

Labour Market Enforcement Strategy 2025 to 2026: call for evidence

Submission to the Department for Business and Trade

**Chartered Institute of Personnel and Development (CIPD)
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About CIPD

1. The CIPD is the professional body for HR and people development. The not-for-profit organisation champions better work and working lives and has been setting the benchmark for excellence in people and organisation development for more than 100 years.
2. It has 160,000 members across all sectors and sizes of organisation and provides thought leadership through independent research on the world of work and offers professional training and accreditation for those working in HR and learning and development.
3. Public policy at the CIPD draws on our extensive research and thought leadership, practical advice, and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers. It also seeks to promote and improve best practice in people management and development and to represent the interests of our members.
4. As the UK's chartered body for HR and people development, we support the government's ambition to create more inclusive and better-quality work. Our members are the frontline practitioners who will be implementing these reforms, designing policies and training managers and workers to ensure they understand new rights, obligations and procedures in workplaces across the UK.

Employment rights enforcement priorities and governance

1. Briefly, and in no more than 100 words, what do you believe should be the priorities for employment rights enforcement as we transition to the FWA?

The CIPD have long called for a new single enforcement body and we welcome the establishment of a Fair Work Agency. However, to realise the ambition of the new agency the government must take further steps to improve labour market enforcement and support employer compliance.

Improving enforcement will require a comprehensive labour market enforcement strategy that includes the new Fair Work Agency, the work of the Health and Safety Executive and the Equality and Human Rights Commission. Additional funding will be required for more labour market inspectors and measures to improve the efficiency of the over-burdened employment tribunal system.

The CIPD has also called for Acas' budget to be doubled to £120m a year to support its ability to advise and support employers - particularly SMEs - to comply with new regulation and ensure the system overall can play a much stronger role in raising employment standards.

2. The FWA will take some time to be set up. What should priorities be for the enforcement bodies before then?

We agree that the four themes and 12 supporting recommendations set out in the previous strategy remain valid and should underpin the work of the enforcement bodies as we transition to the FWA. In particular we highlight the need to:

- **Encourage compliance in SMEs (recommendation 6):** The challenges of enforcing employment rights is particularly acute among smaller employers with non-compliance often a result of ignorance rather than deliberate action, either because of a lack of resources or HR/legal expertise, or both. We look forward to hearing more about the progress of the pilots with the growth hubs.

- **Workers (recommendation 7):** We welcome the work initiated so far to help ensure workers are aware of and are able to exercise their rights, in particular the work you are doing to develop understanding of worker characteristics to help tackle worker exploitation.

The CIPD has consistently urged the Government, working with organisations such as Acas, Citizens Advice, trade unions and professional bodies, to run a high-profile ‘know your rights’ campaign, setting out information on employment rights, as well as where to go if workers have concerns or want to make a complaint. This could be supported by communications from Companies House and HMRC sending out clear guidance on core employment rights to every new business that registers and then completes its annual tax return.

- **Collaboration between the three enforcement agencies and beyond (recommendation 12):** Improving collaboration and co-ordinated activity across the three agencies that will form the FWA will be fundamental to its effective operation, but this should be subject to enforcement activity across the labour market and involve all agencies with a remit to promote and enforce employment, health and safety and equality rights.

Even when workers are aware of their rights, the data suggests that many employers are not being held accountable to their duty of care and that when individuals do submit a claim to an employment tribunal, they are likely to face a significant delay before their case is heard.

2. The FWA will have a statutory duty to publish annual reports and a triannual strategy, overseen by a social partnership board with tripartite representation from business representatives, trade unions and independent experts. What data and reporting should the FWA publish to ensure good accountability and transparency, via these publications or otherwise?

The FWA should produce data which demonstrates if it is delivering on its objectives to improve the enforcement of employment rights. This should cover if it is meeting agreed targets on workplace inspections overall and in key high-risk sectors. It should report on how it has worked with the Health and Safety Executive and the Equality and Human Rights Commission to support efforts to improve enforcement more broadly.

It should also report on the proportion of workplace inspections that are proactive and the proportion that are reactive.

