



HM Government

United Kingdom Labour Market Enforcement Strategy 2024/25

Annex A: Emerging issues around compliance and enforcement in the UK labour market

Summary of stakeholder evidence

November 2024



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

November 2024



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1. Introduction

1.1 Overview of approach

This document describes our approach to evidence gathering for the 2024/25 labour market enforcement strategy and summarises key points made by stakeholders.

Each year the Office of the Director of Labour Market Enforcement (ODLME) issues a public call for evidence to help inform the Director's annual LME Strategy. For the 2024/25 Strategy we adopted a slightly different approach. Before embarking on the call for evidence itself, we wanted to hear from stakeholders about current labour market compliance and enforcement issues on which the 2024/25 Strategy should be focusing.

The Labour Market Enforcement (LME) strategy for 2023/24 identified several emerging issues around compliance and enforcement in the UK labour market. The call for evidence in relation to the 2024/25 strategy sought information from respondents about a number of these areas and provided an opportunity for respondents to draw to the Director of Labour Market Enforcement (DLME) attention evidence that they have of these areas where they observe significant risk of workers exploitation.

The following two sections provide more information on this approach.

Prior to launching the call for evidence ODLME convened a series of in-person and virtual roundtable meetings to engage stakeholders and enforcement bodies, as well as bespoke meetings and presentations on particular topics. This was supplemented by visits to, businesses, and workplaces including meetings with a private vehicle hire (PHV) company and their drivers, a parcel delivery company and a garment retailer, as well as engagement with businesses at conferences. Further meetings with devolved administrations in Scotland and Wales and meetings with Northern Ireland representatives were also held. Additional to this, throughout the preparation of the strategy has been ongoing engagement with the three enforcement bodies within my remit.

The focus of this engagement was on understanding: how today's labour market is evolving; the impact of labour non-compliance; how best to help workers understand their employment rights; and, how enforcement bodies might identify these issues.

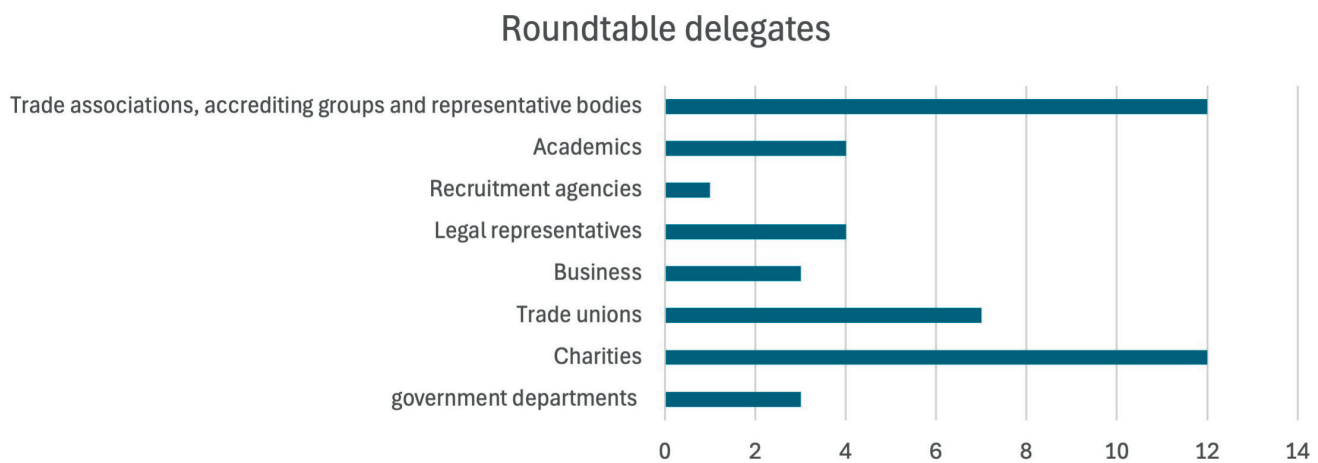
1.2 Roundtable Sessions

Four stakeholder roundtables were convened as follows:

- **Recruitment – 12 June 2023** – looking in particular at issues emerging in relation to online (including social media), offshore, and overseas recruitment; right to work checks; and digital exclusion. The roundtable sought views on the key trends and stakeholder concerns as regards labour exploitation at the recruitment stage, as well as some potential solutions to these.
- **Employment – 15 June 2023** – examining new models of employment, some involving intermediaries, ambiguous employment status, bogus self-employment, non-payment of minimum wage (e.g. due to deductions, unpaid hours), remote working and lack of informative payslips.
- **Communication – 19 June 2023** – focusing on ways to reach workers most at risk of exploitation through formal or informal education and awareness-raising channels. It examined how to empower the worker voice and community-specific issues at the local level.
- **High risk sectors – 22 June 2023** – asking whether sectors identified as high risk (agriculture, residential care, construction) remained a threat and whether evidence suggested other less well documented sectors – such as domestic workers, cleaning, warehouses, nail bars – should be considered as high risk too. The session explored some of the underlying factors driving risk and how these may be mitigated.

Overall, around 50 stakeholders attended these roundtables. Figure 1 (below) provides a breakdown of the types of representation.

Figure 1 – Profile of stakeholders who attended roundtables.



1.3 Conducting the consultation exercise

Following input from stakeholders ODLME designed a call for evidence, which was published on 17 July 2023 and closed on 8 September 2023.

The call for evidence sought stakeholder's views on:

- evidence of the scale and nature of the labour non-compliance threat, including whether it varies across the UK.
- challenges in terms of compliance and enforcement for the three enforcement bodies under my remit HM Revenue and Customs National Minimum Wage (HMRC NMW) Employment Agency Standards Inspectorate (EAS) and the Gangmasters Licensing, Abuse Authority (GLAA).
- views and ideas on how some of these challenges may be overcome.

The call for evidence was structured around the four themes adopted for the 2023/24 LME strategy, namely:

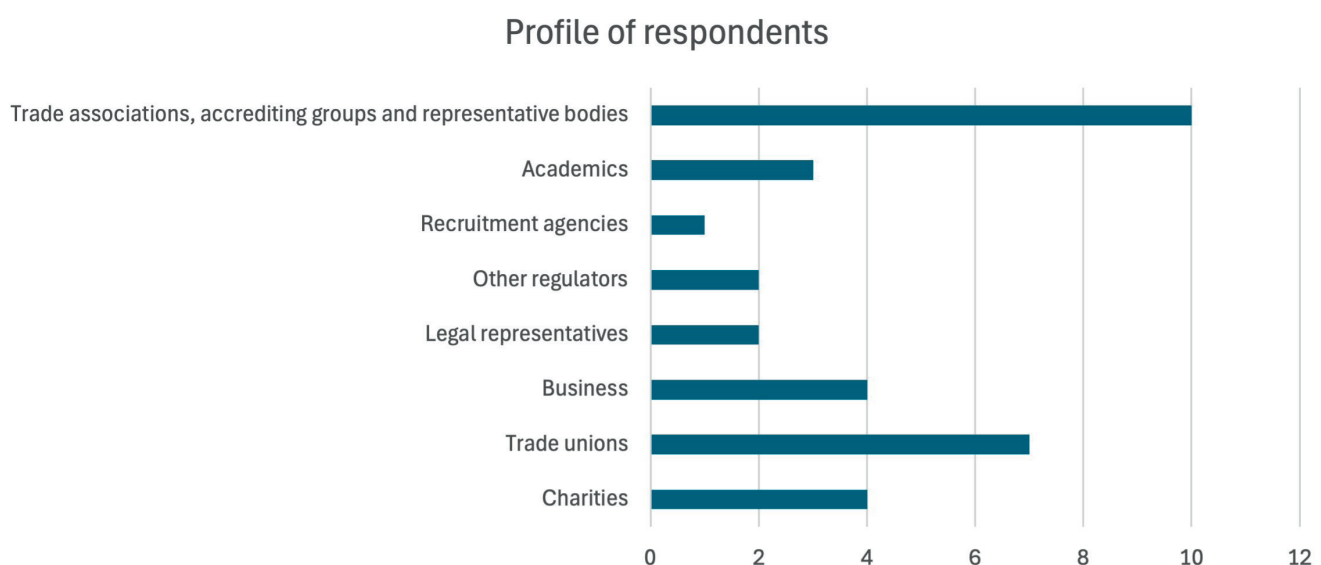
1. Improving the radar picture
2. Improving focus and effectiveness
3. Better joined-Up thinking
4. Improving engagement and support

Additionally, stakeholders were invited to raise any other issues relevant to the Director's remit.

Within these four themes, the call for evidence then presented a series of statements, or hypotheses where we asked first, whether stakeholders agreed with the statement and then to provide robust evidence in support of their answer.

In total, there were 33 responses from stakeholders across a wide variety of sectors, though not everyone responded to all questions (Figure 2).

Figure 2 – Profile of written responses categorised by sector.



2. Summary of evidence

Using the call for evidence (CfE) structure, this section provides a summary of the written evidence received from stakeholders in response to each of the statements.

2.1 Improving the radar

2.1.1 Labour market non-compliance threats (measured by degree of non-compliant behaviour) are greatest in the following sectors: care, agriculture, hand car washes, construction, food processing, which should therefore be the focus of attention for the enforcement bodies.

Overview of call for evidence responses to hypothesis/statement

Agree	12%	Partially agree	24%	Disagree	37%	Not stated	27%
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Call for evidence hypotheses

2.2.1 Workers and employers are sufficiently aware of employment rights and know where to go for help.

2.2.2 Workers have confidence in the three enforcement bodies that their cases are being dealt with proactively.

2.2.3 Compliance and enforcement interventions by the three bodies are helping to ensure a level playing field for business.

2.2.4 Current enforcement penalties (for example, financial, reputational) deter more serious labour market exploitation.

2.5 The enforcement bodies have a difficult job prioritising their resources

Key points

High risk sectors

- There were a number of sectors seen as high risk: adult social care, construction, agriculture and hand car washes. Other sectors that were flagged included warehousing, parcel delivery, cleaning, retail, seafarers, and those working through umbrella companies.

Characteristics of workers

- Some protected characteristics of workers were seen as putting these workers at greater chance of being a worker at risk of labour market exploitation.

Finding work and recruitment practices

- The way people are seeking and finding employment is changing with increased use of social media channels. Employers are using media platforms to recruit workers. Some platforms may increase risk to workers of subsequent labour market exploitation. Others are used to defraud job seekers.

Better job conditions for shortage occupations

- Shortages in some low pay occupations are not necessarily translating into better pay or conditions for workers within these sectors.

Care sector

Adult social care was highlighted in particular as this sector has longstanding workforce shortages, high turnover, and a persistently high numbers of vacancies. Furthermore, we were told worker pay and conditions have not improved significantly despite continued high vacancy rates. Research by the Work Foundation¹ found over a third (37 per cent) of surveyed social care workers are looking for a new role in the sector, half of whom said this was driven by low pay. Some 14 per cent of social care respondents the Work Foundation survey said they are looking to leave the sector altogether.

We were also told that the fragmented nature of the care industry means it is difficult for trade unions to gain access, meaning that workers lack bargaining power to improve their working conditions and pay. Common problems reported with the sector were: visas tied to one employer (making it difficult to switch employer), illegal recruitment fees, and debt bondage – essentially resulting in ‘forced servitude’. Unions told us about reports of ill treatment and threats to workers from employers when they raise problems about their working conditions or when they try to change employers.

