

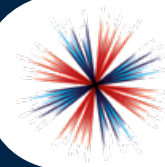


HM Government

Good Work

A response to the Taylor Review
of Modern Working Practices

February 2018



**INDUSTRIAL
STRATEGY**

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Foreword from the Secretary of State

As the Prime Minister made clear on the steps of Downing Street in the summer of 2016, this government believes in a country that works for everyone.



Rt Hon Greg Clark MP

Secretary of State for Business,
Energy and Industrial Strategy

A handwritten signature in white ink that reads "Greg Clark". The signature is stylized and cursive.

Nowhere is that more important than ensuring everyone, wherever they live and whatever their background, has the ability to find work and earn a living to support them and their family. From the introduction of the National Living Wage to almost doubling the personal tax allowance, this government has taken important steps to ensure people not only earn more, but are able to keep more of their money.

The UK's Industrial Strategy, published in November, set out a long-term plan to boost the productivity and earning power of people throughout the UK by focusing on the five foundations of productivity: Ideas, People, Infrastructure, Business Environment and Places. Good work and developing better jobs for everyone in the British economy is at the heart of our Industrial Strategy vision.

We start from a position of strength. The flexibility of our labour market has helped businesses create jobs in record numbers, supporting many millions into work. Those in work enjoy a wide range of protections to pay and conditions, above and beyond the basic minimums provided by European law.

We are proud of this record, successfully balancing fairness and security for the majority of working people in the UK.

However, it is clear that not everyone is enjoying the benefits of a vibrant labour market. Some in work still do not have the income security they or their family want, not knowing whether they will be able to pay the rent from week to week. Others can find themselves trapped in a cycle of lower-paid work, unable to build the skills they need to progress to higher-paid roles. New business models and modern employment practices have also raised questions about whether employment laws need updating.

This is why the Prime Minister asked Matthew Taylor and his expert panel to examine these issues in more detail, to help us understand the opportunities of future working practices, as well as to identify possible pitfalls along the way.

The growth of the gig economy provides tremendous opportunities to improve the lives of people in the UK. With opportunities come risks, and new ways of working, many of them technologically enabled, provide truly flexible employment options. However, these new approaches can be so dynamic as to fully stretch our current framework of

protections with the risk that they will undermine the whole system.

The Review of Modern Employment Practices, published in July 2017, made 53 recommendations aimed at delivering an overarching ambition: that all work in the UK economy should be fair and decent with realistic scope for development and fulfilment. We agree with this ambition. This document sets out the steps we will take to achieve it.

In the UK's Industrial Strategy I accepted responsibility for improving the quality of work, working with others across government and business to deliver on this ambition. We are now publishing our detailed response to the Taylor Review recommendations. We have accepted some recommendations now. Others require further consultation to decide on the best way to deliver change.

To inform this work we are publishing four consultations. These cover the legal framework underpinning employment rights in Great Britain as well as the rights themselves. They also consider the enforcement mechanisms in place for when things go wrong. I encourage everyone to contribute to these discussions. As the Prime Minister said in her speech at the publication of the review, through debate and discussion ideas can be clarified and improved and a better way forward found.

I am very grateful to Matthew Taylor and his panel, as well as to the many other individuals and organisations who contributed to *The Review of Modern Working Practices*. I would like to take this opportunity to recognise the long-standing work in this field of Paul Broadbent, Chief Executive of the Gangmaster and Labour Abuse Authority and Review Panel member, who sadly passed away in December 2017. My thoughts are with his family and friends.

The quality of work affects us all. Happier workers are more productive and when productivity increases, the economy grows, boosting earning power for everyone. The government is acting. We will make the changes necessary to improve the quality of work in the UK economy. We cannot do it alone, and we need everyone – employers, individuals, unions and others – to work with us to deliver the flexible and productive labour market we all want to see.



Executive Summary



The UK Labour Market

The United Kingdom has one the most successful labour markets in the world. Generating good jobs and greater earning power for all is a foundation of the Industrial Strategy White Paper, published in November 2017.

The UK's labour market was highly resilient during the recent financial downturn. Having seen unemployment grow sharply following the downturn, the economic recovery has taken hold and the labour market has continued to strengthen. This has built to a position where, in 2017, the UK experienced record high employment rates, a record low inactivity rate and the lowest unemployment rate since 1975¹. What is more, there are over 800,000 job vacancies, a number which has generally been rising, and a sign that there are many opportunities for work available².

Many credit the flexibility of the UK's labour market for the current strong performance in employment. Flexibility in the way that people engage with the labour market is also considered to be a key component of the UK's international attractiveness. In 2017, the Confederation of British Industry found that 97 per cent of UK businesses describe the UK's flexible workforce as either vital or important to their competitiveness.

The way in which people choose to work is also more varied today than it has ever been. Groups that have historically been under-represented in work, such

as women and those with disabilities, have been joining the workforce in larger and larger numbers. Added to this, more people choose to stay on in work later in life, with many deciding to have a number of different careers over time. The availability of flexible working arrangements and the growth of the gig economy have supported this.

However, while participation rates have reached record highs in recent months, and more jobs are being created than ever before, not everyone is able to find work that suits them. There are a number of issues faced by the UK economy that need to be addressed:

- ▶ **Productivity:** Productivity growth in the UK has been subdued since the 2008/09 recession, with productivity currently around 17 per cent lower than it would have been if it had followed its pre-downturn trend³.
- ▶ **Wages:** Real wage growth has slowed since the economic downturn, and from early 2017 we have experienced negative growth in real average weekly earnings⁴. Similarly, while the number of self-employed people has increased over the past decade, their median earnings have declined⁵.

- ▶ **Income security:** Though flexible work has benefits for individuals and employers, for some this can bring additional pressures – such as uncertainty over where the next pay cheque is coming from.
- ▶ **Regional imbalance:** Wages and employment rates are noticeably not uniform across the country. For instance, the unemployment rate in the North East (5.5 per cent) is almost double that in the South East (3.2 per cent)⁶. In April 2017, London topped the regional list for median earnings at £692 per week⁷, £142 more per week than the UK median and £194 more per week than the lowest-paid region, Wales⁸.
- ▶ **Wider disparities:** Despite the improvement referenced above, disparities in labour market outcomes by gender, ethnicity and age continue. The female participation rate remains lower than that for males, with female pay also lower than that of males. The gender pay gap for full-time employees currently stands at 9.1 per cent⁹. There are also disparities in outcome by ethnicity, both in terms of the overall employment rate and earnings, with many ethnic minorities working in lower-paid occupations and sectors¹⁰. This is set out in more detail in the Race Disparity Audit published by the government in 2017. Older people (those aged 50+) and disabled people are also less likely to be in work.

Review of Modern Working Practices

Recent increases in the number of people participating in atypical forms of work have given rise to wider questions around employment status and the protections people should have. Advances in technology, the rise of the ‘gig economy’ and a predicted growth in automation may also lead to changes in demand within the labour market. We must ensure that the labour market is resilient enough to not only respond to these changes, but also to build on them and address some of the issues outlined above. In this context, the Prime Minister asked Matthew Taylor to examine modern working practices and consider whether changes were required to ensure the labour

market was well equipped to face the challenges of the future. The review panel was asked to examine six themes:

- ▶ **Security, pay and rights:** To what extent do emerging business practices put pressure on the trade-off between flexible labour and benefits such as higher pay or greater work availability, so that workers lose out on all dimensions? To what extent does the growth in non-standard forms of employment undermine the reach of policies like the National Living Wage, maternity and paternity rights, pensions auto-enrolment, sick pay, and holiday pay?

- ▶ **Progression and training:** How can we facilitate and encourage professional development within the modern economy to the benefit of both employers and employees?
- ▶ **The balance of rights and responsibilities:** Do current definitions of employment status need to be updated to reflect new forms of working created by emerging business models, such as on-demand platforms?
- ▶ **Representation:** Could we learn lessons from alternative forms of representation around the world?
- ▶ **Opportunities for under-represented groups:** How can we harness modern employment to create opportunities for groups currently underrepresented in the labour market (the elderly, disabled people or people with caring responsibilities)?

- ▶ **New business models:** How can the government - nationally or locally - support a diverse ecology of business models enhancing the choices available to investors, consumers and workers?

This was a wide-ranging, truly national review considering many of the issues faced by working people and businesses across the UK. Matthew Taylor travelled across the UK convening 'Town Hall' public meetings where the panel heard evidence from businesses, trade unions, think tanks, trade bodies, academics and workers themselves. Over 100 written submissions were also sent to the review team and an online public discussion forum was launched, resulting in hundreds of people being able to contribute their views and engage with the issues.

Seven point plan

The final report, published in July 2017, acknowledged the strong performance of the UK labour market. Given this position of strength, the review panel set out a compelling case that now was the time to place quality of work on an equal footing with quantity of work when measuring success. The overarching ambition was that all work in the UK economy should be fair and decent with realistic scope for development and fulfilment. To achieve this ambition, the report sets out seven steps:

- ▶ **Good work for all:** Our national strategy for work - the British way - should be explicitly directed towards the goal of good work for all, recognising that good work and plentiful work can and should go together. Good work is something for which the government needs to be held accountable but for which we all need to take responsibility.

▶ **Clarity in the gig economy:**

Platform-based working offers welcome opportunities for genuine two-way flexibility and can provide opportunities for those who may not be able to work in more conventional ways. These should be protected while ensuring fairness for those who work through these platforms and those who compete with them. Worker (or 'dependent contractor' as the review suggested renaming it) status should be maintained but we should make it easier for individuals and businesses to distinguish workers from those who are legitimately self-employed.

▶ **Fairer flexibility:** The law and the way it is promulgated and enforced should help firms make the right choices and individuals to know and exercise their rights. Although there are some things that can be done to improve working practices for employees, the 'employment wedge' (the additional, largely non-wage costs associated with taking someone on as an employee) is already high and we should avoid increasing it further. 'Dependent contractors' are the group most likely to suffer from unfair one-sided flexibility and therefore we need to provide additional protections for this group and stronger incentives for firms to treat them fairly.

▶ **Good management:** The best way to achieve better work is not national regulation but responsible corporate governance, good management and strong employment relations

within the organisation, which is why it is important that companies are seen to take good work seriously and are open about their practices and that all workers are able to be engaged and heard.

▶ **The ability to progress:** It is vital to individuals and the health of our economy that everyone feels they have realistically attainable ways to strengthen their future work prospects and that they can, from the beginning to the end of their working life, record and enhance the capabilities developed in formal and informal learning and in on-the-job and off-the-job activities.

▶ **A healthy workplace:** The shape and content of work and individual health and well-being are strongly related. For the benefit of firms, workers and the public interest we need to develop a more proactive approach to workplace health.

▶ **Sectoral approaches:** The National Living Wage is a powerful tool to raise the financial baseline of low-paid workers. It needs to be accompanied by sectoral strategies engaging employers, employees and stakeholders to ensure that people - particularly in low-paid sectors - are not stuck at the living wage minimum or facing insecurity but can progress in their current and future work.

▶

Government response

Good work

The government made clear at the launch of *The Review of Modern Working Practices* that we accept the overarching ambition that all work in the UK economy should be fair and decent with realistic scope of development and fulfilment.

The case that good work can lead to greater performance and therefore increased productivity is strong and so we will take the necessary steps to achieve this. **The UK's Industrial Strategy vision includes 'good work and greater earning power for all'.**

That is why we made clear in the Industrial Strategy that the Business Secretary has accepted responsibility for good work and will now lead efforts in government, working with business and the devolved administrations, to promote good work across the UK.

The Review of Modern Working Practices also identified the importance of agreeing a set of measures against which the quality of work could be evaluated. **The government agrees and, in November, started this discussion in the Industrial Strategy. We set out the five principles that we believe underpin the quality of work.** These principles are:

- ▶ Overall worker satisfaction;
- ▶ Good pay;
- ▶ Participation and progression;
- ▶ Wellbeing, safety and security; and
- ▶ Voice and autonomy.

We have identified these principles in discussion with experts including the Chartered Institute for Personnel and Development (CIPD), the Office for National Statistics (ONS), the Recruitment and Employment Confederation (REC), the Confederation of British Industry (CBI) and the Trades Union Congress (TUC). We will continue to work with these bodies and others to agree the best measures to evaluate the level of good work in the UK economy. We will use these measures to report annually on the quality of work in the UK economy, and to hold ourselves to account.

We will also use these discussions to address the review's recommendations to ensure the labour market remains successful in the future, adapting more dynamically to changing practices. BEIS will work with experts, business groups, trade unions, employers, employees and stakeholders to improve the quality of work across all regions and sectors. This will include promoting current best practice and encouraging greater collaboration within and across sectors and working through 'Sector Deals', under the Industrial Strategy, to promote and increase good work.

In addition to developing measures on the quality of work, the government will also set out, annually, what it believes needs to be done to promote good work, drawing on the advice of the



Director of Labour Market Enforcement, input from the work with experts and others set out above and, if necessary, further formal consultation. The government also sees a role for the Industrial Strategy Council in providing advice on measuring the quality of work, given its importance to the ambitions of the Industrial Strategy.