Communication and engagement

1. How do you expect stakeholders to be engaged by the FWA and what do you see as the benefits?

CIPD research has shown that awareness of the three enforcement bodies that will form the FWA is low, as the 2024-25 labour market enforcement strategy also highlights. The strategy already underlines the importance of raising awareness such as through local and national media channels. It will also be vital to work with bodies such as Acas but also government, membership, professional, trade and sector bodies - as well as trade unions and the TUC - to build engagement with the FWA. There needs to be a comprehensive stakeholder communications strategy developed as soon as practically possible to ensure that all key bodies and agencies across the employment arena are engaged and supportive of the FWA’s goals as part of its formation.

2. By which channels might awareness of the FWA be increased before and once it is established and why do you recommend them?

The FWA should seek to use multiple channels to raise awareness of its role and remit.

The CIPD has 160,000 members represented across all sectors and sizes of business across the UK and is well placed to highlight the work of the new agency. As well as HR practitioners working in organisations, the CIPD also has 15,000 self-employed HR consultants in membership who work with over 100,000 SMEs to help improve their HR and people management capability and so are well positioned to communicate messages on the role of the FWA to the owner managers they work with.

Organisations like the Federation of Small Businesses and the British Chambers of Commerce represent over nearly 300,000 small business members between them and so can play a useful role in promoting the FWA and its remit. The TUC and the major trade unions will of course also be key to raising awareness of the FWA and communicating to workers its role in protecting their rights.

The CIPD and Prospect union have suggested that the Government should consider establishing a Workplace Commission as a means to strengthen social partnership at a national level and to co-ordinate policy making across government departments and relevant agencies on workplace issues, including employment regulation and enforcement.

It would bring together key labour market 'social partner' institutions Acas, Low Pay Commission, employer representative organisations, a range of trade union and workforce representative voices and other independent expert bodies to provide expert policy advice on workplace issues.

A Workplace Commission of this type could co-ordinate an awareness raising campaign among these organisations which have the reach to collectively promote the work of the FWA and any key campaigns on employment rights through their channels to employers and workers.

3. Where can communications around compliance and enforcement be improved such that workers are aware of their rights and their obligations?

We believe that enhancing communications around compliance and enforcement to improve workers' awareness of their rights and ability to seek redress is a vital part of the strategy. The number and diversity of different channels whereby workers can raise a complaint can be confusing; hopefully a new single enforcement body will act as an accessible point of contact to raise complaints across a range of employment rights breaches. We support the idea of a 'one-stop shop' in this respect. A priority should also be working collaboratively with membership, employment, professional and other third parties that represent employers. This could include more innovative approaches to reach the hard-to-reach such as small businesses - for example, by collaborating with third parties such as accountancy professional bodies (eg the ACCA) whose members are small businesses themselves who have wider reach amongst their client base of SMEs.

In addition, more focus on the proactive provision of high-quality guidance and support to aid employer compliance with employment rights in the first place would free up more resources for the state to focus on the more hardened cases of non-compliance. As well as a proactive, high-profile 'know your rights' campaign to raise awareness of workers' rights, effective awareness-raising needs to be targeted - see 2018 example below:

In 2018, the Department for Business, Energy and Industrial Strategy (BEIS) embarked on a [project](#) to 'improve worker and employer awareness of the minimum wage rates, and promote compliance, dedicated to stopping underpayment from the outset by changing the behaviour of employers and workers'.

A £1.48 million media campaign was launched to encourage workers to check their pay and take action if they are underpaid, and to build an understanding amongst workers, especially those in high-risk sectors, about the methods through which underpayment can occur, and the routes of enforcement action they can use. The media campaign was

targeted at both workers and employers (via radio, posters and so on), and in the following month a further 670 complaints were made. The subsequent [increase in funding and resourcing](#) for the HMRC NMW enforcement team facilitated a significant increase in the pursuit and prosecution of NMW non-compliance.

As the 2024-25 DLME strategy notes, there are also deep-seated issues affecting the awareness and confidence of workers to make a complaint that need to be addressed. Aside from lack of awareness of their rights, these include those who may be in fear of losing their jobs and/or being unsure of their right to work in the UK. A [Focus on Labour Exploitation \(FLEX\)](#) report shows that, while ‘gateways’ do exist for certain vulnerable groups (especially migrant workers), these may not be suitable for those in the most precarious situations. For example, advice lines can become inaccessible for those with poor language skills, and those who work irregular hours may not be able to access advice during opening hours. As highlighted above, we very much welcome the ODLME’s work to develop understanding of worker characteristics to help tackle worker exploitation.