Concerns were also voiced around **domiciliary care** – a Unison survey² of more than 300 domiciliary care workers across England found three quarters (75 per cent) of care staff who look after people residing in their own homes are routinely not being paid for the time it takes them to travel between appointments, effectively breaking minimum wage laws. The workers may spend almost a fifth (19 per cent) of their working day travelling between people’s homes, and left unpaid, they risk being hundreds of pounds short each month.

1 M. Wilkes, Gable, O. and Walker, T. (2021) Social care: a guide to attracting and retaining a thriving workforce. The Work Foundation at Lancaster University. Available from: <https://www.lancaster.ac.uk/work-foundation/publications/social-care>

2 <https://www.unison.org.uk/content/uploads/2023/07/Bargaining-on-workload-v9.pdf>

A court ruling – Harris versus Kaamil Education 2020³

Formed the basis for determining what constituted working time for those homecare workers. Travelling time between appointments during the day for gaps up to 60 minutes and waiting time between appointments (on top of any travel time that has been completed) for up to 60 minutes are all considered working time for the purpose of calculating whether a worker has been paid the minimum wage. Unions say, **“this is important because some homecare employers would only pay travel time for much smaller amounts of time, if at all, and that homecare workers are often not paid for any waiting time”**.

Personal assistants (PAs) – workers who are directly employed by the people for whom they provide the care and who live in their client’s home and provide around-the-clock care were also reported to us as being exploited. In particular, such care workers are subjected to emotional pressures and long hours, resulting in burnout.

Construction

Construction was highlighted as another high-risk sector, particularly with respect to what was described to us as bogus self-employment, involving both tax avoidance and employment law non-compliance. We were told that a significant percentage of construction workers are likely to be misclassified as self-employed. The Work Rights Centre, a charity supporting migrant workers, noted that 26 per cent of their helpline calls in 2023 were related to construction.

Self-employed workers from the **construction sector** were also reported as being at particular risk because of companies who ‘phoenix’- a term used when a business ceases trading under one name and then re-opens under another trading name. This practice appears to be growing within the construction sector but also in other sectors. The prevalence of ‘phoenix’ companies continues to provide a **cover for worker exploitation**, and it is common for workers to be left **without redress for their individual issues** with the previous employer (normally non-payment of wages and statutory pay).

Hand car washes

Respondents cited Unseen’s 2022 annual report⁴ and noted that 15 per cent of all labour exploitation cases indicated to the charity’s helpline in 2022 took place in **hand car washes**, equating this to a 259 per cent increase in potential victims exploited at hand car washes since the previous year.

Agriculture/Horticulture

A national farmers union (NFU) survey of 124 horticultural and 24 seasonal poultry producers employing seasonal workers carried out in August 2023 found overwhelming support for recruiting returnees, due to higher productivity, reliability, increased worker motivation and helping new workers to settle in. There was concern that the reputation of the agriculture and horticulture sectors is tarnished by media reports on cases of labour exploitation, reducing the attractiveness of the whole sector to potential applicants both permanent and seasonal.

An organisation offering support and guidance to seasonal agricultural workers in Scotland said that the majority of the calls they received are enquiries about how to get on the visa scheme. Other calls highlighted concerns from workers about non-payment of overtime, short duration of contracts and a general lack of work. Discrimination and verbal abuse were other reasons for

3 https://assets.publishing.service.gov.uk/media/5f6495f0e90e075a01d2f4d5/Ms_E_Harris_and_Others_vs_KaamilEducation_and_others_-_Judgment.pdf

4 <https://www.unseenuk.org/reports/2022-annual-report/>

calling the helpline. We were told, following making a complaint, workers often do not want to proceed further due to fear of repercussions and being dismissed. Indeed, some workers had been dismissed after complaining. Workers being deterred from proceeding with a complaint may mean there is under reporting of issues.

Other enquiries to the same support helpline were on the standards of accommodation, working conditions, health and safety, and worker welfare following accidents. We were told that calls about transfers to other farms were mainly due to short contracts and there were complaints from workers around a lack of engagement from the scheme operators.

Other sectors/areas

Beyond these, other sectors were also highlighted as posing a serious non-compliance risk. These included:

Domestic/cleaning sector – A 2019 survey by The Voice of Domestic Workers found that 77 per cent of workers experienced physical, verbal, or sexual abuse; 51 per cent reported they were not given enough food; and 61 per cent were not given their own space to sleep in employers' houses. The Latin American's Women's Rights Service (LAWRS)⁵ which supports Latin American migrant women in cleaning, hospitality and domestic work told us these sectors are putting migrant workers at high risk in part due to workers being isolated, invisible and working anti-social hours.

Rail cleaning – The National Union of Rail, Maritime and Transport Workers (RMT) said they are currently in the process of updating their **cleaner's charter**. In 2019 reporting raised concerns about unacceptable workload pressures placed on workers within the rail cleaning sector. Workers from ethnic minority groups in particular are more vulnerable to non-compliance and worse terms and conditions of employment.

Warehousing/distribution centres – respondents argued that non-compliance in this sector is already well known. High-profile examples including textile and clothing warehouses in Leicester were noted, as well as details of extremely poor working conditions in the warehouses of some larger retailers. The non-compliance assessed by the enforcement bodies is scored as C. The poor working conditions relate to health and safety concerns including the control of temperatures in a warehouse.

Parcel delivery – we were told that exploitation of parcel delivery drivers is rife and, outside of the Royal Mail Group, the vast majority of workers are **bogusly self-employed** with no access to the minimum wage, sick pay or holiday pay. Drivers are often mistreated at the hands of their employers.

Across **gig workers** more generally, although the flexibility of gig working was acknowledged, respondents voiced concerns about insecure employment increasing the risk of exploitation with vulnerable workers less likely to raise complaints.

Retail – Usdaw⁶ highlighted some employers offering multiple workers short-hours contracts rather than extended hours for existing workers. This leaves workers not getting the security of hours they want or need and an increased reliance on overtime. Citing statistics about female versus male workers, and black and disabled workers they argued that 'structural imbalances' may increase the risk of coercive behaviours and bullying reducing the likelihood of seeking redress.

5 https://lawrs.org.uk/wp-content/uploads/2020/11/Unheard_Workforce_research_2019.pdf

6 <https://www.tuc.org.uk/sites/default/files/2023-08/insecureworkin2023.pdf>

Working through umbrella companies – respondents noted an increase in the number of umbrella companies operating in the UK in the last 12 months and reiterated calls for regulation. Whilst recruitment businesses are governed by the *Conduct of Employment Agencies and Employment Businesses Regulations 2005* (Conduct Regulations), no such equivalent exists for umbrellas. Recruitment businesses feel they are held accountable for the mistakes or, in some cases, the intentional non-compliance, of umbrella companies.

We were also told about umbrella companies aggressively marketing themselves to workers, offering high levels of take-home pay. Usually these are not legitimate schemes and HMRC deems many of them to be tax avoidance or evasion. Notwithstanding this, compliant agencies face the prospect of losing candidates to unscrupulous rogue agencies.

Unions told us that workers in the teaching supply sector are being forced to use umbrella companies, often involving ‘dubious’ contracts with unlawful or extremely unfair deductions from pay (relating to reward schemes, and non-existent insurance schemes).

Generally, across all sectors respondents noted that current economic challenges were impacting the cost of compliance. Rising business costs associated with fuel, energy, import and export fees and digital investment, amongst others, could lead to the undesired result of a UK-wide growth in non-compliance by businesses. Respondents who were responding ahead of the most recent government announcements about retained EU law, expressed concern that the *Retained EU Law (Revocation and Reform) Act 2023* would mean that case law established under EU law would no longer apply, creating uncertainty for businesses in relation to interpreting legislation. At the same time new case law developments across a wide area of employment rights was seen as a catalyst for change during the lifetime of the next DLME strategy.

2.1.2 Some groups of workers (for example, women, younger people, migrants, those with protected characteristics) are at higher risk of experiencing labour market non-compliance than others.

Overview of call for evidence responses to hypothesis/statement

Agree	82%	Partially agree	0%	Disagree	0%	Not stated	18%
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Migrant workers were regarded as at higher risk of exploitation, stemming from visa restrictions or vulnerabilities relating to an event experienced by an individual, such as unemployment or the loss of identity documents. Becoming undocumented in a foreign country, or socially or linguistically isolated were seen as contributory factors.

Migrant workers are particularly prevalent in some sectors (e.g. care, agriculture, cleaning) which have little or no union or collective bargaining coverage. Migrant workers feel particularly vulnerable in terms of risk of loss of work for them, their friends and families, or being made homeless. Losing the right to live and work in the UK was highlighted predominantly in cases where the employer was also found to be their visa sponsor. Workers are therefore unlikely to report employment breaches to immigration enforcement.

Overseas workers on visa schemes, notably:

- **Care visa** – a Modern Slavery Policy and Evidence Centre (MSPEC) study which interviewed fifteen migrant care workers,⁷ including several on the health and care visa, reported workers having experienced current or past abuse and exploitation whilst employed in this sector. These included illegally long working hours, minimum wage violations, racism, bullying and

⁷ Agriculture and Care visa worker exploitation and obstacles to redress available at: <https://modernslaverypec.org/assets/downloads/Visas-full-report.pdf>

lack of physical protection, which may indicate trafficking and modern slavery. In some cases, workers were paying up to £15,000 in order to relocate to the UK to be provided with work. There were instances of workers being forced to work for several months without pay, paying back costs for their training and/or accommodation. We were told such hidden costs act to trap the worker in a particular role, which leads to greater potential for exploitation. We were told of an increase in calls to Unseen, where there has been a sharp increase in the numbers of workers in vulnerable situations losing recognition of their lawful immigration status and their relationship with their employers. We were told roughly 70 per cent of calls over the past 18 months affected workers issued with the new health and care worker/skilled worker tier 2 visa, including mistreatment, poor working conditions, and threats of illegal fees and fines.

- **Seasonal worker visa (SWV)** – one respondent reported most exploitation occurs in the worker’s home country before arrival in the UK. Workers had been told they would be earning a monthly salary of £1,600 but find once in the UK they are working at piece rates and having to put in excessive hours. In 2022 in particular, scheme operators had been recruiting from further afield, including from Indonesia and Nepal. Respondents recommended workers are sourced from fewer countries. Respondents also argued there is a lack of oversight by scheme operators unable to properly do their due diligence checks. One respondent advocated enforced accountability for worker welfare, whereby workers are guided through every step of worker engagement including information on governance and remediation processes when issues are identified.

Seafarers and marine fishing – respondents expressed concerns over the safety of workers on marine vessels and the lack of oversight whilst at sea and cited an Low Pay Commission (LPC) report recommending that seafarers should be exempt from the accommodation offset.⁸ Respondents cited a chronic lack of data regarding employers’ application of the accommodation offset to the wages of workers in specific sectors, namely agriculture and shipping.

Another respondent cited a University of Nottingham Rights Lab study of working conditions across the UK’s fishing fleet,⁹ which found widespread and systemic inequitable and exploitative working conditions for migrant fishers in comparison to UK national fishers. It noted that although seafaring is not a shortage occupation, only 15 per cent of the workforce of 114,000 are UK residents. The concern was employers are permanently managing shortages by recruiting from overseas and paying these employees less than UK workers, thereby deliberately lowering costs and maximising their profits. Concerns remain that income thresholds applied to seafaring occupations through the visa system are not being applied to the movements of seafarers and crew moving in and out of the UK shipping and offshore sectors.

