Scale and Nature project commissioned last year by my Office should also provide additional evidence on worker awareness of rights and sources of support in these communities. In the interim, more qualitative evidence as to what works in this space in the UK context is needed.

**Recommendation 12:** ODLME to engage with local organisations in a small number of Local Authorities across the UK to evidence better their role in engaging with and providing support to vulnerable, hard-to-reach workers.

Results to be delivered to the LME board by November 2023 and will provide case studies to better inform further interventions within this space.

**Timeframe for Delivery:** deliver to LME Board – November 2023

**Lead/Involved:** ODLME

## Section 6: Office of the Director of Labour Market Enforcement Work Plan 2023/24

The recommendations presented above set out the direction of travel for the work of the DLME Office over the coming year. Central to this is the work I wish to take forward around identifying how and where my Office, working with the enforcement bodies, sponsor departments and wider stakeholders, can help deliver some of the benefits that would have come through the creation of a Single Enforcement Body.

To help achieve this, I have reconstituted the LME Board that I chair on a quarterly basis to bring a more strategic focus along with a stronger emphasis on delivery. I shall submit my full workplan for 2023/24 to the LME Board in May 2023, with a view to publishing the agreed plan on the ODLME web site in due course.

Later in 2023 an implementation plan in relation to the SEB related activity will follow, to be agreed by the Board and to feed into the next LME Strategy.

The Board will also play an integral role in ensuring delivery against other recommendations from this Strategy, as well as monitoring work of the Information Hub namely around evolving our risk model and progressing the research project to assess the scale and nature of labour market non-compliance.

Beyond this, my statutory obligations under the Immigration Act 2016 require me to deliver the following during the 2023/24 Financial Year:

- Publish an Annual Report examining progress against recommendations made in the 2020/21 and 2021/22 Strategies. This is in train with a view to publication in 2023.
- Deliver a Strategy for 2024/25 by the end of March 2024.

Success in delivering on all of this will depend on having a sufficiently well-resourced DLME Office. I am also looking to Ministers to ensure there is continuity as regards having a Director in post when my term comes to an end in November 2023.

# Appendix 1: Acronyms

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

**DBT:** Department for Business and Trade

**Defra:** Department for Environment, Food and Rural Affairs

**DLME:** Director of Labour Market Enforcement

**EAS:** Employment Agency Standards

**EB:** Enforcement bodies

**ESG:** Environmental, Social and Governance

**ESOL:** English for Speakers of Other Languages

**GLAA:** Gangmasters and Labour Abuse Authority

**HMRC:** His Majesty's Revenue and Customs

**HMT:** His Majesty's Treasury

**HO:** Home Office

**ILO:** International Labour Organisation

**ICIBI:** Independent Chief Inspector of Borders and Immigration

**IR35:** Inland Revenue 35 off-payroll working rules

**LME:** Labour Market Enforcement

**LMEUs:** Labour Market Enforcement Undertakings

**LMEOs:** Labour Market Enforcement Orders

**LPC:** Low Pay Commission

**MAC:** Migration Advisory Committee

**NGO:** Non-governmental organisation

**NLW:** National Living Wage

**NMW:** National Minimum Wage

**NRM:** National Referral Mechanism

**OBR:** Office for Budget Responsibility

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

**ONS:** Office for National Statistics

**P&O:** The Peninsular and Oriental Steam Navigation Company

**PHSE:** Personal, Social, Health and Economic (Education)

**RCWS:** Responsible Car Wash Scheme

**SCG:** Strategic Coordination Group

**SD:** Sponsor Departments (Home Office and the Department for Business and Trade)

**SEB:** Single Enforcement Body

**SIC:** Standard Industrial Classification

**SME:** Small and Medium Sized Enterprises

**SWV:** Seasonal Worker Visa

**UK:** United Kingdom

**UKVI:** UK Visas and Immigration



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