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RESPONSE TO

Good Work Plan: establishing a new Single Enforcement Body for employment rights. Consultation

OVERVIEW

I am pleased to have the opportunity to respond to this timely and important consultation. In general, I support the direction of travel of the proposals and almost all of the detailed proposals. But I think that, with some further development, these proposals could provide the catalyst for a fundamental change in employment relations generally, and in their regulation. The opportunity should be seized to adopt a new holistic approach to labour relations and the regulation of employment.

Further, as the proposals recognise, the current approach includes major inconsistency between what is referred to as ‘compliance’ and ‘deterrence’ approaches. I suggest that some further thought is needed in order to resolve that inconsistency. If this is not done, and the proposals remain as they are, they may achieve the objective of more consistent (and perhaps more effective) enforcement of the various laws on gangmasters, poor pay, modern slavery and general rogue practices, but they may in the process produce widespread adverse consequences for the vast number of honest businesses in the country. Such adverse consequences would adversely impact the economy.

RATIONALE

The Consultation is essentially about merging three (or ultimately more) groups so as to form a single Labour Market Regulator that would be more integrated, easily identifiable, consistent and effective. That is indeed a good idea. But it is necessary to look more deeply into how such a new Regulator is envisaged to operate in seeking to deliver its objectives.

Essentially Criminal Origins

The various public organisations and legislation that are at the centre of this Consultation were created comparatively recently and primarily in order to address highly unacceptable social and employment practices, revolving around the exploitation of people being forced to work under wholly uncivilised conditions. Thus:

- a) the Gangmasters and Labour Abuse Authority (GLAA), first introduced in 2005 and extended in 2016 and 2017, and operates a licensing and enforcement regime primarily for suppliers of labour to the farming, food processing and packaging and shellfish gathering sectors;¹
- b) Modern Slavery was enacted in 2015;²

¹ The Gangmasters (Licensing) Act 2004.

² The Modern Slavery Act 2015.

- c) the mechanism for enforcement of the National Minimum Wage (NMW)³ and National Living Wage (NLW)⁴ by HMRC on behalf of BEIS has roots in the late 1990s but was modernised in 2016;
- d) the Employment Agency Standards (EAS) Inspectorate enforcing regulations on employment agencies, particularly focusing on vulnerable agency workers: this also has roots in the 1970s but has been successively amended.⁵

It is relevant to note that the *mode* of regulation chosen to rectify these various forms of unacceptable working conditions was through *public enforcement* rather than private enforcement. That approach echoes the Health and Safety legislation that it was necessary to introduce from the 19th century, updated in the 20th, to keep workplaces and workers safe. In contrast, as referred to below, the mode of private enforcement has been restricted to contractual employment rights, but even there public bodies have recently been created (the Groceries Code Adjudicator, the Pubs Code Adjudicator and the Small Business Commissioner). It is relevant to compare *how* those new intermediaries seek to engage with businesses, since it differs from the approach of the Labour Market bodies.

The primary focus of most of these different pieces of Labour Market legislation has been on *enforcement*, since the essential behaviour that triggered the legislation was criminal, perpetrated by criminally-inspired minds and gangs. Thus, the original focus was not on the vast majority of established businesses.

Regulatory systems have traditionally been based on inspectors or officers identifying non-compliance and then putting that right (traditionally, through enforcement). That is generally after-the-event, and can involve cost (of inspection, rectification, penalties). In addition, regulators can tend to focus targeted support for compliance on larger or higher risk businesses. That is a reasonable risk-based strategy, but it results in leaving a large constituency for which the only available support is generic guidance, for example on regulator websites. There is, however, little empirical evidence that such a strategy achieves widespread compliance.