Disabled workers – in general disabled workers were seen as more likely to experience employment insecurity and to be in severely insecure forms of work than non-disabled people. The Work Foundation at Lancaster University¹⁰ analysis of the disability insecurity gap reported **disabled women** as 2.2 times more likely to experience severely insecure work.

Young people – those aged 16 to 24 and particularly those with low levels of education were found to be two and half times more likely to experience multiple forms of insecurity and to be in severely insecure work than older age groups. We were told that young disabled workers were also more likely to experience severely insecure work. This is substantiated by the findings of the UK Insecure Work Index 2022¹¹ which found that 46.2 per cent of young disabled workers were in severely insecure work, compared with 29.5 per cent of young non-disabled workers.

8 <https://minimumwage.blog.gov.uk/2023/02/03/reviewing-the-accommodation-offset/>

9 Nottingham Rights Lab on working conditions UK fishing fleet available at: <https://www.nottingham.ac.uk/news/new-report-lays-bare-the-exploitation-in-the-uk-fishing-industry>

10 <https://www.lancaster.ac.uk/work-foundation/publications/the-disability-gap-insecure-work-in-the-uk>

11 <https://www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/lums/work-foundation/UKInsecureWorkIndex.pdf>

Other groups considered to be at greater risk of breaches of many aspects of employment legislation are low skilled/low paid non-unionised workers, those on the fringes of the labour market, and those working in small to medium enterprises (SMEs).

2.1.3 Jobseekers are increasingly using non-traditional means to find work (for example, online or via apps, social media) placing them at greater risk of fraud and scams.

Overview of call for evidence responses to hypothesis/statement

Agree	58%	Partially agree	0%	Disagree	2%	Not stated	40%
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Social media/recruitment – we were told jobseekers are increasingly using non-traditional means to find work (e.g. online or via apps and social media) potentially placing them at greater risk of fraud and scams. Respondents noted a lot of recruitment within social ‘community’ networks and recruitment agencies located internationally. Job boards and online advertisements are longstanding standard routes within the professional sectors and seen as ‘traditional’ means of recruitment.

It was argued that those wishing to exploit workers are known to be using social media channels to impersonate legitimate business, using details and convincing branding to entice applicants to apply, and pay for, non-existent jobs. Concerns were also raised about the increase of artificial intelligence (AI) used in recruitment and a need to ensure workers are protected. We were told within the fishing industry there is widespread use of Facebook and similar online sites to gain work and there is concern about a lack of regulation on these platforms. Similarly, we were told AI tools are often used in the gig economy to distribute work, again raising concerns about employment status and enforcement of rights.

Migrants in particular will often find work opportunities through their own ‘social networks’, with somewhat lower usage of apps and social media. A study of Romanian and Bulgarian workers in the UK¹² employed mainly in the food industry, agriculture, construction and hospitality found that 38 per cent of participants coming to the UK found a job through an acquaintance. A further 36 per cent did not have a job prior to arriving in the UK. 19 per cent found work via an agency based either in their home or another country. Only 6 per cent found a job online.

Conversely, some respondents highlighted the benefits of social media as an effective way to promote worker rights and for victims to report abuse.

12 <https://www.modernslaverypec.org/resources/covid-romanian-bulgarian-workers-agriculture>

Illustrative examples:

Recruitment scams via messaging apps (such as WhatsApp and Telegram).

These were messages where the contact was claiming to work for a legitimate recruitment agency and offering a job. This job could be in any sector, is usually remote with flexible hours and a vague description. In many cases the individual is then encouraged to register for an app where they will be (supposedly) paid to undertake tasks, such as rating apps in an app store.

In some cases, these are linked to cryptocurrency apps. Usually, the individual is asked to input a small initial investment to take part, they receive payments for their tasks and then are asked to continue investing to reach the next level until such time the contact takes the money from their account. In all instances, the legitimate recruitment agency is being impersonated and the contact has no connection with them. This scam is so prevalent now that the respondent has worked with recruitment agencies, job boards and the media to put out messages that this activity is unlikely to be legitimate and not connected with recruitment agencies. Whilst there may be instances where individuals can legitimately be paid for undertaking tasks in an app, there are scam artists this is growing all the time. It is one of the largest labour abuses operating in the UK and fraudsters that are tapping into this and impersonating legitimate businesses to undertake fraudulent activity.

2.1.4 Ongoing labour shortages in some sectors are not translating into improved conditions for workers in those sectors.

Overview of call for evidence responses to hypothesis/statement

Agree	43%	Partially agree	2%	Disagree	9%	Not stated	46%
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There was recognition that the link between labour shortage and improved terms and conditions for workers is complex. General shortages in public sector occupations (care, teaching) are not translating into higher pay/better conditions (tighter budgets and slower response to pay adjustment), whereas in hospitality for instance pay has increased faster than minimum wage increases.

Respondents cited the Migration Advisory Committee (MAC) annual report for 2023¹³ highlighting migrant exploitation in the UK labour market. Another respondent pointed to workers being supplied into the UK by overseas companies, who are not subject to the UK's law and regulations around the supply of workers. They argued for the UK government to work more with their counterparts in countries where these workers are migrating and suggested that a joint effort is required to raise awareness of these exploitative schemes and to discourage workers from signing up to these arrangements.

13 Migration Advisory Committee annual report 2023 available at: <https://assets.publishing.service.gov.uk/media/65782f150467eb000d55f564/AR+2023+Letter+to+HS.pdf>

2.2 Improving focus and effectiveness

Call for evidence hypotheses

- 2.2.1 Workers and employers are sufficiently aware of employment rights and know where to go for help.
- 2.2.2 Workers have confidence in the three enforcement bodies that their cases are being dealt with proactively.
- 2.2.3 Compliance and enforcement interventions by the three bodies are helping to ensure a level playing field for business.
- 2.2.4 Current enforcement penalties (for example, financial and reputational) deter more serious labour market exploitation.
- 2.5 The enforcement bodies have a difficult job prioritising their resources but, on balance are addressing the right issues.

Key points

Awareness of employments rights

- A majority of respondents believed that workers are unaware of their employment rights and lack of awareness of the basic information they need.
- Workers are unaware of grievance mechanisms.
- Safe feedback mechanisms, firewalls, prescribed person are recommended to encourage vulnerable workers to come forward without fear.

Confidence in the three bodies

- Prevent campaigns by the three enforcement bodies are seen as positive but respondents want to see increased penalties for businesses who repeatedly offend.
- Awareness of the three enforcement bodies remit is low.
- Lack of awareness/understanding of implications for workers as regards the intersection between employment and immigration law.

Level playing field for business

- Almost half of respondents thought that current enforcement penalties did not deter more serious labour market exploitation.

Prioritising enforcement responses

- Call for more shared communications and regular updates from the three enforcement bodies to demonstrate prioritisation of the right issues.
- Reciprocal communication channels needed.
- Resourcing of the three enforcement bodies is low.
- More visibility of the enforcement bodies needed.

2.2.1 Workers and employers are aware of employment rights and where to go for help.

Overview of call for evidence responses to hypothesis/statement

Agree	6%	Partially agree	6%	Disagree	61%	Not stated	27%
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Around three-quarters of respondents gave a view on awareness of employment rights and sources of help and the vast majority of these rated awareness as low.

Evidence from the Resolution Foundation report, *Enforce for Good*¹⁴ found that 61 per cent of private sector employees would not know which enforcement organisation to approach if they had a compliance issue. Only 6 per cent of private sector employees said they would approach one of the state enforcement bodies.

Provision of relevant and clear guidance, accessibility of that guidance for users and help to improve the worker experience of obtaining accurate advice were seen as paramount. The lack of support networks for migrant workers in particular can leave them feeling isolated and cut off from the rest of society; simply being aware of guidance is not sufficient to seek redress. More should therefore be done to support those with poor language skills and for information to be accessible for those who work irregular hours, who are not able to access advice during office hours. It was put to us that too frequently workers are signposted elsewhere, without being given adequate support, which leaves those accessing support services exhausted and dispirited.

Enforcement agencies – a lack of clarity over different enforcement agency remits was a cause of confusion, leaving workers unsure who to turn to. We were told that when reports were made to HMRC NMW and GLAA, sometimes there was no evidence back to the complainant that the reports had been picked up, leaving workers with lack of trust in enforcement bodies. It was suggested the latest data from HMRC NMW enforcement on the amount of arrears paid back in response to workers' complaints demonstrates a serious lack of awareness amongst workers of their basic employment rights. Awareness of employment law with SME's was seen as particularly poor. There was recognition that government bodies had made a commendable effort to raise awareness of employment rights and routes to redress for workers and employers alike, but at the same time it was acknowledged the system for finding help was difficult to navigate.

Awareness of grievance mechanisms – we were told workers are unaware of grievance mechanisms. It was suggested that some employers do not understand the purpose of grievance mechanisms and take credit for the fact that no grievances have been received. This was seen more as an indication that the grievance process is not working.

Intersection between employment and immigration law – even when migrant workers do reach out for help, respondents felt there is a lack understanding of how employment and immigration laws interact. It was suggested that migrant workers lack confidence in legal systems or enforcement bodies, stemming from past negative experiences in their country of origin.

We also received some sector-specific evidence on this issue:

- **Seasonal Worker Visa (SWV) scheme** – we were told workers have more confidence when someone outside and independent of the farm is listening and offering support. An example provided was the Landworkers' Alliance¹⁵ a solidarity network organised between workers and organisations.

¹⁴ <https://www.resolutionfoundation.org/app/uploads/2023/04/Enforce-for-good.pdf>

¹⁵ <https://landworkersalliance.org.uk/lwa-report-digs-into-exploitation-of-migrant-workers-in-uk-horticulture/>

- **Care sector** – an NGO reported that interviews undertaken with migrant care workers showed unanimously they would go to family, friends or charities for support and were unaware of the support offered by the three enforcement bodies or indeed their specific roles.
- **Migrants working in the fishing** industry were similarly reported as being unaware of which enforcement agency to go to when they needed help (GLAA, HMRC or other agencies). Unions told us they share information with migrant crews and welfare groups whilst noting the lack of provision to prepare these workers in their country of origin, including a lack of guidance and pre-departure training provided for migrant fishers. Literacy and language were also seen as barriers for migrant crews, with respondents calling for easy read versions and translated materials as these add most educational value to many crews.
- **Domestic workers** – respondents told us this group rarely self-identify as victims of forced labour, servitude, or human trafficking, and only seek specialist advice and accessing support services when the situation becomes too much for them to bear. Workers reach out to community organisations who provide holistic support, respect confidentiality, and provide linguistic and culturally aware support. It was suggested labour enforcement bodies need to work in conjunction with these community organisations who are aware of the most pressing issues affecting the community and the underlying reasons for not reporting or seeking and accessing support.