Informed choices: clarity in the law and transparency of entitlement

The changes proposed in the review relating to employment status would represent the single largest shift in employment status since the Employment Rights Act in 1996. As the review said, they will require further consultation and examination if they are to be successful. The government agrees that **it should be**

easier for individuals and businesses to determine whether someone is an employee, a worker, or self-employed, and is committed to improving clarity and certainty in this area. This will include consideration of legislative options. We need to ensure that any reforms achieve their aim, and would not have unintended consequences - such as damaging genuine flexibility or creating opportunities for less scrupulous employers to game the system and gain an unfair competitive advantage.

The government will therefore consult to explore the best way to improve clarity for those on the boundary between employment and self-employment, including options for legislative reform. This will help ensure that fewer 'workers' find 'themselves fighting for protections that they should

already have. It should be clear to a person whether he or she is employed - with rights to time off for sickness and entitlement to sick pay, holiday pay and other rights - or whether he or she is a contractor in which case onerous contractual terms that an individual could not meet, such as protection for sickness, should not be enforceable. The consultation will consider employment status for both employment rights and tax, including considering the review's recommendation for greater alignment between the two, in order to tackle this issue holistically.

Agency workers in the UK play a vital role in supporting delivery in a number of sectors and many people choose this highly flexible approach to work. However, the government acknowledges that some agency workers can find themselves in positions of vulnerability and so it is important that they receive enhanced protections. Through the Agency Workers Regulations and the Employment Agencies Act 1973, agency workers already receive greater protections than many other casual workers, with some protections enforced by the state through the Employment Agency Standards Inspectorate (EAS). However, it is clear that changes in the labour market have put pressure on the current framework of protections.

The government wants to ensure that rules that protect agency workers reflect the challenges of the modern labour market and will consult on how best to achieve

this. This response will therefore:

- ▶ **Set out plans for legislation to improve transparency for agency workers** over how and what they will be paid when taking up assignments;
- ▶ **Seek detailed evidence to determine the extent of abuse of the 'Swedish Derogation'** that allows work-seekers to opt out of equal pay entitlements, setting out options for repealing the derogation or improving enforcement; and
- ▶ **Set out plans to extend the scope and remit of the Employment Agency Standards Inspectorate** to umbrella companies and intermediaries, and the enforcement of the Agency Workers Regulations, subject to the views of the Director of Labour Market Enforcement.

It is essential that all those in work know what rights and protections they have. This should be simple to understand and easily accessible. There is already a significant amount of legislation in this space and many employers go beyond this to ensure that their workforces have the guidance and support to claim their entitlements.

The government agrees that more can be done to provide greater transparency for those people who work in more casual relationships.

This response will therefore:

- ▶ Present plans for legislation and seek views on the details of how to **ensure all workers receive important information, in a clear format and from day one**, on their working relationship;

- ▶ **Set out the government's plan to provide workers with a right to request a contract with more predictable and secure working conditions, and explore the most effective approach to doing so;**
- ▶ **Set out proposals to increase the holiday pay reference period to 52 weeks**, to help ensure atypical workers receive the holiday pay they are entitled to;
- ▶ **Set out proposals to make it easier for people in atypical work to establish 'continuity of service'**, which gives access to key employment rights, by extending the qualifying 'break in service' period, and considers whether the criteria applying to this need to be amended;
- ▶ **Seek views on the best way to define working time** so that those in the gig economy who are workers can be clear about how the minimum wage applies; and
- ▶ Consider the potential benefits of **making it easier for workers to trigger formal consultation processes with their employer.**

A fair deal

A flexible labour market works for employers and individuals, encouraging job creation and allowing more people to participate in work. However, it is important that the balance between flexibility and security is fair for both parties. Good employers know the importance of an engaged workforce and include them in the decision-making process so that everyone can share in success.

The government recognises the real issues that one-sided flexibility can cause for working people and their families. We want to find ways to tackle this issue while retaining the flexibility that many people find so valuable, and avoid placing unnecessary burdens on business. We accept the review's recommendation to ask the Low Pay Commission (LPC) to explore the impacts of introducing a higher NMW/NLW rate for hours that are not guaranteed as part of the contract. We will also investigate alternative means of tackling the issue, and ask the LPC to do the same and provide advice on the impacts of alternative options.

In addition, we are committing to **provide a right to request a more predictable contract for all workers**, including those on zero hours contracts and agency workers.

It is also important that people feel involved in their work. For many, the ability to shape their work and influence the decisions that affect them is a key pillar of what they would consider good work. Many companies actively involve their staff in business decisions, recognising the positive impact that an engaged workforce can have on morale and productivity. To support this, the government will engage with business, unions and others to establish the best way to enhance employee engagement, including consulting on changes to the Information and Consultation Regulations. **The government will also support the development of a workertech catalyst to encourage greater collective voice amongst the self-employed.**

When a worker's rights are breached they deserve quick and effective redress. Most people will go through their working lives with no reason to challenge their employer's actions. However, when things do go wrong or employers do not comply with employment law, the government believes that redress should be quick and effective.

The two-tier approach to enforcement in the UK works. Those who are most open to exploitation and abuse see basic rights enforced by the state, whereas others are able to bring their cases to an employment tribunal via Acas and the free process of early conciliation. However, with the majority of protections enforced through the courts, it is essential that this process is fair and delivers justice. For the system to work, those who do wrong must be adequately punished. Therefore, this response will:

- ▶ Set out **the government's intention to enforce a wider range of basic employment rights on behalf of the most vulnerable workers**. A consultation will seek evidence on where low-paid workers struggle to access sick pay and holiday pay to help target these enforcement efforts;
- ▶ Set out **the government's plans to simplify the enforcement process for employment tribunal awards**;
- ▶ **Outline the government's intention to introduce a naming scheme for unpaid employment tribunal awards**; and

- ▶ Take forward the review's recommendations that employment tribunal judges should be **obliged to consider stronger punishments for employers who ignore previous tribunal judgments** and seek views on how best to implement this.

In addition, the government will introduce new guidance and increase targeted enforcement activity to help stamp out illegal and exploitative unpaid internships.

Security of opportunity

Progression is a key element of good work, and the government has a role to play in helping people to progress within the labour market. As people work for longer and technology changes the skills required in work, it is vital that people are able to continue learning throughout their working lives.

People also require support in work, sometimes to remain in the labour market through periods of ill health. Time out of the labour market due to ill health significantly impacts on an individual's ability to progress later in their careers and so more should be done to support workers through these times.

Likewise, the demographic of the self-employed is changing and many require additional support or advice on issues such as paying the right tax or saving for the future. There is a role for the government in all of those areas.

Good Work

In order to achieve this, we are:

- ▶ Ensuring the quality of apprenticeships by making sure they are real, paid jobs and include sustained training and clear skills gain;
- ▶ Supporting the learning of working adults through the Flexible Working Fund, the first pilot testing new approaches to career learning;
- ▶ Developing a unified framework of employability skills, which will be refined and tested by a range of bodies and made openly available to other organisations such as employers and schools;
- ▶ Performing deeper analysis and research into making statutory sick pay a basic employment right; and
- ▶ Working across government to understand how we can support self-employed people, including consulting on tax-registration checks and starting a series of targeted interventions to identify how auto-enrolment can best work for them.

Next steps

The review had a wide remit and so many of the recommendations impact on policies that are devolved.

Given this, as we look to take this work forward, we will work closely with the devolved administrations to ensure a joined-up approach to supporting good work. We are committed to action; many of the plans and proposals outlined in this response require further consultation either on the substance or the detail of implementation, and we welcome discussion and input as we develop our policies further. We will engage with business, unions and other experts to develop next steps.

Since *The Review of Modern Working Practices* was published, both the Work and Pensions and Business, Energy and Industrial Strategy Select Committees have taken evidence on the future world of work. Their joint report, *A framework for modern employment*¹¹, was published in November and recommends a number of steps supporting the approach set out in *The Review of Modern Working Practices*. In developing our approach, the government has carefully considered the joint report from the Committees and has taken that into account in this response. A summary of next steps is included at Annex B.



Good work



Good work

The Review of Modern Working Practices sets out a vision of all work in the UK economy being fair and decent with realistic scope for development and fulfilment.

This is the review panel's vision of 'good work' and one that the government shares and is central to the UK's Industrial Strategy.

To improve the quality of work it is important that we agree what 'good work' is. We started that process in the Industrial Strategy, embedding change which takes advantage of the opportunities that technological advances present.

In order to achieve this, we are:

- ▶ Accepting the principle that quality and quantity of work should have equal prominence in policy making, with the Business Secretary taking responsibility for leading this work;
- ▶ Setting out the principles against which we will assess the quality of work with a view to gaining consensus on the underpinning measures that we can evaluate success against.

The government recognises the importance of the quality of work, both in terms of the positive impact it has on the individual and the potential improvements for business, and in terms of productivity that good, fulfilling work can generate. *The Review of Modern Working Practices* recommended that **the government must place equal importance on the quality of work as it does on the quantity, by making the Secretary of State for Business, Energy and Industrial Strategy responsible for the quality of work in the British economy (46)**. The government agrees that equal importance should be placed on the quality and quantity of work. The UK's Industrial

Strategy vision includes 'good work, and greater earning power for all'. That is why we made clear in the Industrial Strategy that the Business Secretary accepts responsibility for 'good work' and will lead work in government, and with business, to promote the delivery of better jobs.

The Review of Modern Working Practices recommended that **the government should identify a set of measures against which it will evaluate success, reporting annually on the quality of work on offer in the UK (47)**. We accept this recommendation and have identified a number of broad principles, initially listed in the Industrial Strategy, which we believe are important in delivering 'good work'.

Establishing measures

Individuals balance different characteristics and job-related factors when making decisions about whether work is good. As such, it is essential that while identifying high-level principles, we accept that the weighting different people give to each may differ. From initial discussions with experts we propose high level principles that cover:

- ▶ **Satisfaction:** Understanding how satisfied someone is in work is a good starting point for measuring 'good work'. Job satisfaction measures are already widely available from national and international sources. We are publishing research that was commissioned to look at those working specifically in the gig economy.
- ▶ **Fair pay:** Many people judge the quality of their work in terms of their earnings. It is essential that we consider pay measures that capture how people value their earnings, including perceptions of fairness relative to their peers, alongside more absolute measures, both of which will vary depending on individual circumstances.
- ▶ **Participation and progression:** Ensuring people are able to participate in the labour market is key. The availability of flexible ways of working, and fostering an inclusive workplace culture, helps many to work who would otherwise not be able to. The ability to progress,

either in your role or into alternative work, is also dependent on skills and opportunity. We will need to establish the correct measures to evaluate this principle effectively.

- ▶ **Wellbeing, safety and security:** This principle encompasses both physical and mental wellbeing, however wellbeing at work not only refers to an individual's mental health or satisfaction at work. It also relates to how supportive and inclusive an organisation is, helping to retain and support employees in work, including disabled people and people with long term conditions, and how employees can have opportunities to develop healthier lifestyle behaviours.
- ▶ **Voice and autonomy:** The ability for individuals to have a say in the work that they carry out is considered important by many. By developing a broader understanding of the workplace, employees will be able to contribute to improvement and decision-making, which can make people feel better about their work. Aligned with the voice that individuals feel they have within their organisation is the level of control that they have over the actual tasks they carry out in the workplace. We want to understand more about the best measures to evaluate this principle.



Over the coming months we will open up a dialogue with business, unions and other experts to discuss which measures best evaluate these principles. This timescale aligns with the work currently being undertaken by the Carnegie Trust in identifying measures to evaluate the quality of work. Following these discussions we will publish, by autumn 2018, a final list of measures outlining our baseline assessment of the quality of work currently in the UK economy.

As part of this process, it is essential to understand what progression means to different people and how this can be facilitated across regions, sectors and different groups. The review recommended that **the government should seek to develop a better understanding of what progression at work is and the public policy levers which influence it.**

Building on the trials to date, the government should work with external providers to determine what really works in supporting individuals to obtain better quality - and not just more - work. This should not be limited to increasing earnings to a level of self-sufficiency in Universal Credit and should take particular account of the effect of increases in the National Living Wage. It should reflect the opportunities offered by atypical and gig working (45).

We agree and we have committed to and funded further tests and trials on in-work progression, building on the findings from the current Randomised Control Trial over the coming years.



Forward look

It is important that we equip ourselves with the information we need to keep the labour market flexible enough to adapt to the challenges of tomorrow. That is one of the main reasons we commissioned *The Review of Modern Working Practices*. However, dealing with the issues faced in today's labour market is only the first step. It is important that we continue to monitor changes in working practices to determine whether additional changes are required. *The Review of Modern Working Practices* recommended that **the Department for Business, Energy and Industrial Strategy should take the lead for the government in identifying emerging issues and be**

the custodian for ensuring market conditions allow for the creation of quality work (48). We agree and as part of the process of establishing what good work is, we will examine the best ways to facilitate the right environment in which those aspects can flourish.

