



University of
Nottingham
Rights Lab

Independent
Anti-Slavery
Commissioner

Restating the case for a Single Enforcement Body



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Executive summary

This research project and report revisits the creation of a Single Enforcement Body (SEB), and aims to assist and encourage policy debates on the opportunities that a SEB offers by mapping out key considerations from interviews with experts in the field.

The report draws primarily on 14 interviews with stakeholders from academia, third sector organisations representing workers directly, fair trade organisations, businesses, enforcement agencies and government representatives. The interviews were complemented by academic literature, grey literature, and media reports.

Across respondents, there was a clear agreement that the current organisations tasked with labour compliance and enforcement in the UK are failing at multiple levels, including the view that organisations were expected to perform unwieldy roles for which they had limited powers, mandates and funding. The call for reform was unmistakable, be it in the form of the SEB or not. Respondents were also wary about an apparent lack of political willingness to undertake the deeper reforms that are needed.

Several key considerations for the SEB development were repeatedly raised. These included:

- building workers' trust in the system to encourage reporting
- ensuring the SEB has a degree of independence from government
- protecting migrant workers from immigration enforcement
- operating independently from Home Office powers and governance
- giving the SEB wider remit and powers, particularly around investigations and applying penalties
- adequate funding to enable the SEB to act in a proactive manner and collaborate effectively and openly with businesses and non-governmental organisations (NGOs)

Other points raised were the extent to which the SEB should address smaller or more severe labour offences, and whether and how it could include the informal and gig economy in its remit.



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Overview

The ambition to create a SEB addresses recognised insufficiencies and complexities in the UK labour market. Although consideration to create a SEB reaches back to 2019² and has since been committed to by successive governments, a more detailed plan towards its development appears to have stalled. Most recently, the Business Secretary, Grant Shapps, announced that its development will be shelved for the current Parliament – he did, however, offer reassurance that this did not mean the SEB was being completely abandoned and if Parliamentary time allowed, elements of the SEB plans would be considered.³ Moreover, policy debates on the legislative response to modern slavery and exploitation continue in anticipation of the introduction of a new Modern Slavery Bill as announced in the Queen's Speech 2022.

The UK labour market includes three main enforcement bodies with a remit to address labour market exploitation: the Gangmasters and Labour Abuse Authority (GLAA), Employment Agency Standards Inspectorate (EAS) and the National Minimum Wage Unit at HM Revenue and Customs (HMRC NMW). These bodies cover different aspects of the labour market, including exploitative practices ranging from negligence through to exploitation, severe labour abuse and modern slavery.⁴

The GLAA was formed in 2005 as the GLA; the Immigration Act 2016 renamed it and expanded its resources and remit. Its wider police powers were initiated in 2017. The GLAA investigates several aspects of labour exploitation in England and Wales. It is responsible for licencing companies that supply labour for agriculture, horticulture and shellfish gathering as well as associated processing and packaging. The GLAA is a non-departmental public body and is governed by an independent board. EAS works with employment agencies and businesses in England, Wales and Scotland to help them comply with the law. HMRC NMW is the largest of the three labour market enforcement bodies and is responsible for enforcing the minimum wage.⁵ Both EAS and HMRC NMW fall under the Department for Business, Energy and Industrial Strategy (BEIS).

¹ A protocol on collaborative research was agreed by the IASC and the Rights Lab in March 2021 and this report is the latest in a series of collaborative rapid research projects. See: <https://www.antislaverycommissioner.co.uk/media/1581/iasc-and-rights-lab-collaborating-on-research-and-innovation.pdf>

² BEIS (2021) *Establishing a new single enforcement body for employment rights Government response*. Available at: <https://www.gov.uk/government/consultations/good-work-plan-establishing-a-new-single-enforcement-body-for-employment-rights>.

³ Business, Energy and Industrial Strategy Committee (2022) *Oral evidence: The work of the Business, Energy and Industrial Strategy Department, HC 529*. Available at: <https://committees.parliament.uk/oralevidence/12457/pdf/>.

⁴ Taylor, M. (2021) *United Kingdom Labour Market Enforcement Strategy 2021/22*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040245/E02666976_BEIS_UK_Labour_Market_Enforcement_Strategy_2021-22_Executive_Summary_Accessible.pdf; "Labour market offence" is defined under the Immigration Act 2016 and include offences under the Employment Agencies Act 1973, the National Minimum Wage Act 1998, the Gangmasters (Licensing) Act 2004 and the Modern Slavery Act 2015.