A theme of trusted routes also came through strongly from respondents:

- **Trusted partners** – respondents voiced the need to understand where people feel able to seek support and this is often through charities, community and support groups as opposed to the enforcement bodies. NGOs recognise the need to work to maintain and extend their reach and influence. Supporting workers, especially with complex cases with intersectional needs between employment and immigration law, can leave these services stretched. Acas said their statutory independence and impartiality between employers and workers puts them in a unique position, whilst acknowledging they are not the only place where workers and employers go for advice. According to Acas surveys in 2021-22, nearly a third of employers (32 per cent) and more than half of employees (52 per cent) did not seek information, advice or guidance from somewhere outside their organisation. Among those who did, a broad range of sources were used.
- **Firewall** – some respondents have called for a safe gateway between labour inspectorates and immigration enforcement. This, they argued, would encourage trust among vulnerable groups and likely result in them seeking support from labour bodies. Respondents from NGOs and unions referred to recommendations by the previous LME Director (Matthew Taylor), whereby consideration should be given to maintaining a clear divide between labour market and immigration enforcement. It was argued that no labour market enforcement agency has a legal duty to check workers' immigration status, or report workers with insecure immigration status to the Home Office. Respondents referred to a culture of fear, due to the very real risk of being reported to the Home Office. This risk is greatest for undocumented workers, a group that can feel 'powerless' and 'trapped' in exploitative working conditions due to their lack of immigration status and fear of being detained or deported if they reported their employer.
- **Reporting to a prescribed person** – the role of whistleblowers was seen as a vital early warning mechanism within businesses. Evidence suggests too many whistleblowers are unable to state if their employer has a whistleblowing policy and are unsure how to raise concerns. Workers feel their concerns are ignored or they are at increased risk for speaking up. There were calls to ensure the confidentiality of whistleblowers and a requirement to train staff on how to raise concerns.

2.2.2 Confidence in the three enforcement bodies, cases are being dealt with proactively.

Overview of call for evidence responses to hypothesis/statement

Agree	2%	Partially agree	2%	Disagree	61%	Not stated	35%
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Action taken – unions told us that it is frustrating for them that, once they have made the effort to report non-compliance cases to HMRC NMW, they are never informed firstly if any action was even taken, or, secondly, what action. Moreover, they claim, no outcomes are ever reported back to them. Doing so would give them more reassurance that issues raised are being followed up. They acknowledge the need for confidentiality by HMRC, but at the same time argue that there must be a way of reporting back at a very general level, the steps taken with outcomes, without breaching those rules.

Similarly, another respondent said reporting instances of labour exploitation to the GLAA can also be frustrating, with a lack of clarity on action taken and when. Too much emphasis, they claim, is placed on the need for stakeholders to provide ‘robust evidence’ and the enforcement bodies should not need a neat bundle of ‘robust’ evidence ‘handed to them on a plate’. Instead, they should be proactively investigating alleged labour offences and pulling together the requisite evidence themselves.

Third sector organisations also cited a lack of **reciprocal communications channels**, where HMRC NMW are reluctant to establish a channel of communication and cooperation with them to support vulnerable migrant workers. NGOs argue their role is crucial to supporting workers who are victims of modern slavery, and who may have difficulties gathering and presenting the evidence required by investigators themselves. In one particular case, they claimed HMRC NMW were averse to considering evidence collected by caseworkers, instead insisting upon the evidence coming directly from the vulnerable worker. This means opportunities can be missed to collect valuable information on a criminal employer.

The **absence of a channel of intelligence sharing** delays processes, and ultimately puts already vulnerable workers under further financial and psychological stress. Within the hand car wash sector limited data sharing has hindered further joined-up work and ability to target enforcement work in the sector. We were told GLAA has had ‘ample opportunity’ to improve their engagement with stakeholders in the third sector, not least via its labour user/labour provider and worker/NGO liaison group meetings to spread awareness and information. NGOs regularly track data and information concerning the exploitation of workers and vulnerable groups and suggest it would be useful for GLAA to capture these trends and the nature of exploitation to help improve the information available to them and, crucially, improve investigations. Respondents would like to see similar fora with the other enforcement bodies, which some say are behind the GLAA in their sector engagement.

2.2.3 Compliance and enforcement interventions by the three enforcement bodies are helping to ensure a level playing field for business

Overview of call for evidence responses to hypothesis/statement

Agree	2%	Partially agree	10%	Disagree	42%	Not stated	46%
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As well as ensuring rights and protections for workers are upheld, the work of the enforcement bodies is important to maintain a fair business environment. Although almost half of respondents did not answer this question, a significant majority of those that did, did not feel enforcement body interventions were helping to create a level playing field for business.

EAS – unions spoke about developing a good working relationship with enforcement bodies, referencing EAS attendance and presentations at a number of their events in order to educate supply teachers about a number of issues relating to working through a recruitment agency and the role of umbrella companies. Proactive work within the prevention space has been beneficial and increased awareness among supply teachers of EAS and how they can raise issues. That said, despite EAS' good intentions, the unions argue that the balance of power remains in favour of the employer with investigations of non-compliance business being too low.

HMRC NMW – publicity campaigns undertaken by the enforcement bodies, helping employers be better informed, were recognised and appreciated. Acas reported collaborating with the HMRC on its national and local NMW campaigns. Including Acas' helpline number in campaign letters sent out by HMRC to employers has resulted in an increase in minimum wage-related calls. Acas also reported partnering with HMRC NMW to run joint webinars to increase knowledge and promote best practice, including one in July 2023, *Helping employers get the National Minimum Wage right*, which attracted almost 800 attendees.

GLAA – we were told by the Association of Labour Providers (ALP) that they remain a strong supporter of GLAA licensing and support and offer insight, expertise, and challenge to help create a level playing field for labour providers. But they spoke about having lost some confidence in the GLAA compliance activities and referred to their report *Re-Establishing a Credible GLAA Licensing Scheme (2021)*.¹⁶ Furthermore, they evidenced the GLAA revocation results¹⁷ which state that revocations have reduced from 23 in 2018-19 to just 3 in 2023-24. GLAA's recent focus on their role as a regulator demonstrates that they too are looking to improve their performance.

Unions reported that compliance and enforcement interventions by regulatory bodies in agriculture and horticulture including GLAA are having a meaningful impact in ensuring a level playing field for businesses in this sector. Citing evidence from Defra's 2021 seasonal worker survey they highlighted that 93 per cent of workers were paid in full and 99 per cent were paid on time. A more level playing field had been achieved through the work of others in the sector including: the Home Office, SWV scheme operators, supermarket customers and assurance schemes such as SMETA, GRASP and Red Tractor. Although (due to lack of data) it was difficult to quantify the deterrence impact of penalties in this sector it was argued that employers see the reputational risk of non-compliance among growers and seasonal poultry producers as significant which acts to drive compliance. De-listing by a retailer was seen as potentially fatal for business and acts a great incentive to comply.

Fishing sector – respondents acknowledged that the Maritime Coastguard Agency (MCA) and Border Force do join inspections and enforcement and provide some educational support, but noted this does not extend to employment rights or NMW. We were told there is a vacuum of enforcement in the fishing sector which remains to be filled.

Hand car wash sector (HCW) – non-compliant businesses can significantly undercut trustworthy ones as they do not pay taxes and don't pay workers a fair wage (if at all). Concerns were also voiced on the disposal of trade effluent. Respondents felt that enforcement interventions have been 'virtually non-existent' and current enforcement methods have little impact on the operations of non-compliant HCWs. The responsible car wash scheme (RCWS) was an industry initiative

16 ALP report: *Re-Establishing a Credible GLAA Licensing Scheme (2021)* available at: https://www.labourproviders.org.uk/resources/?_stf=filed=public-papers&sf_paged=5

17 *GLAA Revocation results (2023)* available at: <https://www.gla.gov.uk/our-impact/revocations-results/>

previously backed by government to drive up standards in the car wash industry. However, it was voluntary and was closed in March 2023 due to the lack of compliant HCWs signing up to the scheme. A respondent argues that the HCW scheme should be mandated by government.

Umbrella companies are seen by respondents as operating on an unlevel playing field. A lack of regulatory powers available to enforcement bodies, and activities such as rebates and supplier lists have a negative influence over the market. Particular concerns were raised about the growth and prevalence of non-compliance within the teacher supply sector. Union surveying of its members found that almost half (49 per cent) reported that they have been asked to sign a contract or agreement with an umbrella/offshore company when working through a supply agency. Unions cautiously welcome the proposals outlined in the government's recent call for evidence in respect to umbrella companies,¹⁸ including, but not limited to, the objective of delivering improved outcomes for workers through enhanced regulation of the umbrella company market. Unions also suggests that EAS should use its full suite of enforcement powers to both proactively and reactively tackle non-compliant umbrella companies. Unions argue that EAS are not fully utilising their existing powers under regulation 5 of the *Conduct of Employment Business Regulations* (2003) to tackle non-compliance in the umbrella market. Other respondents reported that workers within umbrella companies feel like they 'get pushed from pillar to post' between the umbrella company, the recruitment agency and the end client when seeking resolution for issues and feel that no party is obligated to support them.

2.2.4 Current enforcement penalties deter more serious exploitation.

Overview of call for evidence responses to hypothesis/statement

Agree	2%	Partially agree	0%	Disagree	46%	Not stated	52%
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Deterrence theory posits that stronger penalties should disincentivise non-compliance among employers. 46 per cent of respondents viewed current enforcement penalties as not deterring more serious labour market exploitation. 52 per cent of the call for evidence respondents did not comment on this question.

Respondents cited the Resolution Foundation report *Enforce for Good* (April 2023) which found that only a minority of non-compliant firms in respect of payment of NMW compliance face the prospect of a penalty. When they could be sanctioned, the penalty was not enforced in the case of two-fifths (41 per cent) of arrears uncovered. The report compared UK penalty multipliers with other countries and highlighting that UK is the most lenient suggesting a weak deterrence effect (exacerbated they argue by insufficient inspection resources).

Respondents called for more frequent 'naming' rounds (for minimum wage non-compliance), noting that often larger employers were still not getting it right and they questioned the actual deterrence effect of this intervention. There was recognition that more serious non-compliance is driven by criminal behaviour with intent to avoid enforcement. While penalties may be able to address some areas of non-compliance, the failure to address more serious, repeat offenders would mean serious labour market exploitation will continue.

In terms of the **enforcement bodies**, it was noted that minimal detailed, granular information is published about how the enforcement bodies use their enforcement powers in actual cases. Comparisons were made with Information Commissioners Office (ICO) which actively which promotes 'Action we've taken' and then gives guidance on avoiding pitfalls or highlighting latest issues and trends.