Inevitable Spill-over to Genuine Businesses

However, some of the Labour Market legislation inevitably applies to ‘normal’ businesses, that are far from generically or intrinsically criminal. In particular, the NMW/NLW applies to every business, as does the impact of legislation aimed at ensuring responsible behaviour down supply chains, such as on Environmental, Social and Governance (ESG, developed from corporate social responsibility), human rights, and Modern Slavery. There has been tension here, as businesses with otherwise high reputations have objected to being ‘named and shamed’ under the NMW/NLW rules. It does not appear that empirical evidence or behavioural insight studies have established whether a mechanism of fining and naming and shaming otherwise good businesses is in fact an effective means of achieving compliance. Indeed, evidence referred to below would indicate that that is not the case.

The issue is that the means of achieving compliance with the totality of the legislation involved here has not been analysed with adequate depth so as adequately to differentiate between business organisations that are essentially criminal and those that are essentially honest. This segmentation of approach is vital if the regulatory aims are to be delivered. In essence, it is necessary to adopt totally

³ The National Minimum Wage Act 1998, as amended, including by the Employment Act 2008. See *National Minimum Wage and National Living Wage. Calculating the minimum wage* (Department for Business, Energy & Industrial Strategy. November 2018).

⁴ Came into force in 2016.

⁵ The Employment Agencies Act 1973 as amended; the Conduct of Employment Agencies and Employment Businesses Regulations 2003; detailed provisions in The Conduct Regulations and the 2007 Amendment Regulations; the 2010 Amendment Regulations; the 2014 Amendment Regulations; and the 2016 Amendment Regulations.

different techniques between the two extremes of businesses (and others that lie between) so as to maximise compliance. Using the wrong tool on the wrong people will prove to be entirely counter-productive.

Thus, if the enforcement model is perpetuated for all these pieces of legislation, it is suggested that the policy goals may not be achieved and the approach risks unnecessarily alienating large numbers of genuine businesses without necessarily improving overall compliance. The following discussions aims to summarise why that may be the result.

Evolution in Modes of ‘Compliance’ and ‘Enforcement’

The focus of all these legislative regimes is essentially on enforcement, and adopts a policy based on the theory of deterrence. The technique of *ex post* enforcement has historically been the natural starting point for responding to criminal behaviour. The theory of deterrence has been widely referred to and it has roots in both legal theory and classical economic theory.

However, both those approaches have been overtaken by modern science. We now know ways of affecting behaviour and culture *ex ante* that are being adopted by some regulators with success. The focus on deterrence is increasingly viewed as a theory that has been superseded by other more effective approaches. There is ample evidence for these propositions. First, deterrence has largely been discarded by criminologists some time ago as simply not working. Second, now extensive research finds that deterrence has little impact on future behaviour in many situations of either public or private enforcement. Third, a now considerable body of research into behavioural psychology explains why a deterrence approach will often fail whereas a more supportive approach for normal people is likely to succeed.

Fourth, most regulatory authorities in UK now adopt a supportive approach towards the vast majority of businesses who aim to comply with the law in general, but who may not be in compliance with some or extensive rules.⁶ Indeed, HMG has for some decades been at the forefront of international changes in regulatory policy that emphasise the need to assist businesses to comply and perform better, instead of seeking compliance through traditional enforcement tools. There has been a considerable shift in regulatory enforcement policy, which can be seen by reviewing the many Enforcement Policies of individual regulatory authorities.⁷ By contrast, enforcers such as those who do not develop engaged relationships with businesses remain in an undeveloped world of responding by automatically imposing deterrent sanctions, and often failing to maximise compliance in the general business population, which regards them as ‘the enemy’.

The approach that has been developed is that most regulators now typically adopt *a supportive approach to assisting businesses* into compliance rather than automatically responding with traditional enforcement sanctions to every infringement. The development of the supportive approach can be traced through Better Regulation policy in the past 30 years, the 2005 Hampton Report,⁸ the Macrory Penalties Review,⁹ the Legislative and Regulatory Reform Act 2006, the Regulatory Enforcement and Sanctions Act 2008, the Regulators’ Compliance Code (2007 and 2014). An approach in which the central role of

⁶ See review of enforcement policies in C Hodges, *Law and Corporate Behaviour: Integrating Theories of Regulation, Enforcement, Culture and Ethics* (Hart Publishing, 2015).