⁵ FLEX (2015) *Combatting labour exploitation through labour inspection*. Available at: <https://barrowcadbury.org.uk/wp-content/uploads/2015/10/FLEXPolicyBlueprintUpdate.pdf>

Prior to 2016, these three enforcement bodies ran independently. In 2015, in a speech on immigration, David Cameron, then Prime Minister, suggested combining the GLAA, EAS and HMRC NMW. In 2016, the statutory role of the Director of Labour Market Enforcement (DLME) was created to set the collective strategic direction of these bodies and to ensure enforcement efforts were coordinated.⁶ In 2017, the DLME ran a consultation to inform the 2018/19 United Kingdom Labour Market Enforcement Strategy.⁷ The strategy referenced views from several respondents who proposed and called for a single, joined up labour inspectorate.⁸ Following these debates, the government launched a consultation in 2019 to consider bringing together and consolidating each of the three agencies under one SEB.⁹

The consultation was based on testing the premise that the creation of a SEB would deliver:

- extended state enforcement
- a strong, recognisable single brand
- better support for businesses
- coordinated enforcement action
- pooled intelligence and more flexible resourcing
- and closer working with other enforcement partners

The consultation set out to explore these assumptions as well as consider the role the state should play in protecting the most vulnerable workers from exploitative practices.

The consultation received 111 responses, with submissions from individual workers, employers, academics, trade associations, trade unions, charities or social enterprises, public bodies and legal representatives. The government's published response confirmed stakeholders' support for the creation of SEB, provided this would be adequately resourced to support a more consistent and effective approach than offered by the current system.¹⁰ The proposal to create a SEB meets the ambitions of both the government¹¹ and the opposition,¹² and has been welcomed by the former Independent Anti-Slavery Commissioner (IASC), subject to the SEB receiving sufficient investment and legislative powers.¹³

In addition to the SEB consultation, the government announced its intention to develop new legislation in the form of a Modern Slavery Bill in the Queen's Speech 2022. Whilst the draft Bill is yet to be published, it is understood that it will contain clauses on strengthening the requirements of businesses in publishing annual modern slavery statements, extending these requirements to public bodies and, "*increas[ing] the accountability of companies and other organisations to drive out modern slavery from their supply chains*".¹⁴ It was proposed the SEB would play a enforcement function in this field.

Until the recent announcement by the Business Secretary it was not clear what further action government had taken on the creation of the SEB after the consultative process. It now appears that further developments towards a SEB have been very limited and that its creation may no longer be a priority. Whilst there is indication that new legislation is coming and will cover clauses pertinent to business practices, it is not clear how this legislation will interact with and impact the development and remit of a future SEB.

This project explores primarily the views of experienced stakeholders actively involved in the labour market to better understand their perceived need for a SEB and reform of the current labour market enforcement system.

Research approach

This report draws on secondary sources and primary data collected through interviews. The secondary sources include academic literature and grey literature (i.e. government, third sector, international organisations and business reports and working papers) and media articles. The research team conducted 14 interviews with stakeholders from academia, third sector organisations representing workers directly, fair trade organisations, businesses, enforcement agencies and government representatives. Respondents were selected based on being actively involved in the initial discussions and consultation for the establishment of a SEB or having extensive experience in interacting with at least one of the proposed three agencies that will potentially merge into the SEB. The interviews were approximately one-hour long and were conducted either online or in person. The research team followed an interview guide, abided by standardised ethical principles and committed to protecting the anonymity of the interviewees.

The aim of the project was to restart discussions around the SEB as a body composed through the merger of at least three organisations, although most participants interviewed provided answers through the lens of having interacted predominantly with the GLAA. This may be because the GLAA is the main public-facing out of the three labour market enforcement bodies, and hence the participants drew on their knowledge and experience of working with the GLAA.

The limited time and resources available to the project restricted the number of interviews carried out. Thus, the research team were not able to identify or conduct many interviews with respondents with experience of interacting with HMRC NMW or EAS.

Despite these limitations, sufficient data were collected to rekindle and expand discussions over the powers, remit, advantages and disadvantages the SEB would pose in addressing labour market non-compliance and labour exploitation.

⁶ Taylor, M. (2021) *Good Work: The Taylor Review of Modern Working Practices*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf.

⁷ Metcalf, D. (2018) *United Kingdom Labour Market Enforcement Strategy 2018/219*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf.

⁸ Citizen's Advice (2018) *How can job security exist in the modern world of work?* Available at: <https://www.citizensadvice.org.uk/Global/CitizensAdvice/Work%20Publications/Recommendation%20event%20handout.pdf>.

⁹ Department for Business, Energy and Industrial Science (2019) *Good work plan: establishing a new single enforcement body for employment rights*. Available at: <https://www.gov.uk/government/consultations/good-work-plan-establishing-a-new-single-enforcement-body-for-employment-rights>.

¹⁰ BEIS (2021) *Establishing a new single enforcement body for employment rights: Government response*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf.

¹¹ Conservatives (2019) *Our Plan: Conservative Manifesto 2019*. Available at: <https://www.conservatives.com/our-plan>.

¹² Labour Party (2021) *Employment rights green paper: A new deal for working people*. Available at: <https://labour.org.uk/wp-content/uploads/2022/10/New-Deal-for-Working-People-Green-Paper.pdf>.

¹³ IASC (2022) *Independent Anti-Slavery Commissioner Annual Report 2021-2022*. Available at: <https://www.antislaverycommissioner.co.uk/media/1796/iasc-annual-report-2021-2022.pdf>.

¹⁴ Prime Minister's Office (2022) *The Queen's Speech 2022*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1074113/Lobby_Pack_10_May_2022.pdf.