¹⁸ <https://www.gov.uk/government/consultations/tackling-non-compliance-in-the-umbrella-company-market>

Across the enforcement bodies themselves, respondents made the following points:

- **EAS** had carried out very few prohibition orders and more generally there was a lack of any insight into enforcement activity.
- The financial penalties resulting from **minimum wage non-compliance** in particular were seen as being too low; early payment of the penalty can mean an arrears-penalty ratio of just 1. This compares with 1.3 and 2.2 for France and Ireland respectively, 2.6 in the Netherlands, but up to 44 for a firm in Australia and 126 in Norway.
- Respondents stated that almost one-third (32 per cent) of workers paid at or around the wage floor receive less than the minimum wage. Furthermore, they believe, as the minimum wage increases so does the extent of non-compliance, so enforcement resourcing needs to keep up to continue to offer adequate worker protections. It was claimed **HMRC NMW** are still focussed on ‘low-hanging fruit’ within an employment setting and HMRC’s naming list suggests that enforcement officers’ caseloads are tilted towards ‘broader’ cases where a greater number of workers have been underpaid a smaller amount. Evidence of this was provided from the June 2023 naming round, where 39 per cent of the 202 employers named the breaches were for incorrect deductions from employee wages, including for costs and expenses of acquiring and maintaining uniforms. The company at the top of the list underpaid 17,607 of its staff by an average of £57.80 each, implying the employer had fallen into such a pitfall. Only 6 employers were named for ‘worker status error’. Often the breaches identified relate to older cases (for the June 2023 round investigations concluded in 2017-2019). Instead, it was suggested HMRC now need to turn their attention to the arguably more complex and serious breaches of minimum wage rules which tend to go hand-in-hand with ‘false self-employment’ and denial of ‘worker’ rights.
- Respondents noted the government’s nine point plan regarding action it wanted to be taken in relations to issues emerging from the dismissal of seafarers who worked on P&O ferries. Noting that some elements of the plan related to NMW enforcement, respondents challenged the adequacy of the response.
- One respondent recognised that **GLAA** had investigated and successfully prosecuted perpetrators as a result of intelligence provided by the respondent. More enforcement though was encouraged as although GLAA communication campaigns and other compliance work help there still needs to be a focus on investigations that lead to justice for workers, and sanction exploitative employers. There were also calls for more maintenance of the licensing scheme, more work with partners to protect worker’s rights, and more to promote business growth by disrupting and acting as a deterrence of criminal activity.
- Respondents also questioned the degree of proactive enforcement as part of the seasonal worker visa scheme (SWVs): only 9 per cent of farm workers interviewed said someone from outside of their workplace had spoken to them about working conditions. One respondent cited the findings from the ICIBI’s report,¹⁹ where between February 2021 and February 2022, of the 25 farm visits undertaken by Home Office enforcement, 19 identified significant welfare issues. It was not clear what the findings were from the remaining six, where no reports were produced.
- There were concerns that information was not passed on to the scheme operators in a timely fashion and consequently issues were not addressed whilst the worker was in the UK.

19 https://assets.publishing.service.gov.uk/media/63a016488fa8f5391a4ed48f/An_inspection_of_the_immigration_system_as_it_relates_to_the_agricultural_sector_May_to_August_2022.pdf

Other points raised

The threshold for exploitation was raised highlighting that while victims of trafficking and exploitation can be referred to the NRM to receive support, in general there is very little understanding of what other support workers can get from each enforcement body for violations that do not meet the threshold of exploitation. Such cases still represent serious non-compliance and labour exploitation, but vulnerable workers (often from overseas) are unaware how to properly navigate the system for support.

Respondents welcomed the *Modern Slavery Act (2015)* and said the transparency in supply chains clause (TISC) has improved awareness of modern slavery by UK businesses, alongside the prevention efforts of the GLAA. However, this alone is not enough to drive tangible positive systemic change in supply chains. There is a need to go further, to include metrics and requirements to take action against modern slavery. It is essential, respondents argued, that enforcement is stepped up to prosecute failing businesses and positively recognise those investing in hunting down perpetrators, reporting on findings and creating transparent supply chains.

2.2.5 The enforcement bodies have a difficult job prioritising their resources but, on balance are addressing the right issues.

Overview of call for evidence responses to hypothesis/statement

Agree	12%	Partially agree	24%	Disagree	30%	Not stated	34%
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Of the respondents who gave a view, there was almost an equal split between those who recognised the difficult job the enforcement bodies faced but thought that overall, they were prioritising the right issues.

Resourcing in general attracted much comment, with concerns expressed about resourcing of the three bodies falling well below ILO benchmark and whether inspectorate strength was sufficient to deal with non-compliance. Some suggested ‘woefully inadequate’ levels of funding and resources available to regulatory and enforcement bodies which fall under the remit of the DLME to deliver their remits. The consequence was that the lack of necessary investment in the enforcement agencies has allowed non-compliant businesses to continue with malpractice. It was argued that it is vital that all workers have recourse to a properly resourced labour market inspectorate to enforce workplace rights. There was also reference here to the Business, Energy and Industrial Strategy Committee (now Business and Trade Select Committee) *‘Post-pandemic economic growth: UK labour markets’ April 2023* report recommendation that “The enforcement of labour market rules is under-resourced”.

Across the three enforcement bodies, the following points were raised in relation to **resourcing**:

- **HMRC NMW** – a UK employer can on average expect an inspection by the HMRC national minimum wage team just once every 500 years. It was therefore recommended that the Department for Business and Trade (DBT) commits to better resourcing the National Minimum Wage Enforcement Team.
- **GLAA** was named as having been hit with serious budgetary cuts whilst having an extended remit which has meant a reduction in staffing levels and in the number of inspection and compliance audits and investigations they can realistically handle. Without sufficient funds, they are unable to follow up on the reports and unable to deliver a service that disrupts and drives out crime.

- **EAS** – despite recent funding increases in the EAS, up to £1.525 million for the year 2020/21, this still represents approximately 29 staff covering around 40,000 agencies operating in the UK. Unions also cited the DLME 2022-23 strategy, that EAS is ‘active’ on umbrella companies but “lack the resources and the statutory tools to protect workers and ensure a level playing field across the agencies sector”.

Referencing the proposed **single enforcement body (SEB)** it was noted that the creation of a SEB would clarify rights of redress for those most in need, “but it must be resourced to at least the level of what is deemed appropriate by the International Labour Organisation”. Unions stated that if the enforcement bodies do not have the capacity to go out and investigate and find the necessary evidence, then they believe that is a key indicator that the enforcement system is not fit for purpose. Another respondent suggested that even adequate resourcing of the UK’s labour market enforcement bodies or an SEB will not be in and of itself sufficient to root out the exploitative sponsors that are engaging in these practices. What is required is a fundamental culture shift and an acknowledgement of how the UK’s immigration rules play into labour market non-compliance.

Regarding the **prioritisation of issues**, unions acknowledged that the three enforcement bodies (the EAS, NMW and GLAA) have a difficult job prioritising their resources and there is some concern that enforcement bodies are still not addressing the issue of non-compliance. Unions believe that the remit of the enforcement bodies is too narrow and should not be limited further. They say that despite repeated reform commitments by the current government, statutory holiday pay is not enforced by any of the enforcement bodies.

Across the three bodies respondents made the following points:

- **HMRC NMW:**
 - should evolve their strategic approach towards an intelligence and risk-based model addressing the most egregious sectoral abuses of NMW.
 - need to recognise that lack of English language abilities and worker collusion models restrict complaints in at risk sectors.

There had been a significant fall since before the pandemic in arrears identified via direct worker complaints to HMRC NMW (pre-pandemic this was £14.5m but fell to £3.1m in 2021-22). It was suggested this drop is not the result of successful enforcement, as the amount of arrears collected by targeted enforcement action taken by HMRC NMW Enforcement based on labour market intelligence, increased by £6m between 2018-19 and 2019-20 and has remained higher in the subsequent two years.

- **GLAA:**
 - respondents expressed low confidence in the ability of GLAA to tackle emerging cases in a proactive and timely manner.
 - one respondent referred to the fact that GLAA will only inspect farms that use SWV scheme labour where there are allegations that meet the threshold for modern slavery. The respondent advocated joint inspections of SWV scheme farms by UKVI and GLAA.

It was suggested that given that migrant workers feature heavily in the top sectors the GLAA is known to be targeting as areas of priority, their almost complete absence from the GLAA strategy 2023-26 is puzzling.

Similarly, it would make sense to refine the GLAA’s reporting of performance measures in relation to the support that workers receive.

- **EAS:**

- we were told it is hard to know exactly what issues the EAS are addressing as they are not really visible.

It was **recommended to us** that **HMRC NMW, GLAA and EAS** invite the National Audit Office to conduct a review to improve outcomes, impact and value for money.

HMRC NMW, GLAA and EAS should develop, measure and report against appropriate outcome and impact based key performance indicators aligned with the regulators' code and implement effective stakeholder engagement as the regulators' code with trade associations and other representative bodies.

2.3 Better joined-up thinking

Call for evidence hypotheses

2.3.1 Coordinated enforcement actions by the enforcement bodies are helping to achieve a more compliant labour market.

2.3.2 Cross-government working has been effective in tackling labour exploitation in high-risk sectors (for example, care, hand car washes, agriculture, construction)

Key points

- **Coordinated enforcement is helping achieve a more compliant labour market**
 - Collaboration across the three enforcement bodies was recognised.
 - Coordination across labour enforcement could be improved by more aligned strategic objectives.
 - Uncertainty between clarity of roles and responsibilities and evidence of join-up.
 - A single enforcement body would achieve more join-up.
- **Cross-government working is effective at tackling exploitation in high-risk sectors**
 - Hard to see cross-government effectiveness.
 - Delays in sharing information hinders effectiveness.
 - Outcomes and good work should be shared more widely.
 - Threshold for interventions creates gaps in the enforcement landscape.
 - Joint inspections with Immigration Enforcement undermine worker trust.
 - More joined-up co-ordination with NRM referrals and redress for workers.

2.3.1 Coordinated enforcement actions by the enforcement bodies are helping to achieve a more compliant labour market.

Overview of call for evidence responses to hypothesis/statement

Agree	9%	Partially agree	21%	Disagree	27%	Not stated	43%
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Responses advocated more coordinated action by the three enforcement bodies and other key stakeholders, suggesting that DLME should consider what more could be done to help increase the enforcement bodies’ and wider departmental and stakeholders’ understanding of each other’s roles. Currently the enforcement response by agencies and between government departments is seen as fragmented, bringing into question the effectiveness of the existing enforcement approach. It was noted that the same sectors were always appearing as high-risk, despite years of enforcement efforts within these sectors. There seems to be no reduction in exploitation within these high-risk sectors and hence current enforcement interventions are not working. Others asked if it is time for risk to be viewed through another, non-sectoral lens, suggesting non-compliance is broader than those sectors and more proactive enforcement is needed.

Joint inspections – there was opposition to joint working between labour market and immigration enforcement.²⁰ NGO evidence found that in 2020, all labour enforcement agencies had reported migrant workers to immigration enforcement at least once, and the GLAA had shared 89 reports. Overall HMRC NMW carried out the highest number of joint operations with the Home Office immigration enforcement, totalling 446, or 26 per cent of all HMRC NMW joint inspections. Although joint inspections are seen as important in preventing and identifying labour exploitation and modern slavery, it was argued that joint raids can also put migrant workers at risk and undermine trust in enforcement.

However, there was recognition that the three enforcement bodies work closely together and share intelligence amongst themselves in order to produce a more effective and coherent response on both a national and regional level, as well as by sector. There were examples of some **collaboration with organisations beyond my remit** (notably training Acas advisers) in turn leading to a significant increase in referrals to the three bodies in recent years. Others highlighted that a lack of collaboration between enforcement and business means that data does not flow (confidentially) between organisations, resulting in prolonged investigations and more victims of exploitation, abuse, or modern slavery.

Publicity campaigns undertaken by the enforcement bodies are seen to have positive impacts. It was noted by Acas that collaboration with HMRC on national and local NMW campaigns, and adding the Acas helpline number in campaign letters that HMRC NMW sends out to employers, has increased the volume of complaints. One respondent told us they are working with the support from EAS, GLAA and HMRC NMW through the collective regulation steering committee, on what an effective model could look like for regulators.