⁷ C Hodges, *Law and Corporate Behaviour: Integrating Theories of Regulation, Enforcement, Culture and Ethics* (Hart Publishing, 2015).

⁸ P Hampton, *Reducing administrative burdens: effective inspection and enforcement* (HM Treasury, 2005); *Implementing Hampton: from enforcement to compliance*, (HM Treasury, Better Regulation Executive, and Cabinet Office, 2006).

⁹ R Macrory, *Regulatory Justice: making sanctions effective* (HM Treasury, 2006); reprinted in R Macrory, *Regulation, Enforcement and Governance in Environmental Law* (Hart Publishing, 2010).

enforcement is based on deterrence irrespective of the motivations or responsiveness of the infringer is not only out of date but inconsistent with the current requirements on regulators.

A segmentation approach is now used by many regulatory authorities that selects ‘enforcement’ responses based on differentiating between motivations of the business concerned. An example is that of the Scottish Environmental Protection Agency, whose model for differentiating between the motivations of individuals (as opposed to organisations) shows that their response to most people is to ‘encourage improvement’ through education, enabling and engagement, reserving ‘enforcement’ for the most serious cases:



The first point in the 2014 Regulators’ Code is that ‘Regulators should carry out their activities in a way that supports those they regulate to comply and grow’. Point 2 is ‘Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views’.

A leading example of a *structure* for engaged dialogue, and the basis for building trust between regulators and businesses, is the Primary Authority (PA) scheme.¹⁰ The PA scheme provides a national matrix of relationships coordinating Local Authorities (environmental health, trading standards and fire safety), six national level regulators (Food Standards Agency, Health and Safety Executive, Competition and Markets Authority, Gambling Commission, Secretary of State for Business, Energy and Industrial Strategy, in relation to metrology and product safety) and businesses with national footprints.

The PA scheme is based on the principle of cooperation between public and business bodies through entering into formal partnerships.¹¹ The scheme encourages businesses to raise issues on clarification and potential non-compliance, in response to which the standard response is to give ‘assured advice’ rather than to fine or ‘name and shame’. It is standard practice for businesses to ask for clarification from regulators and to strive for constant improvement and compliance. The PA scheme has been a major success.¹² The key point is that the response to businesses differentiates between rogues/criminals and the majority, even if the latter might break some rules.¹³

It would be interesting to compare how many businesses have contacted BEIS/HMRC to ask for clarification of how to interpret or apply NMW/NLW rules, or any of the other pieces of labour market legislation, with the number of businesses who have been contacting their Local Authorities and the regulators linked in the PA scheme.

¹⁰ See www.gov.uk/government/publications/primary-authority-overview and www.gov.uk/guidance/local-regulation-primary-authority

¹¹ *Primary Authority. Statutory Guidance* (BEIS, 2017). *Enforcement Policy* (BEIS, Regulatory Delivery, 2017).

¹² *Government Response. Extending and Simplifying Primary Authority: Keeping the UK Competitive* (BEIS, Better Regulation Delivery Office, 2016).

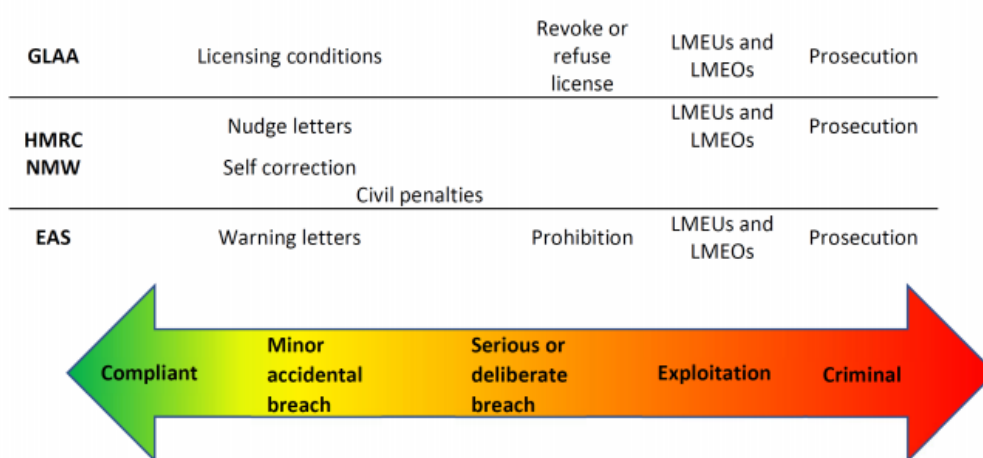
¹³ *Enforcement and Market Surveillance Annual Report 2016-2017* (BEIS, Office for Product Safety & Standards, 2018).