4. Who do you see as the key partners for the FWA thinking both of other agencies or wider stakeholders (for example, by sector) and why?

A key partner for the FWA will be Acas. The Government has said that a key purpose of the FWA is to ‘resolve issues upstream by supporting employers that want to comply with the law’¹.

However, Acas will be much better placed than the FWA to provide the necessary advice and support to employers and to work with owner managers of SMEs to support compliance and improve their people management practices. Micro and small firms in particular will need support if issues are to be resolved up-stream as they are most likely to fall foul of employment law due to a lack of knowledge or resources rather than any deliberate intent.

Resourcing and prioritisation

1. What should the 3 enforcement bodies be doing now to ensure the FWA achieves sustained and lasting improvements in employer compliance?
2. How should the FWA prioritise its resource between compliance measures (helping employers) and enforcement measures (punishing poor practice, deliberate and serious non-compliance)? How might its success in both areas be assessed?

We support the aim, in establishing the FWA, to promote enforcement across the full spectrum of non-compliance, from lack of good practice and minor breaches to very serious abuses. This could support a consistent and proportionate approach, with appropriate tools and strategies to identify and rectify ‘accidental’ infringements through guidance and better awareness, as well as strong deterrent tactics (such as more robust penalties) to foster much better compliance at the more flagrant end of the spectrum. However, the new body’s success in developing and applying an effective compliance/deterrence model across the full spectrum of non-compliance will depend on a number of factors, such as a clear strategy for the new body in this regard, and achieving the right balance between compliance and deterrence.

Key points to consider in relation to the new body’s approach to developing an effective compliance/deterrence model include:

- a focus on fostering incremental change - keep it simple and understandable to achieve the highest level of compliance from employers and the best level of awareness and redress from employees

¹ <https://assets.publishing.service.gov.uk/media/67125ae0e94bb9726918ee38/fair-work-agency.pdf>

- at least an equal emphasis placed on supporting and promoting awareness and good practice in employment as on detecting and punishing breaches of regulations, but both need to be prioritised and resourced.
3. What are the key labour market non-compliance risks for which the FWA needs to be ready? What is the evidence for this?

As well as ongoing non-compliance risks, such as those in high-risk sectors and industries including the adult social care sector, as well as agriculture, hand car washes and construction, that recent UK labour market enforcement strategies have sought to tackle, the CIPD is concerned about new risks of non-compliance arising from new employment protections. These include changes to the National Living Wage but also the far-reaching statutory changes that will be enacted through the Employment Rights Bill and associated secondary legislation.

These reforms mark the biggest shift in employment rights in a generation. As a result, there will be an increased compliance and administrative burden on employers in a number of areas and a real need for clear communication of the new laws, enhanced support for employers to support compliance and better resourced enforcement. Therefore, it's essential that these new statutory rights are supported by effective information, advice and guidance, particularly for small businesses, to ensure they understand the changes and avoid non-compliance.

4. Holiday pay will be a new area of enforcement for the FWA. Where are the key priority areas as regards holiday pay non-compliance (for example, by employment model or by sector) and how might these risks be tackled?

Holiday pay and calculations for different groups of workers can be a highly complex area for employers to navigate, as it can also be for enforcement officers. The lack of clarity on their statutory obligations means that many employers don't comply due to ignorance or confusion rather than deliberate avoidance. The FWA should ensure that clear and accessible information, advice and guidance is targeted at those employers most at risk of falling foul of the law in this area. Because the law and case judgments are so complicated in this area, interpretation of the law can vary. Therefore, we believe that the law on holiday pay needs clarifying, as well as enforcing.

As well as those working in small businesses with no ready access to expert HR, legal or trade union advice and support, there are key occupations and sectors where workers are most at risk of not receiving holiday pay entitlement. These include those working in the hospitality and care sectors, according to [TUC analysis](#).