The review also acknowledged the important role that the Industrial Strategy could have promoting quality work. The review recommended that **the emphasis in the Industrial Strategy and Sector Deals on technology and innovation should be linked to the importance of human factors in driving productivity and enabling more rewarding working lives (49)**.

We agree. The Industrial Strategy seeks to create the opportunity for people to pursue higher earnings through progression and better information on their career options. As we live longer, as our working patterns change, and as new, disruptive sectors and increasing levels of automation see new jobs created and others lost or changed forever, our Industrial Strategy will help employers adjust and grasp opportunities to drive productivity and economic growth. We emphasised this commitment in the Industrial Strategy by setting out the importance of Sector Deals as an early opportunity to promote good work to boost productivity. This gives employers the opportunity to show how they are making changes, investing in their workforce and helping to deliver greater productivity returns.

A sectoral approach can be an effective way of dealing with specific issues; for example, the recently published Life Sciences Sector Deal outlines a joint commitment to ensure a highly-skilled future workforce. The deal outlines a number of actions to grow apprenticeships in the sector: building on the existing industry-led work to create apprenticeship standards in the innovative fields of data science such as bioinformatics and clinical data analytics. The government will work with the Institute for Apprenticeships to prioritise further standards for development. The government will also work with employers to monitor apprenticeship starts. Measures such as these will ensure that the sector has

access to the skills and qualifications needed now, and in the future, to drive innovation and productivity.

To assist the government, the review made a number of recommendations to ensure we received the advice we needed. Specifically the review recommended that the Low Pay Commission (LPC) took a wider role. This included the LPC:

- ▶ **having its remit widened so that it can both make recommendations to the government on what needs to change (including NMW rates) to improve quality of work in the UK, as well as work with employers, employees and stakeholders to promote quality work across all regions and sectors (50);**
- ▶ **working with experts, from the new Director of Labour Market Enforcement to the Chartered Institute of Personnel and Development, as well as business groups and trade unions; and make recommendations to the government if changes to the legal framework are needed to ensure fair and decent work is delivered (51);**
- ▶ **working with employers and worker representatives to ensure sector-specific codes of practice and guidance are developed that support the provision of quality work (52); and promoting what works in sectors, and encouraging greater collaboration to improve quality work in low-paying areas (53).**

Good Work

We agree that it is important for the government to receive input and advice on what needs to change to support quality work. We also believe that there is a role for the government to actively promote and support quality work across the economy. However, we do not believe that it is appropriate to give the LPC all of the functions which the review recommends. The LPC performs its current specialised role very effectively, and we would be concerned that the wide range of extra functions could detract or distract from that.

Instead, BEIS and other departments' sector teams and the central Labour Market Directorate will work with experts, business groups, trade unions, employers, employees and other stakeholders to improve quality of work across all regions and sectors. This will include promoting what works and encouraging greater collaboration within and between sectors. It will also include working through 'Sector Deals', under the Industrial Strategy, to promote good work.

In addition to statistics on the quality of work, the government will also set out annually what it believes needs to be done to promote good work, drawing on the advice of the Director of Labour Market Enforcement, input from the work with experts and others described above, and if necessary further formal consultation. The government will work with the Director to determine the most coherent sequencing of the various related consultations and reports, with the aim of establishing a clear annual rhythm of consultation, reporting and strategic direction covering all aspects of good work.

Given the importance of the quality of work to the Industrial Strategy, the government also expects that the Industrial Strategy Council will in future provide advice to the government on measuring and improving the quality of work.



Next steps

We are today starting a dialogue, engaging with experts to establish the most appropriate measures against which to evaluate 'good work'. Organisations like the Chartered Institute for Personnel and Development (CIPD) and the Carnegie Trust are already progressing work in this space, and we will continue to engage with them to ensure our approach aligns.

If your organisation would like to participate in this discussion, we are keen to hear from you.

Please do make contact by emailing modernemploymentreview@beis.gov.uk

Informed choices



Informed choices

In order for people and employers to make the choices that are right for them, clarity and transparency are essential.

The legal framework that we use to determine eligibility for employment protections in the UK is designed to be flexible. However, we know that for some employers and individuals, this can lead to ambiguity and uncertainty.

We also know how important it is for individuals to have access to the basic protections we expect them to have. We want everyone to be able to have easy access to information about their working arrangements and what rights they should have, from holiday pay to the minimum wage.

In order to achieve this, we are:

- ▶ Publishing a consultation to consider in more detail the review's recommendations on how to increase clarity in the law;
- ▶ Seeking views on how best to avoid situations of bogus self-employment;
- ▶ Consulting on the review's recommendation for greater alignment between definitions in employment law and tax, in order to tackle this issue holistically;
- ▶ Extending the right to written particulars to all workers from day one;
- ▶ Changing the law to improve pay transparency for agency workers and extending the right to an itemised payslip to all workers;
- ▶ Making it easier for people to calculate how much holiday pay they are entitled to, and helping seasonal workers get the holiday pay they are entitled to by increasing the pay reference period;
- ▶ Seeking to address the challenge of defining what constitutes working time for those working in the gig economy who are entitled to minimum wage; and
- ▶ Further clarifying guidance on maternity and pregnancy rights at work for individuals and employers.

Employers and individuals need to know what their rights and responsibilities are at work. This requires the law to be clear and for basic information to be provided.

The Review of Modern Working Practices made a number of recommendations designed to improve the situation which are set out here.

Clarity in the law

The way in which employment protections are assigned in the UK, and the type of taxes that individuals and the business they work for must pay, are based upon an individual's employment status.

This is a high-level, principle-based approach in legislation that allows maximum flexibility for the courts and enforcement bodies. This approach has allowed the current tests to adapt to changes in the way people work. Ultimately, the majority of people who are engaged in work benefit from the protections that Parliament expects them to have and pay the taxes they owe.

However, the review found that, particularly for those in atypical work, the current framework can often fail to provide the clarity and certainty that individuals and businesses need. Concerns were raised about the heavy reliance on the courts, and case law in particular, in determining employment status with a suggestion that the system could be improved if the legislation did more, and the courts less.

The review makes a number of recommendations to improve the framework, including that:

- ▶ **The government should replace their minimalistic approach to legislation with a clearer outline of the tests for employment status, setting out the key principles in primary legislation, and using secondary legislation and guidance to provide more detail (1);**

- ▶ **The government should retain the current three-tier approach to employment status as it remains relevant in the modern labour market, but rename as 'dependent contractors' the category of people who are eligible for worker rights but are not employees (2);**
- ▶ **In developing the test for the new 'dependent contractor' status, control should be of greater importance, with less emphasis placed on the requirement to perform work personally (3);**
- ▶ **In developing the new 'dependent contractor' test, renewed effort should be made to align the employment status framework with the tax status framework to ensure that differences between the two systems are reduced to an absolute minimum (5).**

Similar recommendations were made by the Work and Pensions and Business, Energy and Industrial Strategy Committee in their recent report. The government welcomes the review's finding that for most people the current employment status framework works well, and accepts that for some it does not provide the certainty and clarity that they need.

The government wants to ensure that everyone knows what rights they have and what taxes they pay as well as make clearer for employers what their responsibilities are.

The government is committed to taking action in this area and we are therefore consulting on the best way to achieve this, including seeking detailed views and further input on the review's recommendations.

Employment status is an important and complex issue that is central to both the employment rights system and the tax system, and so any potential changes need to be considered carefully. It is important that any action the government takes preserves flexibility in our labour market, does not impose unnecessary burdens on businesses, and does not create an adverse impact on the ability of those in the UK labour market to work, or how they work. It is for this reason that the government is publishing a consultation authored jointly by BEIS, HM Treasury, and HM Revenue and Customs exploring the options for reforming employment status for both employment rights and tax in order to achieve greater clarity and certainty.

As well as being sure of employment status, employers and employees also require clarity on continuity of employment when deciding whether certain protections apply.

However, for some employees working atypically, calculating the requisite continuous employment to assert their rights can be complicated. The review recommended that **the government should extend, from one week to one month, the consideration of the relevant break in service for the calculation of the qualifying period for continuous service and clarify the situations where cessations of work could be justified (9)**. This recommendation was also made in the Work and Pensions and Business, Energy and Industrial Strategy joint select committee report. We accept this recommendation, and are committed to extending the qualifying period beyond one week. We will be consulting on the detail. We will also be exploring whether further factors should be considered as exemptions for this legislation. Regardless of whether we make any changes to the exemptions, we will provide new and clearer guidance to help clarify the law.

Transparency of entitlement

The decision to accept work will depend on a range of factors based on the individual, including rates of pay, frequency of hours, who the employer is and what they are expected to do.

For most people, this information is provided upfront already, helping inform that important decision. However, currently only employees have a right to written particulars of their employment relationship after a qualifying period of a month, with agency workers also entitled to some basic details about the work they are accepting. It is also important that individuals and employers know what their rights and responsibilities are throughout the working relationship. We agree with the review that more can be done to achieve this.

Specifically, the review recommended that **the government should build on and improve clarity, certainty and understanding of all working people by extending the right to a written statement to 'dependent contractors' as well as employees (7)**. This recommendation was also made by the Work and Pensions and Business, Energy and Industrial Strategy joint select committee report. The government believes that everyone in work should have essential information about the working relationship they have entered into. We therefore accept this recommendation and will extend the right to written particulars to all workers.

We are consulting on how best to achieve this and what information this statement should include.

We also agree that agency workers should receive the information they need to make informed choices about the work they accept. The review recommended that **the government should amend the legislation to improve the transparency of information which must be provided to agency workers both in terms of rates of pay and those responsible for paying them (11)**. We agree: we will amend the legislation and, as part of the consultation on agency working, we will examine exactly what changes need to be made to the current regulations to deliver this recommendation and ensure all agency workers have the information they deserve.

Once in work, only employees have a statutory entitlement to receive a payslip. However, there is no statutory entitlement to have the hours they are being paid for stated on their payslips, which can be crucial information to help low-paid workers understand whether or not they have been paid correctly. **Following a recommendation by the Low Pay Commission in 2016, the government will extend the right to receive a payslip to all workers.**



We plan to lay legislation shortly to both extend the right to receive a payslip to all workers, and to require that employers state the hours being paid for on the payslips of time-paid workers.

The National Minimum Wage (NMW) and National Living Wage (NLW) are essential baseline protections for all workers, and the government remains absolutely committed to ensuring that all those who are due the NMW receive it. The review considered how the NMW and NLW operate in some parts of the gig economy and recommended that **in redefining the 'dependent contractor' status, the government should adapt the piece rates legislation to ensure those working in the gig economy are still able to**

enjoy maximum flexibility whilst also being able to earn the NMW (4). We recognise that modern business models are changing employment practices and that innovations which lead to work being offered in small, discrete packages through digital platforms can raise questions about how the NMW and NLW apply. It is important that those in the gig economy who are workers are protected by the NMW and NLW, while we preserve the flexibility and benefits – for both workers and consumers – that these platforms offer. We will therefore consult to gather further information and input on how definitions of working time can and should apply to platform working.

Good Work

Paid time off is a basic protection that all workers should be, and indeed are, entitled to. The review found examples of where individuals are either prevented from taking their leave, feel disempowered to do so or are unaware of what their rights are. The review addressed this by recommending that **the government should do more to promote awareness of holiday pay entitlements, increasing the pay reference period to 52 weeks to take account of seasonal variations and give dependent contractors the opportunity to receive rolled-up holiday pay (10)**. We agree, and will immediately take steps to increase awareness of holiday pay entitlements, including investigating how to best communicate entitlements to all workers and exploring publicity campaign options. We will also continue

to promote other rights, including shared parental leave. We will also increase the pay reference period to 52 weeks, and our consultation on transparency will consider the finer details of this. With regard to the issue of rolled-up holiday pay, we will not be taking this forward at this time. Whilst the government agrees with the review's concerns that some workers may not be receiving the holiday pay to which they are entitled, rolled-up holiday pay has been found to be unlawful by the Court of Justice of the European Union (CJEU) and therefore we will not be pursuing this recommendation directly. Instead we will explore, through consultation, what alternative action could be taken to address these issues.

There are times in all of our working lives when it is important that simple,



clear advice is available. The review recommended **the government should review, and in any event, consolidate in one place guidance on the legislation which protects those who are pregnant or on maternity leave to bring clarity to both employers and employees. In parallel with the range of non-legislative options set out above, the government should consider further options for legislative interventions. If improvements around leadership, information and advice do not drive the culture change we are seeking, the government will need to move quickly to more directive measures to prevent pregnancy and maternity discrimination. Discrimination on any grounds is unlawful and does not belong in the workplace (41).**

We accept this recommendation and will continue to work with a range of

partners including Acas and Equality and Human Rights Commission (EHRC) to improve advice and guidance on pregnancy and maternity issues so that employers are more fully aware of their obligations and employees better understand their rights.