An Inherent Inconsistency in the Consultation

It might be thought that the approach envisaged for the proposed new Labour Market Regulator recognises and includes the distinction between the two approaches outlined above. But the evidence does not support that view.

The Consultation is essentially focused on ‘modernising our approach to *enforcement*’ (emphasis added).¹⁴ It refers to enforcement and breaches throughout. The Consultation does indeed refer to the Labour Market Director’s differentiation between ‘compliance’ and ‘enforcement’ approaches. However, that analysis does not go deep enough and reflects an enforcement-deterrence mindset that is at odds with most other regulators. In setting out a ‘spectrum of compliance’ the Consultation in fact only refers to different kinds of *breaches* and not really to compliance at all:

Figure 6: spectrum of compliance



This is rather an unsophisticated binary compliance:non-compliance model. There is no recognition of *intention*, namely that reliable businesses may break rules for many reasons, and no discussion on *how* it is proposed to achieve compliance by such businesses other than by general information and enforcement.

The Consultation does contain statements of ambition to provide ‘better support for businesses who want to comply with the rules’. However, no details are given about how that might be achieved other than by what is in effect merely general marketing and a softer approach to minor breaches:

“A Single Enforcement Body could support compliance by:

- **increasing awareness** of employment rights and how employers should comply with the law by providing coordinated guidance and support across all areas enforced by the state
- **taking a more consistent, proportionate approach to breaches at the ‘lower harm’ end of the spectrum** – with a focus on education and ‘nudge’ techniques such as warning letters, rather than penalties or formal enforcement action for minor first offences”

This approach is essentially to provide information as an *ex ante* preventative strategy whilst primarily relying on enforcement as the *ex post* and dominant strategy. It is similar to the policy for enforcement of competition law. It is a world away from the engaged approach of many other regulatory authorities that seek to work positively with businesses to support compliance. It is essentially an *ex post* strategy that adopts deterrence as its theoretical *ex ante* strategy. It will fail as a strategy.

¹⁴ Ch 1, intro.

The approach is all about *non-compliance*, breaches and enforcement. It is not about compliance. It is not about a consistent policy of *engagement* with the business community based on a partnership of equals who will cooperate to achieve compliance and respond constructively to incidences of non-compliance. The approach treats all businesses as if they are criminals.¹⁵

The approach will increase friction between businesses and the state, by worsening the existing inconsistency of approach between different regulatory authorities. The proposed approach will undermine compliance and harm economic growth rather than protect workers and economic health. It constitutes ‘enforcement creep’ for most businesses that runs counter to the current policy of successive Governments. It would re-introduce inconsistency and confusion for most businesses.

Ironically, the Consultation’s proposal for reducing vulnerability of workers in supply chains is to strengthen legal liability on businesses at the top of the chain, who would be ‘named and shamed’ if they do not take steps deemed appropriate, whilst at the same time adopting a different aim as between companies in the chain:

“The aim is to encourage a more active, responsible, ethical relationship between companies and their supply chains. ...

The head(s) of the supply chain would then be expected to work with the supplier to rectify any outstanding issues of non-compliance over a set time period. If after this period the enforcement body found corrective action had not taken place, both the supplier and brand name at the head of the supply chain could be publicly named as jointly responsible for the breach. The assumption is that this would apply to UK registered companies for breaches that occur in the UK.”