Statutory Sick Pay

As well as assuming enforcement of holiday pay, the FWA will also have responsibility for enforcing employers' obligations for paying workers Statutory Sick Pay (SSP). The Employment Rights Bill introduces significant changes to employers' obligations by removing the lower earnings limit and the three qualifying or 'waiting days'. We suspect that non-compliance with SSP is typically a hidden but nonetheless significant issue in some parts of the economy. In particular, it will be essential to ensure that small businesses are aware of their new statutory obligations in respect of SSP entitlements, and are provided with effective information, advice and guidance on the changes.

Moving towards a FWA

1. What do you value about the present practices of the three employment bodies that you want to see continued by the FWA and why?
2. What would you like to see done differently?

The FWA has the potential to play a major role in improving the enforcement and protection of workers' health and rights. It offers a real opportunity to develop and embed

a more holistic and joined-up approach to compliance and enforcement in the UK. However, its success will hinge to a large extent on whether it receives sufficient resources to do its job.

The CIPD has highlighted [key recommendations](#) to improve the labour market enforcement system by ensuring that a much stronger focus on supporting employer compliance complements stronger deterrents and penalties.

Comprehensive strategy to improve labour market enforcement required

Improving enforcement will require a comprehensive labour market enforcement strategy that includes the new Fair Work Agency, the work of the Health and Safety Executive and the Equality and Human Rights Commission. Such a strategy should be underpinned by capacity to proactively investigate complaints and require employers to take action or face enforcement activity and potentially fines for non-compliance.

To date there is very little detail on the Fair Work Agency beyond the fact that it will bring together in one organisation the enforcement functions of the Gangmasters and Labour Abuse Authority, HMRC's NMW enforcement unit and the Employment Agency Standards Inspectorate. However, this in itself will not address the UK's failing labour market enforcement system, characterised by under-resourced enforcement bodies and an overwhelmed employment tribunal system, with average waiting times of at least a year for claims to be heard.

We fully understand that some of our feedback and recommendations fall outside the remit of the Office of the Director for Labour Market Enforcement and its next strategy.

We believe that an effective labour market enforcement system needs to cover the Health and Safety Executive and the Equality and Human Rights Commission, as well as proposals to improve the efficiency of the employment tribunal system. Significantly more resources are also needed to boost the number of labour market inspectors across the different enforcement bodies, which are significantly below the levels of most other major OECD economies. Just as important, there is a need to increase the resources available to Acas, perhaps to double it to £120m a year, to boost its capacity to provide advice and support for employers. We understand the challenging public spending environment, but promoting compliance will achieve longer-term gains by reducing financial pressures resulting from non-compliance.

Health and safety enforcement

The growing impact of stress, anxiety and depression on people's wellbeing has contributed to a significant reduction in the supply of labour; however, CIPD research suggests many employers are either unaware of their obligation to take steps to identify and manage the causes of work-related stress or simply fail to meet it.

The risks to people's health caused or exacerbated by stress at work have been recognised by the Health and Safety Executive and within our health and safety regulation. Under the Health and Safety at Work Regulations and the Management of Health and Safety at Work Regulations there is a legal obligation on employers to protect workers from stress at work by doing a risk assessment and acting on it.

However, despite reducing work-related ill health due to stress being one of the HSE's [strategic priorities](#), it does not actively enforce this requirement to any great extent. A recent CIPD Freedom of Information request found that between July 2018 and July 2023, the HSE had taken no formal enforcement action against employers for failing to meet their obligation to identify and manage the causes of stress at work.

The lack of progress and action on tackling stress at work reflects the lack of resources and capacity within the HSE to take meaningful action to enforce the obligation on employers to take steps to identify and manage the causes of work-related stress. This is a missed

opportunity as where the management standards are used they can help change and improve working culture and practices.

In 2003, the HSE did issue a very few improvement notices for work-related stress, for example one was issued against [West Dorset NHS Trust](#). This led to a programme to [improve working culture and practices](#) in the hospital. However, the impact of very significant cuts to the HSE's budget from 2010 have limited its ability to take meaningful action to tackle work-related stress, contributing to its continued increase across the economy over the last few years. In order to improve HSE's capability to investigate complaints, inspect workplaces and where necessary take enforcement action to effectively tackle work related stress, its budget would need to be increased by £100m a year to restore funding to at least 2009/10 levels in real terms.