Acas produced updated and comprehensive guidance in November 2017, available at the following link: www.acas.org.uk/index.aspx?articleid=5271

We will also update and consolidate the pregnancy and maternity discrimination pages on GOV.UK by summer 2018. Further, we will review the legislation relating to protection against redundancy, and keep existing protections under review as we understand the impact the revised guidance and other measures (such as EHRC's Working Forward Pledge) are having.

Embedding clarity and transparency

Securing greater clarity on employment status and transparency of rights is important and the review recommended that **the government should build on legislative changes to further improve clarity and understanding by providing individuals and employers with access to an online tool that determines employment status in the majority of cases (6).** We agree that an online tool could be invaluable in helping determine questions of employment status, and intend to

develop one. As the review said, this is complex and it will need to follow final decisions on the legislative framework.

The changes we are taking forward will make it easier for people to know their rights and feel more confident asserting them. The changes will also make it easier for employers to comply with the law, reducing the burden of complicated calculations and ambiguity that can lead to unnecessary litigation and complaints.

A fair deal



A fair deal

A flexible labour market works for employers and individuals, encouraging job creation and allowing more people to participate in work.

However, it is important that the balance between flexibility and security is fair for both parties. Good employers know the importance of an engaged workforce and include them in the decision-making process so that everyone can share in success.

When a worker's rights are breached they deserve quick and effective redress. The state has a role in protecting those who are most vulnerable in the labour market. However, with the majority of protections enforced through the courts, it is essential that this process is fair and delivers justice.

In order to achieve this, we are:

- ▶ Asking the Low Pay Commission to consider the potential impact of a higher NMW/NLW rate for non-contracted hours to rebalance the incentives in certain circumstances for flexibility between employers and workers;
 - ▶ Committing to provide a right to request a more predictable contract for all workers, including those on zero hours contracts and agency workers;
 - ▶ Proposing to expand the scope and remit of the Employment Agency Standards Inspectorate to better reflect modern supply chains and employer behaviour;
 - ▶ Engaging with business, unions and others to establish the best way to enhance employee engagement, including consulting on changes to the Information and Consultation Regulations;
 - ▶ Supporting the development of a workertech catalyst to encourage greater collective voice amongst the self-employed;
 - ▶ Promoting more high-quality, paid internships, and updating guidance and increasing targeted enforcement to stamp out illegal and exploitative unpaid internships; and
 - ▶ Introducing a new naming scheme for employers who fail to pay the penalties issued to them by employment tribunals.
-

For most people, participating in non-standard, atypical arrangements suits them well and legislation already exists to protect them from exploitation. However, there are examples of where a minority of employers have used this flexibility unfairly, transferring business risk onto their staff through the misuse of zero hours contracts, over-reliance on casual labour to reduce costs or pushing people into bogus self-employment.

In addition, some workers do not feel they have a meaningful say in the decisions that affect their jobs. Furthermore, when things go wrong, some feel that the enforcement framework fails to protect them from unscrupulous bosses with tribunal fines going unpaid and rulings ignored.

The government believes that people should be treated fairly at work and should have fast and effective redress when things go wrong. This section sets out what we will do to improve the situation for working people in the UK.

Genuine two-way flexibility

Many employers offer flexible working arrangements to increase the pool of potential talent they can recruit from.

For many parents, students, older workers and those with caring responsibilities, permanent, full-time work is not desirable and so a flexible approach encourages them to participate. However, this must be a positive choice. While there may be situations where employers need to use atypical arrangements, for instance because of fluctuating demand, individuals should not be trapped in this type of work with no route out. BEIS research found those working in the gig economy expressed concerns about lack of security in terms of work and irregularity of work which gave them considerable worries¹². Employers that choose to establish business models that transfer disproportionate levels of business risk onto their

workforce should be challenged.

The review considered this issue at length and made a number of recommendations to try and redress the balance. For instance, as we have already identified, a key issue for many is not necessarily the rate of pay, but more the uncertainty of when they will next receive paid work. While the majority of people on zero hours contracts are content, for some, never knowing when one will be scheduled for work limits the ability to plan effectively day-to-day and make life changing decisions like buying a house or saving for the future. In light of this, the review concluded that a higher National Minimum Wage (NMW) for non-guaranteed hours was the most promising option, and recommended

that **the government should ask the Low Pay Commission (LPC) to consider the design and impacts of the introduction of a higher NMW rate for hours that are not guaranteed as part of the contract (8)**. The government recognises the real issues that one-sided flexibility can cause for working people and their families. We want to find ways to tackle this issue which retain the flexibility that many people find so valuable, and avoid placing unnecessary burdens on business. We accept the review's recommendation to ask the LPC to explore the impacts of introducing a higher NMW rate for hours that are not guaranteed as part of the contract. We will also investigate alternative means of tackling the issue, and ask the LPC to do the same and provide advice on the impacts of alternative options. The LPC will provide their assessment of the impact of these options to Ministers in their October 2018 report.

In a YouGov survey,¹³ predictability of work was the highest concern with 18 per cent listing it as the one aspect of work they would improve. That is why the review recommended that **the government should introduce a right to request a direct contract of employment for agency workers who have been placed with the same hirer for 12 months, and an obligation on the hirer to consider the request in a reasonable manner (13)**. In addition, the review recommended that **the government should act to create a right to request a contract that guarantees hours for those on**

zero hour contracts who have been in post for 12 months which better reflects the hours worked (12). Zero hour contracts are often assumed to be associated with low-paid jobs. 20 per cent of jobs with zero-hour contracts were paid close to the NMW or NLW in Quarter four of 2016, a much greater share than the 8 per cent of jobs without zero-hour contracts¹⁴.

The government supports the intention underlying these recommendations to provide a 'right to request' to improve predictability of work, but we believe this is an area where we should go further. Both those on zero hours contracts and agency workers are an important part of the UK's labour market, but they represent a relatively small proportion of the UK workforce. Current statistics show that zero hours contracts make up 2.8 per cent of the total workforce and the latest Labour Force Survey (LFS) statistics show a decrease in the number of people who report being on a zero hours contract. The Recruitment and Employment Confederation (REC) conducts surveys with agencies which suggest that in 2014/15 there were around 1.2 million temporary agency workers, representing around 3.7 per cent of the total number of people in employment¹⁵. That is why the government will go further and create a right for all workers rather than specific groups to request a more predictable contract where appropriate. The consultation on transparency will consider how best to effectively implement this right to request.

Ensuring agency workers have choice in the way that they work is crucial to delivering a fair and flexible labour market. The review identifies specific issues with enforcement of the Agency Workers Regulations (AWR) and specifically, the way 'Pay Between Assignments' contracts (also known as the 'Swedish Derogation') are used. The review recommends that the **government should repeal the legislation that allows agency workers to opt out of equal pay entitlements. In addition, the government should consider extending the remit of the Employment Agency Standards Inspectorate to include compliance with the Agency Workers Regulations (18)**. The use of these types of contract was also raised by the Work and Pensions and Business, Energy and Industrial Strategy Committees in their report. Pay between assignments contracts can be the right option for those agency workers who want to benefit from greater pay security between assignments. However, the evidence presented in *The Review of Modern Working Practices* and by stakeholders suggests that less reputable agencies have been using so called 'Swedish Derogation' contracts inappropriately. This correlates with some of the findings of qualitative research previously commissioned by BEIS and published today¹⁶. Whilst the case studies presented within the report cannot be considered representative of the whole economy (in particular the evidence which came mainly from work-seekers) it suggested

that in instances where these types of contracts were used, they were rarely requested by agency workers.

The government does not support or condone the use of pay between assignments contracts to circumvent equal pay entitlements and is concerned that these contracts may be being abused. If abuse is limited, state enforcement may be the answer - potentially through extending the remit of the Employment Agency Standards Inspectorate's to cover the Agency Worker Regulations. However, if abuse is more widespread, the government's initial view is that it would be more appropriate to repeal the derogation. Before taking a final decision on how to respond, the government will therefore consult further to establish clearly the extent of abuse. Evidence gathered so far suggests that the level of abuse may be considerable. We welcome further evidence, either supporting this position or to the contrary, and would like to hear from all those with an interest. We will also consider, as part of the same consultation, the potential impact of expanding the Employment Agency Standards Inspectorate's remit to include all of the Agency Workers Regulations, including the 'Swedish Derogation', to further protect agency workers against one-sided flexibility.

An effective corporate governance framework is essential if companies in the UK are to retain the trust of their workforces, investors and the public at large. The reforms we announced in August 2017 following consultation on the Corporate Governance Reform

green paper, will strengthen several aspects of this framework to ensure stronger and more visible boardroom engagement with the workforce and other stakeholders. The review suggested going further and using the corporate governance framework to shine a light on workforce models with a view to highlighting those employers who unfairly transfer risk onto their staff. The review recommended **the government should introduce new duties on employers to report (and to bring to the attention of the workforce) certain information on the workforce structure. The government should require companies beyond a certain size to: make public their model of employment and use of agency services beyond a certain threshold; report on how many requests they have received (and number agreed to) from zero hours contracts workers for fixed hours after a certain period; and report on how many requests they have received (and number agreed to) from agency workers for permanent positions with a hirer after a certain period (16)**. We agree that there is value in companies being more transparent about their workforce structures and employment practices. Given the scope for reputational damage to companies where standards fall short of consumer expectations, the government also believes that these matters are of interest to shareholders. The Companies Act already requires companies to report on a range of employee-related issues. Quoted companies are also required to include

a description of their business model in the strategic report which forms part of the annual report. The recent implementation of the Non-Financial Reporting Directive extends these requirements to include a description of companies' employee policies and the principal risks relating to employees. This will include atypical workers and zero hour contract workers to the extent that they are employees.

Implementation of the government's corporate governance reforms announced in August 2017 will go further, requiring companies to be specific about how directors, in pursuing their duties, have taken account of wider matters including the interests of employees, fostering relationships with suppliers (who could include self-employed contractors) and maintaining a reputation for high standards of business conduct.

The government expects that, in responding to this stronger reporting framework, larger companies will be more transparent about their workforce structures, particularly where these are an important aspect of their business model. To the extent that this information is material to the company's financial results and an understanding of its business, we anticipate that shareholders will also expect this reporting.

The government will work with the Financial Reporting Council, which publishes guidance for companies on the content of annual reports, to consider how the guidance can be revised to encourage companies to

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provide a fuller explanation of their workforce model and practices.

The government will review the impact of these reforms on company reporting practice. If there is no change, we will take further action which could include a new requirement on companies to publish a 'People Report'. This could bring together a range of existing employee-related reporting requirements including gender pay gap and diversity data, along with additional specific metrics relating to workforce structure. The government is mindful of the additional burdens that this would place on business, and is currently of the view

that more comprehensive reporting under the existing and forthcoming legal framework is preferable. However, we would like to gather views on the potential value of such a report, to inform any future action.

The review also recommends that **as part of the statutory evaluation of the Right to Request Flexible Working in 2019, the government should consider how further to promote genuine flexibility in the workplace. For example, it should consider whether temporary changes to contracts might be allowed, to accommodate flexibility needed for a particular caring requirement.**



The government should work closely with organisations like Timewise and Working Families to encourage flexible working and initiatives like ‘happy to talk flexible working’ to a wider range of employers (40). We agree. The right to request flexible working, introduced in June 2014, was a major step in making the workplace more accessible for a wide range of

people. It is right that the success of this measure is evaluated and as part of that process in 2019, we will consider how further to promote genuine flexibility in the workplace. To help unlock potential in the labour market, including amongst women, older workers, carers and disabled people, the government will launch a joint taskforce with industry on flexible working.

Inclusive dialogue

Many companies actively involve their staff in business decisions, recognising the positive impact that an engaged workforce can have on morale and productivity.

For many, the ability to shape their work and influence the decisions that affect them is a key pillar of what they would consider good work. The review recommended that **the government should work with Investors in People, Acas, trade unions and others with extensive expertise in this area to promote further the development of better employee engagement and workforce relations, especially in sectors with significant levels of low-paid or casual employment (15).** We accept this recommendation and to identify and develop the most effective ways to promote greater employee engagement and workforce relations, ministers and officials will be leading stakeholder engagement with experts in the coming months.

This will examine what works and where with a view to developing best practice advice for all employers.

The review also recommended that **the government should examine the effectiveness of the Information and Consultation of Employees (ICE) Regulations in improving employee engagement in the workplace. In particular, it should extend the regulations to include employees and workers and reduce the threshold for implementation from 10 per cent to 2 per cent of the workforce making the request (14).** There have only been a few studies that have examined the efficacy of information and consultation regulations, with the most extensive, The Workplace Employment Relations Survey (WERS), being undertaken in 2011. The findings at the time suggested that both uptake and impact had been limited and showed that the number of workplaces with an on-site Joint Consultative Committee (JCCS) remained low¹⁷.

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Further, a research paper¹⁸ published by the Department for Business, Innovation and Skills, which provided case studies of businesses who had established Information and Consultation arrangements, indicated that the impact of ICE had been limited.