This is, therefore, inconsistent as between, on the one hand, companies themselves and, on the other hand, enforcement bodies and companies.

A Similar Enforcement Issue for Equality and Human Rights

The same problem of ‘enforcement’ was highlighted in July by the Women and Equalities Committee.¹⁶ In response to evidence of continued widespread flouting of the equality and related legislation, the Committee concluded that the system of individual enforcement did not work, that a more systemic approach was needed, and called for more public enforcement by regulators, inspectorates, ombudsmen and especially the new labour market enforcement body. The Committee wanted ‘to see a model that can act as a sustainable deterrent to achieve system-wide change’. However, unfortunately, it was unaware of evidence that deterrence and more public enforcement has limited effect on systemic *culture*.

An Opportunity to Reform Dispute Resolution between Workers and Businesses

Before proceeding further, it is instructive to consider another aspect of the current system for enforcing individual enforcement rights. The model for supporting workplace harmony and for resolving employment disputes may be changing. From the 1980s, the previous model of collective negotiation between employers and trade unions gave way to a regime of individual workers’ rights and individual enforcement through Employment Tribunals, supported by conciliation through ACAS. In the past decade, a series of regulatory authorities were created to intervene in serious cases of abuse:

¹⁵ The same is largely true of the consultation on addressing Modern Slavery by extending transparency requirements of UK organisations that are at the top of supply chains. *Transparency in Supply Chains. Consultation* (Home Office, 9 July 2019). See also *UK Government Response to the Independent Slavery Review of the Modern Slavery Act 2015* (HM Government, 2019).

¹⁶ *Enforcing the Equality Act: the law and the role of the Equality and Human Rights Commission*, House of Commons Women and Equalities Committee, Tenth Report of Session 2017–19, HC 1470, 30 July 2019

That system of individual enforcement has itself given rise to various concerns. One concern is the cost of rising claims for individuals; a second is the cost of providing Employment Tribunals (the attempt to introduce fees was overturned by the Supreme Court), a third is the lack of a simple pathway for disputants (that would seamlessly join up initial information, advice, triage, mediation (ACAS)¹⁷ and decision-making (tribunal); a fourth is the gap that exists between a system based on enforcement of rights of individual employees and the ability to identify and effectively address systemic workplace practices. Might a different approach to collaboration between workers and businesses yield better outcomes?

The Model of Regulating through (Ethical) Culture

There has been increasing realisation that culture is the key to maximising compliance. Compliance is recognised as being an outcome of good culture, not an objective that can be realised through either traditional regulation or enforcement.

Recognition of the central importance of culture for business success and compliance is growing, as illustrated by the following examples:

- (a) The very successful model of aviation safety is fundamentally based on culture (the concepts are of an open culture and a just culture, which comprise a ‘no blame’ environment in which all relevant information is shared but in which appropriate responses to events occur.
- (b) Since the financial crash of 2008, all leading regulatory authorities have recognised that organisational culture of financial institutions is at the heart of regulation.¹⁸ The Financial Conduct Authority’s approach is based on the understanding that culture is key:¹⁹ ‘We also know that firms’ culture shapes the conduct outcomes for consumers and market. So we aim to assess and address the drivers of culture...’
- (c) The Groceries Code Adjudicator has consistently engaged with retailers to change their culture in relation to late payment, and for them to work collaboratively.²⁰
- (d) There is considerable evidence that owners and staff in SMEs will fail to be aware of the detail (or even existence) of complex legal rules but will be able to operate on the basis of inbuilt understanding of what is right and wrong. A 2015 study of SMEs’ (low) awareness of competition law concluded that:
‘Instead of referring to laws and regulations, they tend to view business practice through a moral and ethical framework. For the majority, doing business properly is a key foundation stone of their business’ reputation. ... However, they do have an intuitive understanding that some behaviours are wrong.’²¹
- (e) The 2018 revision of the FRC’s Corporate Governance Code has explicitly put (social) purpose, values and culture as central objectives for companies and boards. If businesses were to sign up to a code that included being fair to staff, suppliers, customers, local communities, the environment and other stakeholders, that could be both a simple guide and powerfully transformative.