Single enforcement body (SEB) – respondents said the failure to prioritise establishing a SEB (a 2019 manifesto commitment) had encouraged more non-compliant business and was hampering enforcement bodies’ ability to coordinate activities. The SEB was regarded as being more effective than the current system and easier for workers to raise a complaint. Respondents argued that the absence of a coherent coordination mechanism with pooling of resources and intelligence gathering has impeded the various enforcement bodies’ ability to efficiently enforce the law.

20 Labour Exploitation Advisory Group, Opportunity Knocks: Improving responses to labour exploitation with secure reporting, April 2020. London: Focus on Labour Exploitation (FLEX) <https://labourexploitation.org/app/uploads/2020/04/LEAG-SECURE-REPORTING-FULL.pdf>

Others advocated for a **SEB that delivers beyond the current remit** of the DLME, extending to areas such as human rights, health and safety and the regulation of pensions. We were told ineffective cross-government working is reflective of a lack of governmental support and action. Respondents recognised the value of multi-agency working approaches and articulated a need for greater shared strategic objectives. **Local authorities** were also seen as playing a role in enforcement and it was highlighted that multiple agencies involved make it confusing and unclear of who is responsible meaning that issues are not followed up.

2.3.2 Cross-government working has been effective in tackling labour exploitation in high-risk sectors (for example, care, hand car washes, agriculture, construction).

Overview of call for evidence responses to hypothesis/statement

Agree	0%	Partially agree	12%	Disagree	40%	Not stated	48%
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Only half of respondents gave a view on whether collaborative working by the bodies had been effective in tackling exploitation in high-risk sectors. Of these most thought such interventions had been ineffective.

It was suggested achieving impact requires collaboration between a wider set of stakeholders. Respondents cited the collaborative initiative between Acas, the TUC, Leicester City Council and a local charity to encourage anonymous reporting and trade union access to factories in the Leicester garment industry, to identify problems.

The role and effectiveness of local communities was highlighted in response to labour exploitation and how they complement and enhance the work of the enforcement agencies. Operation Tacit in the Leicester textiles sector was suggested as reflecting joined-up working.

In the adult social care sector, there was also a call for a more joined-up approach across enforcement bodies and wider sector regulators such as the Care Quality Commission and others.

Seasonal worker visa scheme (SWVs) – there remains uncertainty within the visa scheme around how roles and responsibilities are divided between the Home Office, other government departments, devolved administrations, and local authorities. Respondents also commented on the industry-led Seasonal Worker Scheme Taskforce (SWST) who have run several projects including regional roadshows and a toolkit for good practice for employers, a common assessment of scheme operators, and provide a multi-language worker-information app.

2.4 More engagement and support for businesses and workers

Call for evidence

2.4.1 Failure to provide detailed, timely, physical, and accessible payslips can leave workers vulnerable to exploitation.

2.4.2 Key information documents (KIDs) are providing those workers entitled to receive them all the information they need in relation to their employment.

2.4.3 A lack of contractual clarity around employment status can put people at greater risk of exploitation.

2.4.4 Migrant workers coming to the UK on short-term visas are less likely to be aware of their employment rights or to seek remedies in cases of labour violations.

2.4.1 Failure to provide detailed, timely, physical, and accessible payslips can leave workers vulnerable to exploitation.

Overview of call for evidence responses to hypothesis/statement

Agree	61%	Partially agree	0%	Disagree	0%	Not stated	39%
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Key points

Payments:

- not all workers get payslips.
- payslips need to be accessible for workers.
- lack of clarity on payslips; including deductions, overtime payments and miscellaneous amounts can be misleading for workers.
- workers may be missing out on holiday pay, sick pay and maternity pay due to them.
- precarious and fluctuating payments makes it more challenging to check payments are accurate.

Around 60 per cent of respondents gave a view on this question but all agreed that lack of (clear) payslips can pose a threat to worker exploitation.

Respondents said their previous research has identified that provision of clear payslips is an area of persistent non-compliance. The Resolution Foundation’s report *Enforce for Good 2023*²¹ states that 1.8 million workers do not get a payslip. Other evidence we received suggested this was worse in small and medium companies (14 per cent of firms with fewer than 20 workers did not receive a payslip) as well as among migrant workers (22 per cent). Another respondent said that 60 per cent of those workers who reported receiving a payslip stated that they did not understand it either due to a lack of clarity around the make-up of their pay, or variances in the pay received

²¹ <https://www.resolutionfoundation.org/app/uploads/2023/04/Enforce-for-good.pdf>

week to week, making their payslip confusing. Respondents said they see numerous reports from workers who have not been paid accurately or on time and this often goes hand in hand with a lack of payslip being provided.

Case study

“I recently left my job as an hourly paid worker with a local public body. I only ever had a zero hours contract, and my working hours were different every month, so it was very important that I kept an eye on my payslips.

About 5 years ago the organisation moved our payslips online, which I was always able to access at home. But now when I try to log in, I am getting a message that the page is no longer accessible externally.

My question is this: can my former employer prevent me from accessing my payslips like this? I would have thought that as they were addressed to me, the correspondence belongs to me. This is important to me as I will be owed some holiday pay and will need to check that this is correct. I am also registered as self-employed and need to check that my PAYE income is correct when completing my tax return. Finally, I am generally annoyed that I was forced into getting these online payslips in the first place and now my former employer has control over this personal information”.

Anonymous

Respondents gave us sector-specific examples on this issue:

- Although the 2021 Defra **seasonal worker** survey shows high levels of compliance with pay arrangements, respondents argued that lack of payslips is a more prevalent issue. For example, 19 per cent of workers in agriculture reported not getting a payslip. A survey by the Work Rights Centre was also highlighted which noted that some workers on the seasonal worker visa scheme received payslips that did not meet the hours guaranteed in their contracts.
- Confusing and misleading use of payslips in the way deductions for ‘accommodation offset’ in the **shipping industry** was also reported to us. Although the UK NMW does not apply here, the custom and practice in shipping is not to charge seafarers for accommodation, especially onboard accommodation during their contracted period of work.
- **Social care sector** – UNISON research²² has shown that 63 per cent of home care workers cannot tell from their payslips whether they are being paid for all their working time, and that minimum wage records are often very hard to access. Unions advocate for it to be compulsory for social care employers to separate out travel time payments on payslips in order to help prevent them from potentially masking underpayment.

Particular issues were raised in relation to **umbrella companies**, where we were told workers had widespread challenges with either not getting payslips or receiving complicated payslips filled with jargon that make it difficult for workers to understand what they are being paid for and their deductions. JobsAware surveys of jobseekers and non-permanent workers conducted in Q1 2022 and Q2 2023 about their experience with umbrella companies showed that although the proportion of umbrella workers receiving a payslip had improved (38 per cent in Q2 2023 versus 48 per cent in Q1 2022), it was still the case that less than half of umbrella company workers surveyed said they received a payslip. Other respondents highlighted the rate of pay advertised by

22 Unison – Pressed for Time and Out of Pocket available at: <https://www.unison.org.uk/content/uploads/2019/04/Pressed-for-time-and-out-of-pocket-04-2019.pdf>

an agency often does not reflect the fact that the worker will be processed through an umbrella company and, so workers end up receiving lower rates of pay that do not match the original salary offer. There was a call for the employer to make it clear to the worker the ‘margin’ charged by an umbrella company and furthermore advocate that umbrella companies that fail to provide such detailed information as part of any due diligence process should be prohibited from trading. Unions welcomed the proposal to introduce and regulate for minimum legislative provisions for an umbrella company.

Respondents raised a number of other issues around **pay entitlements**, some of which fall outside the DLME remit:

- Some two million workers are not receiving their legal entitlement to **holiday pay**, missing out on an estimated £3.1 billion per year.²³ This equates to one in 14 workers were not getting their legal holiday entitlement. By volume of workers the key sectors affected here are education (341,000), retail (302,000), and health and social care (264,000).
- It was argued that agency workers, such as supply teachers, are a category of workers who are particularly at risk from receiving no holiday pay and/or sick pay and they are also a group who face more difficulty in enforcing their rights due to a lack of voice in the workplace, coupled with a lack of job security if they do complain.
- **Holiday pay is often being calculated incorrectly** by employers. System errors, failure to account for legislative changes, misunderstanding of what elements of pay should be included in the calculation are added levels of complexity.
- There can sometimes be a lack of understanding around the calculation of **overtime payments** on payslips.
- Respondents said many workers often face short-term underpayment of wages due to **outsourced off payroll function** with the respondent suggesting this has happened to several large companies, causing workers significant hardship. We were told this widespread outsourcing of HR departments and functions is making it more difficult for employees to query any issues.
- Respondents said **online payslips** are causing workers a problem to access, even more so once they have left employment. Unions told us that in 2022 they had nearly 5,000 members access online training to understand how to access their payslips and other basic digital skills.

2.4.2 Key information documents (KIDs) are providing those workers entitled to receive them all the information they need in relation to their employment.

Overview of call for evidence responses to hypothesis/statement

Agree	21%	Partially agree	21%	Disagree	34%	Not stated	24%
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23 <https://trustforlondon.org.uk/research/unpaid-britain-wage-default-british-labour-market/>

Key Points

- **Key information documents (KID's)**
 - KIDs are welcomed, but what positive impact are they having was questioned.
 - KIDs are not being used as originally intended.
 - Employment status can be difficult for business and workers to understand with implications on employment rights.

Key Information documents (KIDs) were introduced in April 2020 to provide greater transparency for workers between employment businesses and end hirers. From our call for evidence of the three-quarters of respondents who gave a view more than half believed KIDs were providing the information needed by workers.

Although KIDs are seen as a positive step, the main concern from workers surveyed is those who are entitled to a KID may not be receiving them at all. A JobsAware survey of website visitors found that only 13 per cent of umbrella workers said they received a KID in Q1 2022, increasing to 18 per cent in Q2 2023. If workers who are entitled to a KID are not receiving them, then it is difficult to test the effectiveness of them.

Another respondent said a 2021 survey of 3,750 contractors found that 57 per cent of respondents did not know what a KID was and only 26 per cent said their agency provided them with one despite this being a legal requirement.

A survey by the supply teacher's union, the NASUWT, revealed that only around a third (34 per cent) of supply teachers in England and Wales who obtained work through a new supply agency said they had been provided with a KID, detailing how they would be paid and any associated deductions and other key details. It was therefore seen as vital that the EAS carries out targeted enforcement activity within the teaching sector.

Under the seasonal worker visa scheme, we were told that KIDs are provided to all workers they are engaged with as part of their initial induction.

2.4.3 Lack of contractual clarity around employment status can put people at greater risk of exploitation.

Overview of call for evidence responses to hypothesis/statement

Agree	49%	Partially agree	0%	Disagree	0%	Not stated	51%
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Key point

A lack of contractual clarity causes ambiguity for workers on platforms, in umbrella companies, and within the gig economy.

Only half of respondents answered this question, but all agreed the risk of exploitation is increased by lack of contractual clarity.

Lack of contractual clarity – Evidence from the *UK Insecure Work Index 2022* noted a lack of clarity and choice around contractual terms and conditions can create uncertainty for some workers and them missing out on certain employment rights and protections.²⁴ One respondent reported one in five (19 per cent) of the people who reached out to them for support during 2022 were experiencing difficulties in understanding their contractual entitlements.