Whilst this gives some indication of the role the Information and Consultation Regulations play in the workplace, we recognise that our data is currently out of date. We are committed to employees having a voice at work, but want to ensure that any reforms we introduce will be impactful and effective. On that basis, we intend to consult further on this recommendation to better determine an up-to-date evidence base and to support our assessment as to whether

or not there would be appetite for expansion. This will form part of the wider consultation on transparency. Ministers and officials will also engage with interested parties to consider the future of the ICE Regulations, including whether thresholds should be lowered to improve workplace representation.

The benefits associated with a collective voice have historically been centred on employed people in larger workforces, and indeed the majority of the legislation is targeted in this way. However, the significant increases in the number of self-employed people now working in the UK suggest it is time that we rethink this focus. Many of these individuals work remotely and rely on a third party to interact with their clients, whether this be an employment



business or digital platform. Workertech can support the self-employed in this space. WokerTech covers a wide range of tech-enabled innovations that support working individuals to achieve a range of aims. This can include the facilitating of information sharing, bringing workers together and calculating and accessing benefits.

The review recommended that **the government should work with partners to create a Catalyst to stimulate the development of a range of workertech models and platforms in the UK. This would allow new and emerging solutions to develop and grow, in a 'sandbox environment' with a view to better supporting self-employed people (28).** In addition, **the government should actively support technology that helps ensure self-employed people have the opportunity to come together and discuss the issues that are affecting them, working with employers to make sure this is positively encouraged (29).** The government accepts this in principle. We agree that technology has the potential to help those in self-employment to come together and discuss issues that affect them. Looking to help encourage the development of these models, technologies should be a key principle in the design of any workertech Catalyst. We will work with key stakeholders over the following months to investigate the potential for a workertech Catalyst.

The Review of Modern Working Practices did identify a number of areas where opportunities existed to improve the quality of work using technology beyond workertech. For instance, it identified the opportunities that could arise as we move towards more cashless transactions. Specifically, it recommended that **the government should consider accrediting a range of platforms designed to support the move towards more cashless transactions with a view to increasing transparency of payments, supporting individuals to pay the right tax.** We are committed to helping businesses and individuals to pay the right tax. As new technologies develop, we will keep under review how these could be used to support the self-employed with their tax obligations and ensure that there is a level playing-field between businesses. In a connected area, at Autumn Budget 2017, the government announced an ambition to work with digital platforms, which allow businesses to sell or rent goods and services in new ways, to explore opportunities to promote better tax compliance by their users. The government will publish a call for evidence on what more digital platforms could do to ensure their users are compliant with the tax rules.

Quick and effective redress

When things go wrong in the workplace, effective conflict resolution is enhanced through open dialogue and early communication. Most employers do their best to create an inclusive environment and actively seek to deal with concerns quickly. When things do go wrong though, or individuals feel that they have been wronged, everyone expects quick and effective redress.

For certain specific employment rights, most notably the National Minimum Wage/National Living Wage and agency workers, the state enforces protections on the individual's behalf. In all other circumstances, it is for the individual to take their employer to an employment tribunal, via Acas and the process of early conciliation. Acas 2017 statistics for early conciliation show that 64 per cent did not end in a tribunal claim, 18 per cent resulted in formal settlement, with 18 per cent progressing to a tribunal claim. Independent research found that nearly half of all claimants (48 per cent) who used early conciliation either reached a formal settlement or were otherwise helped by Acas to avoid a tribunal claim, while 80 per cent of early conciliation participants were satisfied with the service they received from Acas¹⁹.

Those who are most vulnerable should be protected, and this is why the government was concerned with the review findings that the practice of unpaid internships continues. Social mobility is a key priority for the

government and no one should feel disadvantaged by an expectation that they should work for no money to gain the necessary skills and experience to advance their career - whatever their age, background, or chosen career. The review recommended that **the government should ensure that exploitative unpaid internships, which damage social mobility in the UK, are stamped out. The government should do this by improving both the interpretation of the law and enforcement action taken by HMRC in this area (39).**

The government accepts the recommendation of the review. Exploitative unpaid internships should not exist and we will work to eradicate these. We will take action to improve the interpretation of the law and the enforcement action taken by HMRC in this area to help stamp out illegal unpaid internships.

The law is clear that interns who are classed as workers must be paid at least the NMW/NLW. An employer cannot avoid paying someone the minimum wage simply by calling them an 'intern' or saying that they are doing an internship. Determining whether an individual is 'working' is based on the presence of multiple factors; there is not a single determining feature of a worker. Whether an individual is a worker will depend most importantly on whether they have a contract to provide work for the relevant



employer, in return for something of value from the employer. This could be: monetary payment (i.e. cash or other forms of financial payment); a benefit-in-kind such as vouchers or merchandise (not simply the reimbursement of genuine 'out-of-pocket' expenses); or anything else which is of value, such as training which has a value to the individual beyond what is immediately needed for the internship, the promise of a contract, future work, or preferential access to interviews or graduate schemes.

Additionally, being subject to sanction for not arriving to work at an agreed time is another indication that an individual is a worker and entitled to the NMW. If an internship were terminated after an intern failed to arrive at work

for a period, this might indicate that the intern had agreed to provide work, and should therefore receive the NMW, because an employer would be less likely to terminate a purely voluntary arrangement for the same reason.

On the other hand, genuine volunteers are not entitled to the NMW. Volunteers benefit from the general experience they gain through being in a working environment, but are not legally required to turn up, are free to leave at any time, and they do not have a contract, so would not expect any monetary payments or benefits in kind for their volunteering duties.

We will take further steps to engage with sectors where unpaid internships are prevalent and with bodies that represent interns, such as university

careers services, to uncover good practice examples that should be highlighted and proliferated. We will also seek to raise awareness of existing legislation amongst both employers and workers through better information, and by updating the guidance in this area.

The concentration of this problem within particular sectors provides the opportunity for targeted action. This government continues to invest heavily in minimum wage enforcement, increasing the budget to £25.3m for 2017/18, up from £13m in 2015/16. HMRC already pro-actively contacts employers who have advertised for unpaid internships to ensure they are aware and compliant with the law. Over 500 employers have been contacted in the last three months. Furthermore, in the coming year, we will formally ask HMRC to prioritise NMW enforcement efforts to focus activity on employers who use unpaid interns, through intelligence-led enforcement.

If this approach does not work, the government will review the existing policy and legal framework and will consider what other action can be taken.

The changing world of work has seen a number of new challenges emerge too. For instance, one of the issues that the review identified as an area for further consideration was that of supply chains. Specifically, it recommended that **the Director of Labour Market Enforcement should consider whether the remit of the Employment**

Agency Standards Inspectorate ought to be extended to cover policing umbrella companies and other intermediaries in the supply chain (17). The government accepts there is merit in extending the scope of the Employment Agency Standards Inspectorate in this way. The new Director of Labour Market Enforcement is already considering whether the Employment Agency Standards Inspectorate, currently tasked with enforcing the Employment Agencies Act 1973 and associated Regulations, should have its remit extended to include enforcement of umbrella companies and other intermediaries in the supply chain and will report soon. Subject to his conclusions, the government intends to expand the remit of the Employment Agency Standards Inspectorate to include umbrella companies and other intermediaries.

There have been calls in recent years for the scope of state enforcement to be extended to cover other protections. The review recommended that **HMRC should take responsibility for enforcing the basic set of core pay rights that apply to all workers - NMW, sick pay and holiday pay for the lowest paid workers (19).**

The government accepts the case for the state taking responsibility for enforcing these rights on behalf of the most vulnerable workers. We will consult to gather detailed evidence of the scale and distribution of non-compliance with holiday pay and statutory sick pay obligations, and then evaluate the best way to target

enforcement activity, remaining mindful of the need to minimise burdens on compliant businesses and ensure that enforcement activity is cost effective.

Where an individual decides to take their employer to a tribunal, it is important that the process is as fair and transparent as possible. The review made two recommendations to improve the initial process, stating that:

- ▶ **The government should ensure individuals are able to get an authoritative determination of their employment status without paying any fee and at an expedited preliminary hearing (20);** and
- ▶ **The burden of proof in employment tribunal hearings, where status is in dispute, should be reversed so that the employer has to prove that the individual is not entitled**

to the relevant employment rights, not the other way round, subject to certain safeguards to discourage vexatious claims (21).

Knowing which rights you are entitled to is important and we understand why the review made these recommendations. However, we do not believe that it is necessary to take these recommendations further at this stage. This is because at the time of the review there was a requirement to pay a fee to bring a claim to an employment tribunal. The level of fees charged were either £160 or £250 to bring a claim with further hearing fees of either £230 or £950 payable prior to the hearing itself.

Following a Supreme Court ruling in July 2017, employment tribunal fees are not currently being charged.



As a result, individuals are currently able to get an authoritative determination of status without paying a fee. The Court did not find the charging of fees was wrong in principle, and accepted that fees were a legitimate means of making resources available to the system of courts and tribunals. The government is considering very carefully the court's ruling. Should the government decide to reintroduce fees in the employment tribunal system, it would at that point consider the question of whether to charge fees for proceedings about the determination of employment status and consult.

The government is also mindful of the review's recommendation that the burden of proof be reversed subject to a number of safeguards, such as the use of the online tool to reach an initial determination of status. Since these safeguards are not yet in place, we do not propose to reverse the burden of proof at this time. We will return to this recommendation when decisions have been reached on the way forward regarding employment legislation, and when an online tool has been developed.

When individuals are successful in bringing a case against their employer, it is right that they receive the financial award that tribunal thinks appropriate. The review identified that far too many individuals have to struggle to secure this payment or never receive it at all. This is unacceptable. The review made a number of recommendations to address this unfairness.

Specifically, the review recommended that the government should:

- ▶ **Make the enforcement process simpler for employees and workers by taking enforcement action against employers/engagers who do not pay Employment Tribunal awards, without the employee/worker having to fill in extra forms or pay an extra fee and having to initiate additional court proceedings (22);**
- ▶ **Establish a naming and shaming scheme for those employers who do not pay employment tribunal awards within a reasonable time. This can perhaps be an element of the reporting which we have suggested in relation to the composition of the workforce including the proportion of atypical workers in the workforce (23).**

We agree that individuals who win their case at tribunal and receive an award should get what they are owed. The government has already made changes to improve this process, with additional fines for employers who flout the law. But it is clear that we need to go further, and the government already has plans to bring about improvements in respect of this recommendation. Her Majesty's Courts and Tribunal Service (HMCTS) are undertaking a wide-ranging and comprehensive reform of the process for dealing with unpaid awards across the courts and tribunals system. We want this to be as quick and straightforward as possible.

The consultation on enforcement which we are publishing alongside this response therefore considers how best to ensure these reforms work for employment tribunals.

We accept the value of a naming scheme for those employers who do not pay tribunal awards within a reasonable time, and are consulting on the best way to implement such a scheme.

The review also raised concerns with employers who either ignore court decisions or continue to fail in their duties as employers. It recommended that the government should:

- ▶ **Create an obligation on employment tribunals to consider the use of aggravated breach penalties and cost orders if an employer has already lost an employment status case on broadly comparable facts - punishing those employers who believe they can ignore the law (24);**
- ▶ **Allow tribunals to award uplifts in compensation if there are subsequent breaches against workers with the same, or materially the same, working arrangements (25).**

The measures we will be consulting on seek to make the enforcement process fairer and more transparent. We agree with the review and the Work and Pensions and Business, Energy and Industrial Strategy Committees that a fair and transparent framework will act as a deterrent.

The government accepts strong action should to be taken against employers who repeatedly ignore both their responsibilities and the decisions of employment tribunals. When an employment tribunal has reached a judgement based on facts which are the same as the facts relating to other workers in the organisation, the employer should update their contracts and employment relationships accordingly, unless there is a good justification for not doing so. The review recommends a number of ways in which action could be taken against employers repeatedly ignoring the decisions of tribunals, and our consultation will consider in detail how these recommendations can be implemented. This will allow us to reach a final decision on, for example, the circumstances in which a 'repeat offence' would be judged to have been committed.

The government will also raise the maximum penalty for aggravated breach from £5,000 to at least £20,000 as soon as practicable.

Security of opportunity



Security of opportunity

Progression is a key element of good work, and the government has a role to play in helping people to progress in the labour market.

As people work for longer and technology changes the skills required in the labour market, it is vital that people are able to continue learning throughout their working lives.

People also require support in work, sometimes to remain in the labour market through periods of ill health. Time out of the labour market due to ill health significantly impacts on an individual's ability to progress later in their career and so more should be done to support workers through these times.

Likewise, the demographic of the self-employed is changing and many require additional support or advice on issues such as paying the right tax or saving for the future. There is a role for the government in all of those areas.

In order to achieve this, we are:

- ▶ Ensuring the quality of apprenticeships by making sure they are real, paid jobs and include sustained training and clear skills gain;
 - ▶ Supporting the learning of working adults through the National Retraining Scheme and the career learning pilots;
 - ▶ Developing a unified framework of employability skills, as part of our technical education reforms, which will be refined and tested by a range of bodies. This will also be made openly available to other organisations such as employers and schools and the higher education sector to use if they wish;
 - ▶ Performing deeper analysis and research into making statutory sick pay a basic employment right; and
 - ▶ Working across the government to understand how we can support self-employed people, including consulting on tax-registration checks and starting a series of targeted interventions to identify how auto-enrolment can best work for the self-employed.
-

Increased mobility

The Review of Modern Working Practices set out the importance of ensuring everyone has the opportunity to progress in work.