Enforcing individual rights

We believe that the UK's enforcement framework is too heavily weighted on the responsibility of individuals to enforce their rights. We note the ERB's planned extension of the time limit for workers to submit a tribunal claim. However, even when individuals do submit a claim to an employment tribunal they are likely to face a significant delay before their case is heard.

We are also concerned about the high level of tribunal awards that are left unpaid by employers, estimated at around a third. [Acas](#) has reported limited awareness and understanding by claimants of their enforcement options in relation to the enforcement of the payment of tribunal awards. In the research, only 26% of those eligible for the Fast Track payments scheme knew this was available to them. Establishing the FWA presents an opportunity to make the enforcement process simpler for workers by taking direct enforcement action against employers who do not pay tribunal awards without the individual having to fill in extra forms or pay an extra fee to initiate additional court proceedings.

Supporting the small business sector

We need to highlight in particular the challenges small firms face across all sectors in terms of awareness and compliance with employment regulation, and their need for better quality advice and business support in this area. This has considerable implications for the development of the UK's labour market enforcement strategy. [CIPD research](#) shows that a **high proportion of smaller firms are among those most at risk** of breaches of many aspects of employment legislation. For example, small firms are more likely than larger firms to cite a number of obstacles to the successful implementation of employment regulation. For example, 41% of small firms cite a lack of awareness of changes to legislation as a barrier to implementation, while just 32% of medium-sized companies and 27% of large organisations report this as a problem. This has particular relevance given the impending statutory changes via the ERB.

Therefore, we welcome the pilots to help smaller businesses access quality business support via growth hubs to raise awareness of employment rights, and look forward to hearing more about the progress of the pilots. Consideration should also be given to the FWA working with Acas through its regional office network to provide support at the local level, to educate employers on compliance.

Moving towards a Fair Work Agency - further considerations

A well-functioning, well-led and well-funded FWA could potentially bring a number of significant benefits to the employment market in the UK, most notably:

- a more strategic, prioritised, efficient and focused approach to enforcement
- the strong message it would hopefully send to employers that compliance matters and that the risks of non-compliance for them are significant

- better coordination of good work and employment standards to help employers move above the minimum legal requirements
- the potential for greater prioritisation of compliance activity across government, as well as across the economy
- improved information sharing on levels of compliance and key areas of weakness to focus on
- the application of new enforcement powers, for example in supply chains
- improved information and support provision to employees and employers, raising awareness of employment rights, breaches to them and how these should be addressed, by whom
- faster and more effective action to address identified issues.

However, there are a number of associated risks that need consideration. First and foremost, we have reservations about whether the new organisation would be adequately resourced, and the potential diversion of effort and resources that might well be involved; for example if this reduced the budgets of the formerly distinct bodies on supposed efficiency grounds. This view is partly based on past experiences of merging regulatory organisations and the creation of multi-agencies. The formation of the new body could be a difficult and time-consuming undertaking. Other risks include:

- the potential dilution of specialist expertise and knowledge in particular sectors and aspects of employment law
- the loss of focus on specific areas of enforcement
- the distraction of time and resources involved in the difficult task of forming the new body and loss of attention and resources on the core task of enforcing employment legislation
- increased rather than reduced bureaucracy and reduced overall enforcement budgets
- the risk of the enforcement body being drawn in too closely with the activities of the immigration authorities, which could dissuade individuals from raising breaches of employment rights if they were fearful of being at risk of deportation.

Concluding remarks

In summation, we believe that the success of the FWA in improving enforcement would be dependent on a number of factors, such as:

- a clear purpose and strategy for the new body which should determine its structure
- sufficient resources including an increase in the number of inspectors to a minimum of one per 10,000 employees
- at least an equal emphasis on promoting awareness and good practice in employment as on detecting and punishing breaches of regulations
- addressing the lack of information and advice for employers and workers, particularly for SMEs and non-unionised and low-paid employees
- tailoring actions to suit stakeholder needs sector by sector
- a balance of strategic action at the centre in terms of political involvement and action on multinationals, international supply chains, migrant worker abuse,

combined with local, on the ground, involvement with local employers particularly SMEs

- adequate funding for the new body for the long-term.