Building on science (as opposed to theory) of how to affect behaviour has produced the concept of Ethical Business Practice (EBP), that aims at people ‘doing the right thing’ (behaving ethically) all the

¹⁷ Yet in 2017/18, 24.8% of Employment Tribunal cases did not use the ACAS conciliation process.

¹⁸ *Toward Effective Governance of Financial Institutions* (Group of 30, 2012); *Transforming culture in financial services. Discussion paper* (Financial Conduct Authority, 2018), DP18/2.

¹⁹ *FCA Mission: Our Approach to Supervision* (FCA, March 2018).

²⁰ *Annual Report and Accounts 1 April 2016 – 31 March 2017* (Groceries Code Adjudicator, 2017) ‘I can see there has been a transformation in both the culture of the sector and the behaviour of retailers. ... My preferred approach is to work collaboratively with the retailers but I stand ready to use stronger regulatory intervention if necessary.’; *Annual Report and Accounts 1 April 2017 – 31 March 2018* (Groceries Code Adjudicator, 2018) ‘I have intensified the collaborative approach with most of the retailers and it is clear to me that this approach achieves significant change.’

²¹ *SMEs & Competition Law. Qualitative Research Report* (BDRC Continental, 2015).

time, and checking if they need help or assistance.²² It also requires such assistance to be readily provided in a supportive manner and without blame if there is evidence of consistent EBP.

The EBP model would include a commitment to doing the right thing, being open, seeking assistance, and listening to improve performance. The shift here is between regulating by rules-plus-sanctions and moving to supporting learning and improvement by focusing on organisational culture and ethical values. The key regulatory approach is to adopt a collaborative partnership between regulators and businesses, based on evidence that each can be trusted. The concept of constantly questioning what one is doing, and being open when things go wrong, has been proved to be highly successful in high risk industries such as civil aviation safety. It is known there as an open culture and a just culture.

A Real Opportunity to Create a *Good Work* Culture

The Taylor Review set out a vision that *Good Work* that work should be ‘fair and decent’.²³ The Government supported that vision.²⁴ The Government’s *Good Work Plan* of December 2018, issued as part of its Industrial Strategy,²⁵ aimed to create ‘A labour market that rewards people for hard work [and] that celebrates good employers’.²⁶ In ensuring the quality of work, the Government stated five foundational principles: satisfaction; fair pay; *participation and progression* (emphasis added); wellbeing, safety and security; and voice and autonomy. In relation to ‘voice and autonomy’, evidence was noted that voice arrangements resulted in a higher level of organisational commitment,²⁷ and the Government proposed to work more closely with Investors in People, ACAS, trade unions and other experts to promote stronger employee engagement.

But how might real fairness and participation be realised? How would fairness be placed firmly at the centre of its vision for national working practices? Surely not by continuing either a public enforcement model relying on deterrence and a private enforcement model based on adversarial disputing?

Could employers be invited to agree a generic *Good Work Ethical Code*? It would ideally cover a commitment to fair working principles and relate also to fair business practice generally. A Code could be given legal force, with non-compliance being an offence. The new labour market regulator would oversee compliance, intervention and enforcement.²⁸

Complaints could be made to an independent Employment Ombudsman, integrating ACAS and ETs, that would give information and support to both employees and businesses, and provide triage of cases involving mediation/conciliation and determinations by judges where necessary. The Ombudsman would collate data on all contacts relating to all employment issues, including late payment, various employment situations (NMW/NLW, abuse, equalities, pensions), data protection, and general and sectoral regulation. The system would be overseen by the new proposed Labour Market Regulator - but with a wider remit to work *with* collaborative businesses under an EBR-style model and intervene with others in more traditional ways - based on data from the Ombudsman. This holistic approach should

²² C Hodges and R Steinholtz, *Ethical Business Practice and Regulation: A Behavioural and Values-Based Approach to Compliance and Enforcement* (Hart, 2017).