It highlighted that investment in training is falling and that many individuals in lower-paying, lower-skilled sectors can become trapped, unable to progress in their career. The modern apprenticeship is an essential part of ensuring people are able to gain on-the-job skills and develop in their career and the new levy is an important step in supporting a partnership approach, with business, in delivering the skills required.

It is important that apprenticeships continue to deliver the skills required in a changing landscape. The review recommends that **as the new apprenticeship system beds in, the government should examine how the apprenticeship levy could be made to work better for those working atypically, including through agencies. The Institute for Apprenticeships should work with sectors with high levels of lower-paying and atypical work to ensure that they are making best use of the current apprenticeship framework. Following the delivery of the three million apprenticeships that it is committed to, the government should consider making the funding generated by the levy available for high-quality, off-the-job training other than Apprenticeships. The Institute for Apprenticeships should also be tasked with reporting on and addressing disparities in**

the take-up of apprenticeships for different groups (34). The government welcomes the review's acknowledgement of the positive impact the apprenticeship levy has had on employer behaviours, including how industries new to apprenticeships are considering how to benefit from the programme. There are already steps in place to ensure the quality of apprenticeships. They must be real, paid jobs; have a minimum duration of 12 months; involve sustained training and clear skills gain including off-the-job training; and must include English and maths for those who haven't achieved good GCSEs in those subjects.

The changes are still relatively new, and we will continue to assess the impact of the levy and the apprenticeships reforms on employers, providers and individuals. We will continue to work with employers on how the apprenticeship levy can be spent so the levy works effectively and flexibly for industry, and supports productivity across the country.

The review also recommends that, **learning from the failings of Individual Learning Accounts, the government should explore a new approach to learning accounts, perhaps with an initial focus on those with a long working record, but who need to retrain, and those in receipt of**

Universal Credit. The new £40m Lifelong Learning fund is a starting point for this and should be developed by bringing together employers, civic society and the education sector

(35). The government agrees with the overall aim of this recommendation. We need to ensure that our economy can make the best of the advantages that technological changes have to offer. It is becoming increasingly important for adults to be able to retrain and up-skill during their working lives. We know that adults face multiple barriers to re-entering learning, including financial, cultural and lack of suitable information and guidance. In particular, adults from lower socio-economic groups face disproportionate cultural barriers, and it will take a range of measures to help them overcome those barriers. This is why the 2017 Spring Budget allocated up to £40m to fund pilots which will test ambitious new approaches to career learning over the next two years. These pilots will provide crucial insights into what works in engaging adults about the opportunities and benefits of training. The first of these pilots - the Flexible Learning Fund - was launched on 31 October 2017. Through this Fund, the government is making available up to £10m to support projects which design and test flexible and accessible ways of delivering learning to working adults with low or intermediate skills. A second set of pilots was launched on 30 November 2017. These pilots will be run in Leeds, Devon and Somerset, Lincolnshire, Stoke-on-Trent and the West Midlands and will test the best ways to reach

working adults and incentivise them to train. What we learn will help us effectively target the National Retraining Scheme as it rolls out.

In the Budget, the government also announced a National Retraining Scheme: it will be an ambitious programme to drive adult learning and retraining. The scheme will give individuals the skills they need to thrive and support employers to adapt as the economy changes. It will be driven by a new National Retraining Partnership - the coming together of the government, business and unions to help set the strategic direction of the scheme and oversee its implementation. The scheme will include a set of sector focused and employer-driven initiatives to target immediate skills shortages in key sectors. There will be £64m for schemes in the digital and construction sectors. We will give individuals the skills they need to direct their careers and secure the high-paid, high-skilled jobs of the future, focusing on those individuals and sectors who need it most.

We fully recognise the importance of employability skills, particularly as expectations change about career paths, with people more likely to move between different occupations throughout their working lives.

This is why the development of transferable skills is a key part of our reforms to technical education. We therefore understand why the review recommended that **the government should use its convening power to bring together employers and the education sector to develop a**

consistent strategic approach to employability and lifelong learning. This should cover formal vocational training, 'on-the-job' learning and development, lifelong learning and informal learning outside work. It could be linked to the longer-term development of life-time digital individual learning accounts. As part of this, the government should seek to develop a unified framework of employability skills and encourage stakeholders to use this framework (36). As part of our technical education reforms, we are committed to developing a unified framework of employability skills that clearly sets out the transferable skills that should be integrated into technical qualifications. We will convene a range of bodies to refine and test that framework, and will make it openly available for other organisations (such as employers and higher education providers, where successful frameworks are already in use) to use if they wish. We will also consider how it may be of use to other areas of the system, such as apprenticeships.

The government is also investing £22m in an Essential Life Skills programme aimed at building young people's life skills such as resilience, teamwork, leadership and other employability skills. The programme is aimed at disadvantaged young people living in the most deprived areas of the country who are facing the greatest challenges when it comes to social mobility. The programme is running in the twelve opportunity areas.

It will give young people the opportunity to develop a range of knowledge and skills by providing life-shaping experiences that will help young people become successful adults.

Ensuring people receive the right advice is essential in supporting people to make choices about their future career. That is why the review recommended that **in developing a national careers strategy, the government should pay particular attention to how those in low-paid and atypical work are supported to progress. It should take a well-rounded approach including examining the role of high-quality work experience and encounters at different education stages (38).** The government agrees that those people in low-paid and atypical work should receive personalised information, advice and guidance about education, employment and training. The National Careers Service already does an excellent job supporting people in a wide range of jobs, including those in low-paid and atypical work. From October 2018, the re-procured National Careers Service will provide face-to-face advice for those priority groups most in need of support, including low-skilled adults, many of which are in low-paid and atypical work.

We also agree that people should have access to high-quality work experience and encounters at different stages of their education. The government set up The Careers and Enterprise Company to improve employer engagement in secondary schools and colleges. So far, over half of secondary



schools and colleges have joined the Enterprise Adviser Network and are being matched with enterprise advisers who are senior business volunteers. The reforms that we are making to technical education will include a significant work placement as part of the new T levels which will be available from September 2020 onwards.

Looking across different stages of education, we will support employers in their valuable work to prepare the next generation for the workplace. We will work with them and others, including the Careers and Enterprise Company (CEC), to produce guidance in the summer on the range of work placements delivered as part of the government and other programmes. Our careers strategy, which we published in December 2017, sets out how we will work with the CEC,

employers, secondary schools and colleges so that in the future young people should have at least one encounter a year with employers.

For some, progression can be achieved by changing employer. As more people look to digital platforms to enable their work, the importance of online approval ratings is increasing. These ratings, while compiled by gig companies, relate to the individual, their reliability and employability. The review recommended that **the government should strongly encourage gig platforms to enable individuals to be able to carry their verified approval ratings with them when they move from the platform and to share them with third parties (37)**. We agree that a strong track record in one job should be transferable to another. The new General Data

Good Work

Protection Regulations coming into force this year will make it easier for individuals to gain access to their personal data and we will monitor its implementation to see whether further government intervention is required to support the transferability of ratings.

To support progression, it is important that individuals are not unfairly restricted from moving jobs. In May 2015, a call for evidence was published in order to identify whether non-compete clauses written into employment contracts are stifling innovation, particularly for start-up businesses. Such clauses can be used by employers to prevent an individual from competing against them if they leave their employment, and can include restrictions on individuals approaching former clients or working for a competitor for a set period of time after leaving a company. They

are also sometimes referred to as restrictive covenants in employment contracts. The intention behind the call for evidence was to fully understand what is meant by non-compete clauses, when and why they are used, their prevalence, what the benefits and disadvantages are, whether there are transparency or misperceptions, and what the issues are. The consensus view across the majority of responses was that restrictive covenants are a valuable and necessary tool for employers to use to protect their business interests and do not unfairly impact on an individual's ability to find other work. Common law has developed in this area for over a century and is generally acknowledged to work well. Having built up a picture of the UK experience via this call for evidence, we have decided it is not necessary to take any further action in this area at this stage.



Health and wellbeing at work

Long periods of time out of the labour market can reduce an individual's ability to participate and progress in the future.

As such, the government welcomes the review's focus on a more proactive approach to workplace health.

Improving Lives: the Future of Work, Health and Disability, published in November 2017, sets out our plan to work in partnership with employers to create good workplaces that support employees' health and wellbeing. *Thriving at Work: The Stevenson Farmer Review of Mental Health and Employers* also set out the opportunities for businesses by taking action to support the mental health of all of their employees.

No-one plans to be sick at work, but when it does happen, individuals should feel able to take the necessary time off to recover without suffering a detriment. Currently, Statutory Sick Pay (SSP) is paid from the fourth day of illness at a rate of £89.35 per week. The review recommended that **the government should reform SSP so that it is explicitly a basic employment right, comparable to the National Minimum Wage, for which all workers are eligible regardless of income from day one. It should be payable by the employer and should be accrued on length of service, in a similar way to paid holiday currently. The government should ensure that there is good awareness of the right amongst workers and businesses (43).**

Reform of SSP is being considered as part of *Improving Lives: the Future of Work, Health and Disability*, published in November 2017. As part of this, we have committed to bring forward a consultation on changes to SSP to better enable phased return to work, before introducing this reform. The government will fully consider these issues in the round as part of wider work on how to achieve the appropriate balance of incentives and expectations for employers. To ensure any policy measures that we introduce are effective they need to be considered as part of a wider coherent package for reform, not in isolation. We are therefore considering research and consultation findings, against a range of options on employer obligations and incentives, including Matthew Taylor's proposals on SSP eligibility and accrual, and a 'right to return' to a job following sickness absence. Addressing these challenges relies on having robust knowledge of current employer behaviours and how decision-making differs across different types of businesses. The Work and Health Unit will therefore run a comprehensive programme of analysis and research examining the wider framework within which employers make their decisions and will report back on preliminary work later this year.

Currently, when an individual does require time off sick, they have very few protections on returning to work. The review identified that those **individuals with the relevant qualifying period are already entitled to have their job protected for a period of time when they are away from work for perfectly reasonable reasons, for instance, having a child. A similar approach should be adopted for sick leave with individuals having the right to return to the same job after a period of prolonged ill health. This right to return should be conditional on engagement with the Fit for Work service when an assessment has been recommended (44)**. The protections for individuals returning to work after a period of prolonged ill health require further thought. The Fit for Work assessment service has been closed due to very low take up, but we will consider how engagement with occupational health services can support returns to work, as set out in the *Improving Lives: the Future of Work, Health and Disability* publication referenced above.

Given the significant regional disparities that exist, the review recommended that **the relevant government departments - BEIS, MHCLG, DWP and DHSC explore ways of supporting and incentivising local authorities, particularly City Regions and combined authorities to develop integrated approaches to improving health and wellbeing at work (42)**.

This recommendation was echoed in *Thriving at Work: The Stevenson Farmer Review of Mental Health and Employers* which recommended that government departments explore ways of supporting and encouraging local networks, particularly through city regions and combined authorities, to develop integrated approaches to improving workplace mental health. We agree with this and have set out in *Improving Lives: the Future of Work, Health and Disability* how the Work and Health Unit, a joint unit of the Department of Health and Social Care and the Department of Work and Pensions, is already exploring how to integrate health and work support. In fact, work is already underway through a number of trials of integrated employment support in health settings, and prototype work with the Cornwall and Isles of Scilly Local Enterprise Partnership (LEP) to increase and build sustainable local networks. We intend to work further with local areas.



Support for the self-employed

For those in standard forms of employment, a range of support mechanisms exist that assist them during their working lives.

This includes everything from the payroll services that ensure people pay the right tax as well as mechanisms to help them save for the future, through a workplace pension. Many self-employed people do make such provisions, by saving for their retirement, paying the right tax and planning for their future. However, as we have seen, the working demographic is changing and it would be wrong to consider the self-employed to be a single, homogeneous group. Some would benefit from additional support in all of these areas.

The government has already acknowledged this shift, most recently in its review of automatic enrolment published in December 2017. The report drew on the most recent evidence on the self-employed and set out the wide segmentation within the self-employed population in terms of age, income, type of work undertaken and the comparable assets with their employed counterparts. It also highlighted that a proportion could benefit from support with long-term savings.



Prior to this in 2015, the government commissioned Julie Deane OBE to lead a review into government support for self-employed people. Her report was published in 2016 and set out ten recommendations to improve support for those starting their own business. Many of these, from better provision of advice and guidance to equalising parental benefits, align with the recommendations put forward in the review and these are covered below. Julie Deane OBE also identified the role of technology in supporting the self-employed - a key theme underpinning the review and the Industrial Strategy, and one which is again echoed in the review of automatic enrolment. Below, we address many of these recommendations and set out the

steps the government will be taking to support self-employed people in work.