Particular concerns were raised in relation to:

- The creative industries, and in particular working conditions in the film and television industry.
- Contractual insecurity makes it much harder for workers to address bad practices in the workplace. We were told that freelancers were afraid to speak out against bullying, racism, and sexual harassment, fearing that they would be labelled a troublemaker, and this would prevent them from getting their next project.
- The Work Foundation told us as many as 35 per cent of the migrant workers they support did not have a written terms of employment. Also, workers on the seasonal worker visa scheme were not receiving contracts in their primary language or being provided with inaccurate information about working conditions at the point of recruitment. Only half of migrant workers they engaged with told them they had received a contract and only one of these reported that their contract properly reflected their rights and working conditions. Many workers receive only a verbal contract and those that did get a written contracting reported this was removed once signed.

We were told that for the vast majority of employment relationships determining **employment status** is relatively straightforward and causes little confusion or difficulty for employers or individuals. Where there is a lack of contractual clarity around employment status, as well as the complexity of the current legal tests for status, it was seen as causing a great deal of uncertainty and confusion. In some cases, it was seen as causing the deliberate misclassification of individuals' status to deny workers of key employment rights and workplace benefits, including minimum wage entitlements, national insurance contributions, sick pay, holiday pay, and employers paying pension contributions. Reporting of calls to one helpline suggested business are classifying workers as self-employed as a reason not to discuss or specify clear terms and conditions. One example from a caller who enquired about his rights to his manager was dismissively told, 'you do not have a contract, you are self-employed'. We were told some workers have described their situation as being 'kept on freelance' or 'not really self-employed'. A range of evidence we received suggests some 10 to 15 per cent of self-employed are wrongly categorised. This can cost individuals an average of £1,200 in lost holiday pay and a loss to the government of national insurance contributions worth around £300 per person per year.

We were also told about workers who have no contract of employment and are forced to register as self-employed, regardless of the number of hours worked under a single employer. Migrant women cleaners sometimes receive encouragement to leave their permanent contracts and 'become their own bosses' through self-employment, often supported by the hiring companies. Despite becoming self-employed, the workers end up working regular hours with one employer with no possibility of negotiating conditions.

Respondents were therefore calling for clarity with umbrella companies around boundaries between 'employee' and 'worker', and 'worker' and self-employed'.

Migration Observatory research²⁵ was cited highlighting that non-EU migrant workers are more likely to be working on **zero-hour contracts** (ZHC) than their British counterparts. ZHC working is prevalent in cleaning, warehousing, social care and childcare. Respondents noted a growth

24 <https://www.lancaster.ac.uk/work-foundation/publications/the-uk-insecure-work-index>

25 Migration Observatory Research – 2023 available at: <https://migrationobservatory.ox.ac.uk/resources/briefings/the-labour-market-effects-of-immigration/>

in ZHCs with workers enduring poor conditions, exacerbated by a fear that their employer may respond by restricting future work opportunities – a practice sometimes referred to as being ‘zeroed down’. Acas has previously labelled this predicament a form of ‘effective exclusivity’ from rights as, with little or no recourse open if their hours are reduced, such workers understandably may refrain from asserting their rights. We were told that a worker may work a full-time week on a zero-hours contract for months or even years, but they may also suddenly be given only 10 hours per week, or no hours at all. This precarity tilts the power balance in the employee-employer relationship very much in favour of the employer.

A business within the private hire vehicle (PHV) sector told us that they provide clear terms and communication to their drivers about their worker status, and the protections that come with it. They always provide drivers with an ‘upfront price’ which indicates what their earnings will be before they decide to reject or accept a trip. Immediately after a trip, they also provide a trip receipt, which confirms their trip earnings and any tips. Drivers are paid weekly, with pay being accompanied by a weekly earnings statement, which alongside their earnings outlines what they have received from the worker entitlements provided by the business, like holiday pay and pension contributions. We were told that alongside providing clear written terms and payment information, drivers have numerous ways to access information and engage with us about the benefits and protections available to them through the app and online, as well as regular updates and signposting to information. Drivers are able to speak to dedicated support agents over the phone or through the app at any time and via driver hubs that operate across the UK, providing in-person guidance to drivers on any queries they may have during their day-to-day work on the platform, including their worker protections.

2.4.4 Migrant workers coming to the UK on short-term visas are less likely to be aware of their employment rights or to seek remedies in cases of labour violations.

Overview of call for evidence responses to hypothesis/statement

Agree	56%	Partially agree	3%	Disagree	0%	Not stated	41%
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Key points

- **Migrant workers on short term visas are less likely to be aware of their employment rights**
 - Migrant workers have additional barriers to seek redress, including language and cultural differences.
 - The short-term nature of the visa makes it harder for migrant workers to seek remedies.
 - Mechanism to ensure the migrant workers are not unduly impacted when sponsors have licences revoked.
 - There is a bigger role for community organisations to reach vulnerable workers.

Around 60 per cent of respondents shared views on this statement and all agreed that migrants coming to work in the UK on short-term visas will have lower awareness of their employment rights. This view appears to be supported by a recent 2023 report²⁶ that found that migrant workers are often unaware of their rights or feel unable to assert these rights in practice.

A number of points were raised by respondents in connection with this.

- **Language is a real barrier** and there needs to be greater provision of documentation in different languages. Information in some languages in particular is limited. This was especially the case in 2022 with the switch away from Ukrainian seasonal workers to those from countries such as Kyrgyzstan and Uzbekistan with little to no provision of information in these languages. Migrant workers who had spent more time in the UK tend to be better informed of their labour rights than those in the country for less than a year.
- **The role of community and NGOs** was recognised both at local and regional level, where community organisations with direct engagement with client groups can do much on the ground to build trust and channel information. They can help raise awareness, offer progression pathways, and bring in official enforcement agencies when needed. Such activities have happened through a wide range of ad-hoc funding sources, but this approach restricts NGO's ability to provide a comprehensive and sustainable support package for migrant communities. Another respondent highlighted that third sector and community-based organisations play a critical role in advising harder to reach communities. The role of the NGO can help facilitate community cohesion throughout the advisory process. It was suggested the UK's enforcement bodies would do well to learn from and engage more actively with community organisations on a regular basis.
- Evidence suggests workers on **short-term visas** are less likely to seek remedies in cases of labour violations, due to a lack of knowledge about the support available, or fears about the impact this could have on their immigration status and ability to remain in the UK. Short-term visas are inherently a high-risk for workers including high migration costs and risks of debt bondage. The short duration of these visas makes it difficult for overseas workers to access information or rights and seek redress whilst in the UK. The Universal Periodic Review²⁷ recommendation 279 – '**Take steps to ensure migrant workers are not left vulnerable to abuse and exploitation from employers and the UK visa system**', was supported by the UK in its response, respondents claim it is not clear what steps have yet been taken.
- Respondents also highlighted the risks created through the health and care visa sponsorship scheme. The UK is increasingly reliant on overseas health and care workers, but this visa scheme creates multiple dependencies for workers from their employers which make it very difficult for them to raise complaints even where conditions are very poor. Workers are not complaining due to fear of losing their job and limited opportunities of switching to another sponsor. Respondents ask for careful scrutiny of the risks created by the sponsorship system and how these can be mitigated in ways which provide practical assistance to workers. Migrant workers risk being dismissed from their job by unscrupulous employers who are aware that they can escape any enforcement action once 60 days have passed before a health or care worker has to leave the UK or face deportation. We were given numerous examples of poor treatment of care workers (see below).

26 <https://landworkersalliance.org.uk/wp-content/uploads/2018/10/LWA-Debt-Migration-and-Exploitation-2023.pdf>

27 <https://assets.publishing.service.gov.uk/media/6421587f5155a2000c6ad740/uks-response-fourth-universal-periodic-review.pdf>

Illustrative examples

A migrant care worker who had just suffered a miscarriage was called into a meeting with the employer who threatened to report her to the Home Office unless she agreed to immediately resign.

A care worker paid a recruitment agent £6,000 and a broker £2,000 to secure work in the UK. She was being asked to work from 7am to 10.30pm and sometimes undertook 25 appointments a day at 30 minutes each. At work she was shouted at and told 'white people get better shifts.'

A nurse paid £12,000 to a recruitment agent in India to 'introduce' her to a UK employer, telling her that this was necessary in order to get her certificate of sponsorship. Once in the UK, she found herself paying £700 a month in rent for a shared house with no heating and mould on the walls. When she complained about this and the working conditions she and the other migrant workers were experiencing, she was threatened by the employer, who dismissed her on a trumped-up charge.

A care worker wanted to leave the terrible conditions at his care home and found a job in the local NHS trust. However, his current employer has threatened to pursue him for costs in excess of £4,000 for 'training' if he resigns before his contract of 5 years ends. His job offer from the NHS fell through because his current employer withheld a job reference. He feels tied to working to his current employer for the next five years.

Workers are being forced to work 80+ hours per week, sometimes including 19-hour shifts without a break.

Care workers are charged huge sums of money for 'relocation costs' when they seek to move jobs.

A nurse was chased for over £14,000 when she resigned from a job in a care home after she raised concerns over exploitative treatment and standards of care. Migrant care workers who were given accommodation in a care home were told they were permanently on call, asked to work at rest times and on demand. A care home nurse had over £10,000 deducted from her salary when she handed in her notice. Listed in the charges were costs the Home Office explicitly forbids from being passed on to workers, such as the immigration skills charge.

- **Migrant seafarers** – we were told that even when contracts are issued the specified fisherman's work agreement does not comply with UK law. Problems arose through ambiguous language and the term 'discretionary bonuses'. The fear is that a fisherman can be removed from the vessel and returned home, incurring an immigration penalty that forbids them from returning to work in the UK for five to ten years. Respondents argue that seafarers' immigration status is prioritised over their labour exploitation.
- **Overseas domestic worker visa (ODW)** – respondents told us that following the 2012 immigration rules change to a 6-month visa they have seen increased exploitation reported by workers. All the workers they spoke to on the new tied and short-term visa have reported being paid less than £100/week, compared with 60 per cent of those on the original visa. 62 per cent were paid no salary at all, compared with 14 per cent on the original visa. 85 per cent of live-in domestics did not have their own room and slept with the children or in the kitchen or lounge (31 per cent on the original visa).

Case study

Patricia, Isabella and Mariana (Colombians, 51, 45 and 56 years old, respectively) came to the Latin American Women's Rights Service (LAWRS) as they were contracted to carry out spring cleaning of several student accommodation buildings along with another 50 Latin American cleaners. The offered salary was between £90 and £120 per day.

Once in the job, they found very different working conditions. They were required to work between 13 and 16 hours per day, 7 days a week; the hourly pay was £4.50, which was reduced if their work was found to be 'below standard'. They slept in student rooms without blankets; and, working in remote locations and dependent on their employers for transportation, they had limited opportunities to purchase food. In addition, they were not given a copy of their contract and were not able to provide details about the company and/or supervisors. Patricia, Isabella and Mariana suffered discrimination, verbal abuse and threats. They were not allowed to visit the GP, even though they were experiencing acute pain in their hands and wrists due to the nature of the work. When they tried to ask why the salary was so low, the managers dismissed their complaints and told them not to ask again. When the workers approached LAWRS, they described high levels of stress among the workers, with many of them feeling depressed and hopeless. While those who had families resorted to asking them for support to go back home, the rest were forced to stay, as the accommodation provided was the only place they had. The case was referred to the Gangmasters Labour Abuse Authority, who, after interviewing one victim, decided they would not be referred to the NRM, leaving the victims with no support or mechanism for redress.