²³ *Good Work. The Taylor Review of Modern Working Practices*, 2017.

²⁴ *Good Work. A response to the Taylor Review of Modern Working Practices. February 2018* (HM Government, 2018).

²⁵ *Industrial Strategy. Building a Britain fit for the future* (HM Government, 2018).

²⁶ *Good Work Plan* (HM Government, 2018).

²⁷ J Forth and H Metcalf, *Young people's experiences in the workplace* (ACAS, 2014); *Building productivity: Employee voice* (ACAS) at <http://www.acas.org.uk/index.aspx?articleid=5494>.

²⁸ The model envisaged here is similar to existing frameworks that work well in various consumer trading sectors, and are now being adopted in the property sector: see *Regulation of Property Agents Working Group. Final Report* (July 2019),

www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/818244/Regulation_of_Property_Agents_final_report.pdf

produce systemic improvements in the approach to regulatory compliance generally.²⁹ It is the model that operates in most consumer sectors and is now being extended into the property sector.³⁰ It could provide a more effective and responsive means of responding to employment issues than existing legislative approaches.³¹

Adopting an holistic approach to the incentivisation and national adoption of an ethical culture in workplaces should assist with addressing a number of existing problems. For example, it should change the culture in relation to equality and human rights. It should overcome current issues with whether there is a need to whistleblow, and how whistleblowers are treated.³² It should assist with compliance with late payment, competition law, foreign bribery, and in some sectors anti-money laundering identification and compliance. Above all, it should improve organisations and national profitability and innovation.³³

Conclusion

I support the proposed merger of the various existing Labour Market units into a single body. But I strongly urge the Government to go further and seize the opportunity to adopt a new and wholly transformative approach to labour relations in this country.

Of course strong enforcement remains as relevant as it has ever been – and is appropriate – for rogue/criminal enterprises. However, continuing a focus on enforcement and deterrence for most businesses is a considerable wasted opportunity. The proposed approach here will continue and worsen inconsistency and confusion of most genuine businesses.

The ultimate objective should be to achieve fair working practices in workplaces. Achieving this requires a fresh architecture and approach. There should be greater emphasis on affecting workplace culture and hence practice. The need is for a link between the various parts of the system that are currently not joined up: advice, mediation, legal decisions, and regulation. The key objectives are for the system to deliver the following functions:

- A. Providing information to employers on ‘Just Workplaces’ and supporting them in sustaining them.
- B. Providing information to both workers and employers on rights.
- C. Resolving disputes.
- D. Capture of data on problems.
- E. Feedback to businesses together with incentives and oversight to ensure improvements in behaviour and culture

It is suggested that the system should be revised to provide:

- (a) A new Labour Market Regulator that combines various surveillance and enforcement functions, supports ethical businesses and associations (similar to the Primary Authority mechanism and basing employment practice on the concept of Ethical Business Regulation) and intervenes with appropriate taking enforcement action against those who act unfairly.

²⁹ The Taylor Review noted that the top three employment issues on the project are:

1. Unauthorised deduction of wages (26% of enquiries)
2. Unfair dismissal (19%)
3. Terms and conditions, many in relation to bogus self-employment (13%).

³⁰ C Hodges, *Delivering Dispute Resolution. A Holistic Review of Models in England & Wales* (Hart, 2019).

³¹ eg *Good Work Plan. Consultation on measures to address one-sided flexibility* (BEIS, July 2019).

³² *Whistleblowing. The Personal Cost of Doing the Right Thing and the Cost to Society of Ignoring it* (APPG on Whistleblowing, June 2019).

³³ *Industrial Strategy. Building a Britain fit for the future* (HM Government, November 2017); *White Paper Regulation for the Fourth Industrial Revolution* (June 2019), CP 111.

- (b) An integrated Labour Ombudsman, that delivers the functions of information, integrated dispute resolution, feedback and evidence-based supportive intervention. It would fuse the current ACAS and ET elements, which would operate as a single seamless pathway. It would also collect and disseminate data openly, which would enable all relevant stakeholders and the Regulator to respond.

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