We believe that everybody should have the information and guidance they need in order to make informed choices about future work. This is especially true of the decision to become your own boss. The review recommended that **the government should continue to develop advice and support for people embarking on a self-employed career to ensure they have the greatest chance of succeeding. This includes ensuring that self-employment is considered by work coaches at Jobcentre Plus as an option, where this would be appropriate, as well as ensuring careers advice includes information on becoming your own boss (27).**

We want people to be self-employed when it is the right thing for them. The National Careers Service already provides information, advice and guidance on a wide range of careers, including becoming your own boss, and will continue to do so. This is in addition to information provided on a range of government and non-government run websites. Through Jobcentre Plus, the New Enterprise Allowance scheme provides mentoring and financial support to out-of-work benefit recipients and low-earning Universal Credit claimants to start and grow a business. The scheme now includes a preliminary workshop for people considering self-employment that sets out the realities of being your own boss.

Universal Credit also provides support to this group. As Universal Credit Full Service rolls out, Jobcentre Plus is training a cadre of work coaches with specialised self-employment knowledge to support people in this start-up period to grow their earnings to a level of self-sufficiency. In addition, the New Enterprise Allowance scheme now includes mentoring support for Full Service Universal Credit claimants already in business to help them to grow their earnings. However, where it becomes clear that self-employment is not the right route to financial independence, Jobcentre Plus can provide support to help people to seek employment in one of the 800,000 plus vacancies currently advertised.

The government is already taking steps to improve processes for the self-employed. The principles that underpin the Making Tax Digital (MTD) programme will support self-employed people to pay the right tax. The review recommended that **the government should continue to work with providers to ensure that self-employed people have access to online tools that support compliance with the principles of MTD even if they do not meet the minimum statutory threshold (31).**

We are committed to ensuring that as many businesses, landlords, and self-employed people as possible can benefit from a streamlined digital tax system. In response to feedback about the scale and pace of change, we announced in July 2017 that these changes would be phased in with over three million small businesses joining Making Tax Digital over a longer period. We are confident that many businesses will recognise the benefits of the new system and join voluntarily. The government is working closely with software providers to ensure that there is a wide range of products suitable for businesses of different sizes. A controlled pilot is underway for income Tax; the VAT pilot will begin soon.

We know that the self-employed are a highly diverse and fast-growing group of people, with almost 50 per cent more self-employed people now than in 2000²⁰. Against this, we know that pension participation has been declining among self-employed people²¹.

The review recommended that **the government should think creatively on ways to improve pension provision amongst the self-employed, making the most of opportunities presented by digital platforms and the move to more cashless transactions (30).**

The government agrees with this. As part of its *Automatic Enrolment Review 2017: Maintaining the Momentum* (the AE review), the government committed to consider how the growing group of self-employed people can be helped to save for their retirement. The government noted the AE review's recommendations which, along with other inputs and extensive stakeholder engagement, have provided an important contribution to the conversations around the matter of retirement saving for the self-employed. The AE review concluded in December 2017 and set out the government's position that the current framework for automatic enrolment cannot simply be extended for the self-employed, recognising the diversity of this group and the lack of consistent official touch-points, such as that which an employer provides, on the self-employed customer journey. It also recognised that not all of the self-employed population will need additional support to save, with evidence from the Pensions Policy Institute highlighting that a proportion of self-employed are saving and have comparable assets as the employed population, though distributed differently. Taking this into account, the AE review set out plans to test a series of targeted interventions by which to evaluate what

works most effectively for those in this population who are at risk of under saving for retirement. This could include exploring the opportunity presented by Making Tax Digital, or working with organisations that use self-employed contracted labour, recognising that a single solution may not meet the long-term savings needs of such a diverse group. This work will begin this year, following feasibility work, and the government will seek to evaluate these interventions and consult on next steps before the end of this parliament. The government recognises the value of collaboration and innovation in this space and will look to work closely with potential delivery partners and industry experts in designing the most operationally effective solution, which can be delivered at scale; meet the needs of the self-employed; and remain affordable. The Department for Work and Pensions will also continue to work closely with BEIS, HMT and HMRC on the developing work on employment status, and continue to reinforce that many atypical workers (i.e. agency workers and those on zero hours contracts) are already eligible for automatic enrolment into workplace pensions within the current automatic enrolment framework.

The review also recommended that **the principles underlying the proposed National Insurance (NI) reforms in the 2017 Spring Budget were correct. The level of NI contributions paid by employees and self-employed people should be moved closer to parity, at the same time as action**

being taken to address those remaining areas of entitlement - parental leave in particular - where self-employed people lose out (26).

While we agree with the review that the small differences in contributory benefit entitlement no longer justify the scale of difference in the rates of NI contributions paid in respect of employees and the self-employed, we are clear that we have no plans to revisit this issue. The government also agrees with the principle of equalising benefits for the self-employed, but as the review says, it is right to only consider making changes to this area once we have carefully considered this in the wider context of tax, benefits and rights over the longer term.

The review also welcomed the opportunity to build on programmes designed to ensure people pay the right tax. It recommended that **HMRC should link up with others across government to examine whether the underlying principles of conditionality could be applied more broadly in this space, supporting both self-employed people and consumers in their choices (33)**. We accept this and are developing relevant proposals. As announced at Autumn Budget 2017, the government is consulting on introducing tax-registration checks into the application process for some public sector licences that people need in order to trade.

This will add an extra check to the licensing process to help people engage with the tax system at the right time. It will make it harder for those who deliberately hide their income to trade, and make the tax system fairer for all. HMRC undertook an early-stage consultation last year, and the results of this consultation will set out sectors in which the new rules could practically apply. Final policy design will be confirmed following consultation.

Conclusion



Conclusion

The Review of Modern Working Practices provides an invaluable insight into the issues facing working people in the UK.

The government shares the review's ambition that all work should be fair and decent, with scope for development and fulfilment. Good work and plentiful work can and should go together. This response, set alongside and in the context of our Industrial Strategy, has set out the steps we will take to deliver that ambition.

As the review makes clear, we start from a position of strength. Our employment framework balances the need for rights and protections with the flexibility that is valued by employers, individuals and consumers, and which is so vital to the ability of business to create jobs. *The Review of Modern Working Practices* highlighted a number of areas in which that framework needs updating to ensure that the balance is maintained in the modern labour market. We believe that, with some carefully targeted interventions, we can make the changes necessary to improve the quality of work whilst retaining the flexibility and remaining a home to innovation and new business models. We recognise that most employers treat their staff not just fairly, but well, and we will continue to avoid overbearing regulation. But all employers need to take their responsibilities seriously, and to listen to their staff.

As the Prime Minister said at the publication of *The Review of Modern Working Practices*, it will take time and a broad public debate to determine exactly the right actions to take across all of the areas of importance. In some areas, we are pressing ahead with reforms which we believe to have a clear value. In others, we are consulting further to develop responses in more detail than was outlined in the review, or to develop our understanding of the possible impacts and implications. Together, this response represents the next step in our work to deliver good, fair and decent work for everyone in the UK.

Summary of recommendations from the review of modern working practices

	Recommendation	Response
1	The government should replace their minimalistic approach to legislation with a clearer outline of the tests for employment status, setting out the key principles in primary legislation, and using secondary legislation and guidance to provide more detail	Take forward further work on the case for legislative change and potential options for reform
2	The government should retain the current three-tier approach to employment status as it remains relevant in the modern labour market, but rename as 'dependent contractors' the category of people who are eligible for worker rights but are not employees	Test relevance of current approach and nomenclature
3	In developing the test for the new 'dependent contractor' status, control should be of greater importance, with less emphasis placed on the requirement to perform work personally	Consult on the detailed tests to determine a worker (or dependent contractor)
4	In redefining the 'dependent contractor' status, government should adapt the piece rates legislation to ensure those working in the gig economy are still able to enjoy maximum flexibility whilst also being able to earn the NMW	Examine how working time should apply to the gig economy
5	In developing the new 'dependent contractor' test, renewed effort should be made to align the employment status framework with the tax status framework to ensure that differences between the two systems are reduced to an absolute minimum	Take forward further work on the case for legislative change and potential options for reform
6	The government should build on and improve clarity, certainty and understanding of all working people by extending the right to a written statement to 'dependent contractors' as well as employees	Agree to extend to 'workers' and consult on what information to include
7	The government should build on legislative changes to further improve clarity and understanding by providing individuals and employers with access to an online tool that determines employment status in the majority of cases	Accept and will be taken forward once status changes are agreed
8	The government should ask the LPC to consider the design and impacts of the introduction of a higher NMW rate for hours that are not guaranteed as part of the contract	Agree to ask LPC to consider the impacts of this option and of alternatives

Recommendation	Response
<p>9 The government should extend, from one week to one month, the consideration of the relevant break in service for the calculation of the qualifying period for continuous service and clarify the situations where cessations of work could be justified</p>	<p>Agree to extend the consideration of the relevant break in service, and consult on changes to clarify the situations where cessation of work could be justified</p>
<p>10 The government should do more to promote awareness of holiday pay entitlements, increasing the pay reference period to 52 weeks to take account of seasonal variations and give dependent contractors the opportunity to receive rolled-up holiday pay</p>	<p>Accept and consult on the details of increasing the pay reference period to 52 weeks. Not taking forward proposal on rolled-up holiday pay.</p>
<p>11 The government should amend the legislation to improve the transparency of information which must be provided to agency workers both in terms of rates of pay and those responsible for paying them</p>	<p>Accept and consult on how this will work</p>
<p>12 The government should introduce a right to request a direct contract of employment for agency workers who have been placed with the same hirer for 12 months, and an obligation on the hirer to consider the request in a reasonable manner</p>	<p>Accept and consult to apply this to a wider group of workers</p>
<p>13 The government should act to create a right to request a contract that guarantees hours for those on zero hour contracts who have been in post for 12 months which better reflects the hours worked</p>	<p>Accept and consult to apply this to a wider group of workers</p>
<p>14 The government should examine the effectiveness of the Information and Consultation Regulations in improving employee engagement in the workplace. In particular it should extend the Regulation to include employees and workers and reduce the threshold for implementation from 10% to 2% of the workforce making the request</p>	<p>Consult on extending the regulation and reducing the threshold</p>
<p>15 The government should work with Investors in People, Acas, Trade Unions and others with extensive expertise in this area to promote further the development of better employee engagement and workforce relations, especially in sectors with significant levels of low-paid or casual employment</p>	<p>Accept</p>

Recommendation	Response
<p>16 The government should introduce new duties on employers to report (and to bring to the attention of the workforce) certain information on the workforce structure</p> <p>The government should require companies beyond a certain size to:</p> <ul style="list-style-type: none"> ▶ Make public their model of employment and use of agency services beyond a certain threshold ▶ Report on how many requests they have received (and number agreed to) from zero hours contracts workers for fixed hours after a certain period ▶ Report on how many requests they have received (and number agreed) from agency workers for permanent positions with a hirer after a certain period ▶ 	<p>Monitor the impact of corporate governance reforms, supported by a refreshed Corporate Governance Code and take further action if these reforms do not change behaviour. This could include a 'People Statement' and we welcome views on how effective this might be</p>
<p>17 The new Director of Labour Market Enforcement should consider whether the remit of the Employment Agency Standards Inspectorate ought to be extended to cover policing umbrella companies and other intermediaries in the supply chain</p>	<p>Extend the remit of Employment Agency Standards Inspectorate as recommended, subject to the conclusions of the Labour Market Enforcement Director</p>
<p>18 The government should repeal the legislation that allows agency workers to opt out of equal pay entitlements. In addition, the government should consider extending the remit of the Employment Agency Standards Inspectorate to include compliance with the Agency Workers Regulations</p>	<p>Consultation on both Swedish Derogation contracts and the role of the Employment Agency Standards Inspectorate, seeking to determine the level of abuse</p>
<p>19 HMRC should take responsibility for enforcing the basic set of core pay rights that apply to all workers - NMW, sick pay and holiday pay for the lowest paid workers</p>	<p>Accept that the state should take responsibility for enforcing these rights for vulnerable workers and consult on how this will work</p>
<p>20 The government should ensure individuals are able to get an authoritative determination of their employment status without paying any fee and at an expedited preliminary hearing</p>	<p>There are currently no fees in the ETs following a recent Supreme Court judgment. If fees are reintroduced we will consult on this</p>
<p>21 The burden of proof in employment tribunal hearings, where status is in dispute, should be reversed so that the employer has to prove that the individual is not entitled to the relevant employment rights, not the other way round, subject to certain safeguards to discourage vexatious claims</p>	<p>Return to this recommendation after an online tool has been developed</p>