*Names have been changed to protect the women's identities.

- **Seasonal worker visa scheme** – growers argue that despite efforts from industry to automate this work, securing a reliable supply of labour – ideally returning each year is fundamental to the UK's food security. There are calls for the government to commit to work collaboratively with industry and education to address the blockers to progress. The current SWV scheme runs only until 2024, and business urgently needs confirmation of future plans to give growers confidence in further investment.
- **Guarantee of 32 hours a week** – since April 2023, seasonal workers have been 'guaranteed' 32 hours of work, but neither this work nor the income is guaranteed for the full duration of the 6-month visa period. This risks leaving workers in a situation where they have not earned enough to cover their visa and migration costs. The 2021 Defra seasonal worker survey found 12 per cent of workers had filed a complaint and 40 per cent stated that it was difficult to do so, suggesting this is indicative of an area for improvement.
- **SWV scheme operator licences** – we were told that when a sponsor licence is suspended or revoked, the process for workers is unclear and needs defining to avoid them being left in a compromised and stressful position. Respondents suggested a warning system whereby an operator is given a 'notification of potential grounds for suspension of licence' to give the operator the opportunity to provide their evidence and state their case, with the worker's right to remain and work in the UK unaffected. Respondents also highlighted that there are specific requirements on scheme operators to ensure that information on contractual terms is provided to all workers. Scheme operators must also ensure that workers are aware of the expectations on scheme operators and employers and of how to report concerns where those expectations are not met.

2.5 Other Issues

Call for evidence questions

Over and above the issues raised above, are there any other relevant issues you would like to bring to my attention for this strategy?

For instance:

- How might the effectiveness of labour market enforcement be improved?
- Are there examples of good practice that can be drawn from elsewhere across the regulatory landscape?
- Given the lack of progress with a Single Enforcement Body, are there benefits that it might have brought that you can envisage being delivered within the existing legislative framework?

2.5.1 Ways of improving the effectiveness of labour market enforcement.

In terms of improving the effectiveness of labour market enforcement respondents highlighted the following;

Making reporting easier – the enforcement bodies, including HMRC tax, could work together to make information and reporting facilities more accessible for migrant workers. This could include easy read versions (as well as translations) of basic guides (e.g. covering the difference between employment and self-employment), clarifying pay arrangements between employment agencies and umbrella companies.

Simplifying points of contact – in relation to the garment sector, the *'Fashioning a beautiful future'*²⁸ report was cited especially around simplifying the points of contact for reporting labour abuse and to promote coordinated action in the garment sector in the medium to long term to tackle the full range of abuses encountered there. A single 'front door' was suggested as a contact point for workers wishing to make a complaint to enforcement agencies and seeking ongoing support and case management for those who raise issues.

Reporting outcomes – successful enforcement outcomes should be communicated to raise confidence among workers that action is being taken.

Secure reporting mechanisms – it was argued the absence of secure reporting pathways, especially for workers with restricted or insecure immigration status, makes them reluctant to approach labour market enforcement authorities, out of fear that these bodies will prioritise immigration status over investigating any non-compliance. UK's immigration system and the possibility of tied visas means that workers are dissuaded from reporting cases of non-compliance. The lack of a firewall between migrant workers and immigration prevents many coming forward and raising the alarm on non-compliant practices. The UK's response here differs to that of international partners.

Management training – there should be more investment in management training to improve workplace practices. Improving the effectiveness of labour market enforcement should include a focus on addressing how government and the enforcement agencies can work with social

28 <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2022/june/fashioning-a-beautiful-future.pdf>

partners, professional bodies and other agencies on a national, sectoral and regional level, to raise the quality of leadership and people management practices across the UK economy. Managers need to be equipped with the skills to engage in the early resolution of concerns and, in doing so, would contribute to the creation of more compliant, inclusive and high-performing workplaces.

Smaller business needs even more support here, as awareness of and compliance with employment regulation is a heightened challenge requiring better quality advice and business support in this area. Smaller businesses should be more plugged into quality business support via local enterprise partnerships and growth hubs to help improve enforcement of employment rights.

Operators and UK based business – that engage migrant workers either directly or via an agency should, it was argued, be held liable for any breaches, non-compliance or possible modern slavery issues. UK employers in turn would have a greater focus on due diligence when engaging migrant workers, which should then help to reduce exploitation.

Migrant worker welfare strategy – it was suggested the UK should institute a migrant worker welfare strategy, that recognises the contribution that migrants make to the UK's economy but mitigates against the factors that bring about potential exploitation. Others suggested a pathway to better work is badly needed.

Additional awards/penalties – should be available at employment tribunals for repeated non-compliance. The failure to apply penalties to broadly comparable circumstances in an organisation, undermines the effectiveness both of the employment tribunal system and of employment law, as well as good employment practices and standards in the workplace. There was also a call for stronger actions against those who repeatedly ignore their responsibilities. Employment tribunals should also consider how they might be empowered to take a broader and more constructive approach, for example to recommend employers improve working practices in those organisations where a pattern of non-compliance comes to the tribunal's attention.

Supply chains – the complexity of tackling exploitation in supply chains was recognised and it was highlighted that a smart mix of policy was needed to address this. Although the transparency in supply chains clause (TISC) in 2015 was welcomed, and despite improved awareness of modern slavery by UK businesses, alongside the prevention efforts of the GLAA, more needed to be done to drive tangible positive systemic change in supply chains and for workers. Some suggested an urgent need for new binding standards. Moreover, the UK should keep in step with global developments on this issue would create a level playing field between UK businesses and their global counterparts.

It was seen as essential to produce intelligence leading to actionable insight. The Modern Slavery Intelligence Network (MSIN), established by businesses in the food supply chain, is seen as trailblazing in this space. We were told this membership organisation has built a high level of trust enabling faster intervention and disruption. Collaboration with enforcement bodies and policymakers would strengthen the network and its impact.

2.5.2 Examples of good practice.

We received numerous examples of good practice that can be drawn from elsewhere across the regulatory landscape, as follows:

In **agriculture** – a respondent told us they have invested in excess of £8m in accommodation and social facilities over the last 10 years, reducing occupancy levels, increasing bathroom facilities, and improving welfare facilities.

In **hospitality** – following the pandemic vacancies in the sector exceeded 150,000. To help improve the sector's profile more than £1m has been invested on a promotional campaign 'Hospitality Rising'. The Hospitality and Tourism Skills Board is also bringing industry leaders together to focus on retention and development priorities. They have also witnessed increased pay which helps with retention. Another respondent told us about starting some work in the hospitality sector and proposals around pathways to decent work for the Romanian community working with West Midlands Combined Authority.

Collective regulation framework – we were told of two pilots underway with umbrellas companies and the food service delivery sector to promote a collective regulation framework. Such a framework could offer the labour market enforcement bodies with a number of tools to assist with designing and implementing effective and resource-friendly regulatory solutions to labour market threats. This might include extensive intelligence gathering, the development of a third-party network through which to build intelligence, and partnerships which could provide benefit to enforcement bodies when implementing regulatory solutions.

Webinars – NGOs are working together with workers and businesses doing online webinars around rights at work for a number of client groups. One respondent also told us about delivering holistic training packages around the culture of work in the UK and related information and offering help for those who are in self-employment and/or in precarious work.

Responsible car wash scheme – This self-regulating scheme that operated with the support of the government was seen as good practice, but without government support it is no longer operating. It was argued its absence will deprive the sector of a valuable information gathering resource.

Powers to board a foreign flagged ship – it was highlighted that the legal right to board a foreign flagged ship in a UK port, under port state control legislation for the Maritime and Coast Guard Agency (MCA), is an important principle which should be broadened to address wider seafarer employment issues, beyond enforcement of the Seafarers Wages Act. The latter only requires evidence that seafarers are being paid at least the equivalent of the minimum wage for work carried out in UK territorial waters on ships that call at a UK port from a foreign port at least 120 times a year.

International examples – one respondent drew comparisons with international examples of addressing modern slavery threats. We were told of examples in:

- The US, which utilises a specialised modern slavery taskforce within their labour inspection that can be highly trained and conscious of identifying coerced behaviour.
- Brazil, which navigates the geographical challenges by creating judicial teams for inspecting, protecting, and then prosecuting within one instance to prevent the escape of traffickers in the interim.

2.5.3 Given the lack of progress with a single enforcement body, are there benefits that it might have brought that you can envisage being delivered within the existing legislative framework?

There was widespread support among respondents for establishing a single enforcement body (SEB) that had both a sector focus and on tackling deliberate non-compliance. It was also suggested looking at the benefits that the SEB might have brought that can be achieved through the existing legislative framework.

The publication *Restating a Case for a single enforcement body*²⁹ commissioned by the Independent Anti-Slavery Commissioner was cited as a preliminary literature review, undertaken to support a bid for a larger project to establish a clear framework for what a SEB could and should look like, and how that could be achieved.

Stakeholders suggested a number of benefits that could arise from a SEB, including:

- extending state enforcement to other areas such as the Health and Safety Executive, Security Industry Authority, Pensions Regulator, Care Quality Commission and Groceries Code Adjudicator.
- maintaining standards across government administrations.
- bringing a single branding that can be trusted and used by workers and employers alike. This would raise the visibility and awareness of enforcement options, bringing greater clarity for both workers and employers on their rights.
- more straightforward signposting for those seeking help and advice. Increasing the reach within high-risk sectors and support for vulnerable workers.
- coordinated enforcement action led by clear and understood mandates, roles and ample resources with pooled intelligence and more effective resourcing and closer working with other enforcement partners, providing users with a more integrated service.

Citing the Resolution Foundation 2023 report, *Enforce for Good: Effectively enforcing labour market rights in the 2020s and beyond*, respondents also drew on international examples from Ireland, France, the Netherlands, Norway, and Australia comparing and contrasting approaches to labour market enforcement. A key message here was that by not having a centralised SEB means the UK lags behind these other nations when it comes to worker rights and enforcement.

29 <https://antislaverycommissioner.co.uk/media/kgljnncu/rights-lab-iasc-restating-the-case-for-the-seb-report-2023.pdf>

Annex A: Abbreviations/Acronyms

- ACAS:** the Advisory, Conciliation and Arbitration Service
- CIS:** Construction industry scheme
- DEFRA:** Department for Environment, Farming and Rural Affairs
- DLME:** Director of Labour Market Enforcement
- EAS:** Employment Agency Standards Inspectorate
- GLAA:** Gangmasters Licencing and Abuse Authority
- GRASP:** Global Risk Assessment on Social Practice
- HCW:** Hand car washes
- HMRC – NMW:** HM Revenue and Customs – National Minimum Wage
- ICO:** Information Commissioners Office
- KID:** Key information document
- LME:** Labour market enforcement
- MAC:** Migration Advisory Committee
- MSPEC:** Modern Slavery Policy and Evidence Centre
- NGO:** non-government Organisation
- NRM:** National referral mechanism
- ODLME:** Office of the Director of Labour Market Enforcement
- ODW:** Overseas domestic worker visa
- PA:** Personal assistant
- RCWS:** Responsible car wash scheme
- RMT:** The National Union of Rail, Maritime and Transport Workers
- SAWS:** Seasonal agricultural worker visa
- SEB:** Single enforcement body

SMETA: Sedex members ethical trade audit

SWST: Seasonal Worker Scheme Taskforce

TISC: Transparency in supply chains

TUC: Trade Union Congress

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