Recommendation	Response
<p>22 The government should make the enforcement process simpler for employees and workers by taking enforcement action against employers/engagers who do not pay ET awards, without the employee/worker having to fill in extra forms or pay an extra fee and having to initiate additional court proceedings</p>	<p>Accept enforcement process could be simpler. Reform to the enforcement process is planned and we will consult on how to ensure this reform works for employment tribunals</p>
<p>23 The government should establish a naming and shaming scheme for those employers who do not pay employment tribunal awards within a reasonable time. This can perhaps be an element of the reporting which we have suggested in relation to the composition of the workforce including the proportion of atypical workers in the workforce</p>	<p>Accept and consult on how to implement a naming and shaming scheme</p>
<p>24 The government should create an obligation on employment tribunals to consider the use of aggravated breach penalties and cost orders if employer has already lost an employment status case on broadly comparable facts - punishing those employers who believe they can ignore the law</p>	<p>Accept the need for strong punishment for those who ignore the law. Consultation on how to extend the use of sanctions. New proposal put forward to increase level of penalty for aggravated breach</p>
<p>25 The government should allow tribunals to award uplifts in compensation if there are subsequent breaches against workers with the same, or materially the same, working arrangements</p>	<p>Accept the need for strong punishment for those who ignore the law. Consultation on how to extend the use of sanctions</p>
<p>26 The review believes the principles underlying the proposed NI reforms in the 2017 Spring Budget are correct. The level of NI contributions paid by employees and self-employed people should be moved closer to parity while we should also address those remaining areas of entitlement - parental leave in particular - where self-employed people lose out</p>	<p>Agree that the small differences in contributory benefits no longer justify the scale of differences in rates of NI contributions, but we have no plans to revisit this issue</p>
<p>27 The government should continue to develop advice and support for people embarking on a self-employed career to ensure they have the greatest chance of succeeding. This includes ensuring that self-employment is considered by work coaches at Job Centre Plus as an option, where this would be appropriate, as well as ensuring careers advice includes information on becoming your own boss</p>	<p>Accept</p>

	Recommendation	Response
28	The government should work with partners to create a Catalyst to stimulate the development of a range of WorkerTech models and platforms in the UK. This would allow new and emerging solutions to develop and grow, in a 'sandbox environment' with a view to better supporting self-employed people	Accept
29	The government should actively support technology that helps ensure self-employed people have the opportunity to come together and discuss the issues that are affecting them, working with employers to make sure this is positively encouraged	Accept
30	We encourage the government to think creatively on ways to improve pension provision amongst the self-employed, making the most of opportunities presented by digital platforms and the move to more cashless transactions	Accept
31	The government should continue to work with providers to ensure that self-employed people have access to online tools that support compliance with the principles of MTD even if they do not meet the minimum statutory threshold	Agree
32	The government should consider accrediting a range of platforms designed to support the move towards more cashless transactions with a view to increasing transparency of payments, supporting individuals to pay the right tax	Agree
33	HMRC should link up with others across government to examine whether the underlying principles of conditionality could be applied more broadly in this space, supporting both self-employed people and consumers in their choices	Agree
34	<p>As the new apprenticeship system beds in, government should examine how the apprenticeship levy could be made to work better for those working atypically, including through agencies. The Institute for Apprenticeships should work with sectors with high levels of lower-paying and atypical work to ensure that they are making best use of the current apprenticeship framework</p> <p>Following the delivery of the three million apprenticeships that it is committed to, government should consider making the funding generated by the levy available for high-quality, off-the-job training other than Apprenticeships. The Institute for Apprenticeships should also be tasked with reporting on and addressing disparities in the take-up of apprenticeships for different groups</p>	We agree to consider next steps following delivery of current targets

Recommendation	Response
<p>35 Learning from the failings of Individual Learning Accounts the government should explore a new approach to learning accounts, perhaps with an initial focus on those with a long working record, but who need to retrain and those in receipt of Universal Credit. The new £40 million Lifelong Learning Fund is a starting point for this and should be developed by bringing together employers, civic society and the education sector</p>	<p>Agree in principle, work being taken forward in other work programmes</p>
<p>36 The government should use its convening power to bring together employers and the education sector to develop a consistent strategic approach to employability and lifelong learning. This should cover formal vocational training, ‘on the job’ learning and development, lifelong learning and informal learning outside work. It could be linked to the longer-term development of life-time digital individual learning accounts. As part of this, the government should seek to develop a unified framework of employability skills and encourage stakeholders to use this framework</p>	<p>Agree in principle and will develop a unified framework of employability skills</p>
<p>37 The government should strongly encourage gig platforms to enable individuals to be able to carry their verified approval ratings with them when they move from the platform and to share them with third parties</p>	<p>Accept in principle; will monitor changes and assess what further action needs to be taken</p>
<p>38 In developing a national careers strategy, the government should pay particular attention to how those in low paid and atypical work are supported to progress. It should take a well-rounded approach including examining the role of high-quality work experience and encounters at different education stages</p>	<p>Agree</p>
<p>39 The government should ensure that exploitative unpaid internships, which damage social mobility in the UK, are stamped out. The government should do this by improving both the interpretation of the law and enforcement action taken by HMRC in this area</p>	<p>Accept</p>
<p>40 As part of the statutory evaluation of the Right to Request Flexible Working in 2019, government should consider how further to promote genuine flexibility in the workplace. For example, it should consider whether temporary changes to contracts might be allowed, to accommodate flexibility needed for a particular caring requirement. The government should work closely with organisations like Timewise and Working Families to encourage flexible working and initiatives like ‘happy to talk flexible working’ to a wider range of employers</p>	<p>Accept</p>

	Recommendation	Response
41	<p>The government should review, and in any event, consolidate in one place guidance on the legislation which protects those who are pregnant or on maternity leave to bring clarity to both employers and employees. In parallel with the range of non-legislative options set out above, the government should consider further options for legislative interventions. If improvements around leadership, information and advice do not drive the culture change we are seeking, the government will need to move quickly to more directive measures to prevent pregnancy and maternity discrimination</p>	Accept
42	<p>We recommend that the relevant government Departments - BEIS, MHCLG, DWP and DH explore ways of supporting and incentivising local authorities, particularly City Regions and combined authorities to develop integrated approaches to improving health and wellbeing at work</p>	Agree
43	<p>The government should reform Statutory Sick Pay so that it is explicitly a basic employment right, comparable to the National Minimum Wage, for which all workers are eligible regardless of income from day 1. It should be payable by the employer and should be accrued on length of service, in a similar way to paid holiday currently. The government should ensure that there is good awareness of the right amongst workers and businesses</p>	Work being taken forward as part of <i>Improving Lives: the Future of Work, Health and Disability</i>
44	<p>Those individuals with the relevant qualifying period are already entitled to have their job protected for a period of time when they are away for work for perfectly reasonable reasons, for instance, having a child. A similar approach should be adopted for sick leave with individuals having the right to return to the same job after a period of prolonged ill health. This right to return should be conditional on engagement with the Fit for Work service when an assessment has been recommended</p>	Work being taken forward as part of <i>Improving Lives: the Future of Work, Health and Disability</i>
45	<p>The government should seek to develop a better understanding of what progression at work is and the public policy levers which influence it. Building on the trials to date, government should work with external providers to determine what really works in supporting individuals to obtain better quality - and not just more - work. This should not be limited to increasing earnings to a level of self-sufficiency in Universal Credit and should take particular account of the effect of increases in the National Living Wage. It should reflect the opportunities offered by atypical and gig working</p>	Accept - work ongoing as part of our assessment on what constitutes 'good work' and trialling in-work support for UC claimants

Recommendation	Response
<p>46 The government must place equal importance on the quality of work as it does on the quantity by making the Secretary of State for Business, Energy and Industrial Strategy responsible for the quality of work in the British economy</p>	<p>Accept</p>
<p>47 The government should identify a set of metrics against which it will measure success, reporting annually on the quality of work on offer in the UK</p>	<p>Accept</p>
<p>48 The Department for Business, Energy and Industrial Strategy should take the lead for government in identifying emerging issues and be the custodian for ensuring market conditions allow for the creation of quality work</p>	<p>Accept</p>
<p>49 The emphasis in the Industrial Strategy and sector deals on technology and innovation should be linked to the importance of human factors in driving productivity and enabling more rewarding working lives</p>	<p>Accept</p>
<p>50 The LPC should have its remit widened so that it can both make recommendations to the government on what needs to change (including NMW rates) to improve quality of work in the UK as well as work with employers, employees and stakeholders to promote quality work across all regions and sectors</p>	<p>The LPC has reservations about extending its role in this way. The Industrial Strategy Council will be tasked with advising on measuring and assessing quality of work. BEIS will take forward proactive work with sectors to promote quality work, drawing on the advice of the LPC, Acas, the Director of Labour Market Enforcement and others</p>
<p>51 The LPC should work with experts, from the new Director of Labour Market Enforcement to the Chartered Institute of Personnel and Development, as well as business groups and trade unions and make recommendations to government if changes to the legal framework are needed to ensure fair and decent work is delivered</p>	<p>As above</p>
<p>52 The LPC should work with employers and worker representatives to ensure sector-specific codes of practice and guidance are developed that support the provision of quality work</p>	<p>As above</p>
<p>53 The LPC should promote what works in sectors and encourage greater collaboration to improve quality work in low-paying areas</p>	<p>As above</p>

Summary of the recommendations from the work and pensions and business, energy and industrial strategy committees

	Recommendation	Response
1	We recommend the government legislates to introduce greater clarity on definitions of employment status. This legislation should emphasise the importance of control and supervision of workers by a company, rather than a narrow focus on substitution, in distinguishing between workers and the genuine self-employed	The government will take forward further work on how best to clarify definitions of employment status
2	We recommend the government legislate to implement a worker by default model, as set out in Part 2 of our draft Bill. This would apply to companies who have a self-employed workforce above a certain size defined in secondary legislation	The government believes clarifying status and rights along with actions to make redress easier and faster should help address the concerns underlying this recommendation
3	We recommend that the government work with the Low Pay Commission to pilot, for workers who work non-contracted hours, a pay premium on the National Minimum Wage and National Living Wage. The Low Pay Commission should be responsible for identifying suitable companies to be included in this pilot, based on workforce size and turnover. Proposed legislation to enable this is set out in Part 3 of our draft Bill	Agree to ask LPC to consider impacts of a higher NMW rate for hours that are not guaranteed as part of the contract
4	We recommend that the government extend the time allowance for a break in service while still accruing employment rights for continuous service from one week to one month. We have set out proposals in Part 5 in our draft Bill	Agree to extend the consideration of the relevant break in service, and consult on changes to clarify the situations where cessation of work could be justified
5	We recommend that the government creates an obligation on employment tribunals to consider the increased use of higher, punitive fines and costs orders if an employer has already lost a similar case. We further recommend that the government takes steps to enable greater use of class actions in disputes over wages, status and working time. Our proposals are set out in Part 4 of our draft Bill	The government will launch a consultation on better use of existing mechanisms and is putting forward a new proposal to increase the level of penalty for aggravated breach
6	We recommend the government rules out introducing any legislation that would undermine the National Minimum Wage/ National Living Wage	The government has no plans to legislate to undermine the minimum wage

	Recommendation	Response
7	<p>We recommend that the government extends the duty of employers to provide a clearly written statement of employment conditions to cover workers, as well as employees. We further recommend that this right apply from day one of a new job, with the statement to be provided within seven days. This change should be made by secondary legislation under s23 (4)-(5) of the Employment Relations Act 1999</p>	<p>The government agrees to legislate to extend to ‘workers’ a statement of employment conditions and will consult on what information to include</p>
8	<p>We recommend that the ICE regulations are extended to workers as well as employees. We also recommend the threshold for implementation of the regulations be reduced from 10% to 2% of the workforce. This would require amending secondary legislation under s42 of the Employment Relations Act 2004</p>	<p>The government will consult on extending the regulation and reducing the threshold</p>
9	<p>We recommend the government amends the Agency Worker Regulations 2010 to remove the opt-out for equal pay. We further recommend that the Employment Agency Standards Inspectorate be given the powers and resources it needs to enforce the remainder of those regulations</p>	<p>The government will consult on the best way to address the problems found in the use of Swedish Derogation contracts and the remit of the Employment Agency Standards Inspectorate</p>
10	<p>We recommend that the government brings forward stronger and more deterrent penalties, including punitive fines, for repeat or serious breaches of employment legislation, and expand ‘naming and shaming’ to all non-accidental breaches of employment rights by businesses and supply chains</p>	<p>The government will extend naming and shaming to unpaid tribunal awards and is putting forward a new proposal to increase the level of penalty for aggravated breach</p>
11	<p>We recommend that the government provides the Director of Labour Market Enforcement and the main enforcement agencies with the resources necessary to undertake both reactive and proactive roles, including deep-dives into industrial sectors and geographic areas, and supply-chain wide enforcement actions. Where extra resources are needed, they should be funded through higher fines on noncompliant organisations. We also recommend that the government sets out, in response to this report, how it intends the powers and resources of the Director of Labour Market Enforcement will develop over the next five years</p>	<p>The Director and his staff are jointly funded by BEIS and the Home Office. The government recognises that appropriate resources must be allocated. The government has increased significantly the resources for labour market state enforcement in recent years. We expect the Director of Labour Market Enforcement to reflect on and guide the level of future resources in his annual reports</p>

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