Research findings

There was unmistakable agreement among all respondents that the current system of labour market enforcement is failing at multiple levels and reform is needed, be it in the form of the SEB or otherwise. This was often accompanied by the view that the labour market enforcement bodies were expected to perform unwieldy roles for which they had limited powers, mandates and funding. Respondents were also wary about the lack of clarity on certain employment laws, modern slavery and auditing standards and expectations, and the political willingness to undertake the deeper reforms needed. There was less consensus emerging from respondents on the extent to which the SEB should address smaller or major labour offences, given the expectation that it will not be funded adequately, and whether and how the informal and gig economy could be included in its remit.

The following section outlines the research findings in more detail.

Current state of the labour market

The liberal market economy and globalisation have brought changes to the role public and private actors are playing in labour regulation and enforcement, and created regulatory gaps.¹⁵ Some scholars argue that the state is in demise and that private actors and third sector organisations represented by social auditors, accounting firms, supply chain experts and NGOs have taken over the role of monitoring and enforcing labour standards from governmental bodies.¹⁶ In the context of the UK in particular, “a curious dynamic is emerging (...) deregulation, greater levels of direct intervention in some areas alongside marketisation and innovative forms of collaboration between relevant state agencies”.¹⁷ Against the backdrop of such changes at both global and national level, reviewing the role envisaged for the SEB is an important and useful exercise.

Fragmentation of labour market enforcement

The labour market in the UK is complex. The government’s consultation document acknowledges that it “can be a difficult landscape for both workers and employers to navigate” and highlights “the deeply fragmented” enforcement landscape.¹⁸ Direct regulation in the UK is not centralised in one labour inspectorate, hence the proposal of the SEB. Currently, responsibility for labour governance among public bodies is diffused not only among EAS, GLAA and HMRC NMW, but also the Health and Safety Executive (HSE), the police, the Equality and Human Rights Commission (EHRC), HMRC statutory payments dispute team, the Employment Tribunal, and the Advisory, Conciliation and Arbitration Service (ACAS). In the case of the Seasonal Workers scheme, also the Home Office and labour scheme operators are involved. Although the labour scheme operators do not have formal powers and are regulated by UK Visas and Immigration (UKVI) and the GLAA, they have a crucial function in operationalising the scheme and interacting with growers and workers in the labour market. Each body has different remits, responsibilities and powers. Whilst it is not the focus of this report to consider all these bodies’ roles and responsibilities, it is worth noting the complexity and fragmentation of the labour market enforcement system.

As identified in the government’s original consultation document, there are numerous agencies responsible for the enforcement of employment rights, yet the SEB proposal only includes three of these. Many other bodies have intersecting responsibilities for inspecting and regulating companies, which may need to be reviewed in the creation of the SEB. Among these bodies is the HSE, responsible for regulation and enforcement of workplace health, safety and welfare; initially, a small unit of the HSE, which was responsible for the working time directive, was included in the SEB considerations but in the end, it was decided it had too little involvement in the labour market enforcement (Respondent 6). Other specialist bodies may have to be considered such as the Security Industry Authority, Pensions Regulator, Care Quality Commission and Groceries Code Adjudicator. There were no strong voices among respondents discussing which of these bodies should be incorporated into the SEB, but they were flagged up due to their potentially overlapping and intersecting roles.

Some respondents also mentioned sectors that have designed their own frameworks, such as The Responsible Carwash Scheme, as well as those that have joined initiatives to adopt good labour practices within their organisations and supply chains, such as the Ethical Trading Initiative. While sectoral standards and initiatives are welcomed, they should not replace state enforcement and should be guided by enforcement bodies. For example, one respondent raised that the GLAA is pushing towards an increasingly self-regulating market; this has been reinforced by GLAA’s recent withdrawal from partnerships and protocols to “make way for business-owned prevention activity”, announced in an email brief in November 2022.¹⁹

Related to the critique of the fragmentation of labour market enforcement and its apparent drive towards private regulation, criticism was levelled at the lack of clarity over enforcement bodies’ remits (Respondent 14), their mandates (Respondent 4), and the grey areas of the employment law (Respondent 2, Respondent 11).

GLAA and HMRC

Some respondents stressed that they viewed a decline in the GLAA from when it was established in 2005 to now, with some describing its transition over time from “draconian” to “collaborative”, and more recently, “distant and abdicating” (Respondent 9). Similarly, other respondents claimed that the “GLAA is hiding behind a wall” and is paralysed by the lack of mandate to enter meaningful partnerships and take a proactive stance towards labour exploitation (Respondent 4).

Moreover, the GLAA’s ability to perform its duties were considered impaired as a result of the limited funding received. This impacted on the number of inspectors the GLAA could employ and consequently on the number of inspections it conducts – both of which fall below International Labour Organization (ILO) recommendations. The ILO recommends that in industrial market economies the ratio of inspectors to workers should be one per 10,000.²⁰ The UK is below the threshold even when including health and safety inspectors in the analysis. In comparison to other EU countries, the UK has 0.9 inspectors per 100,000 workers, without counting health and safety inspectors, much less than Belgium (12.5) and France (18.9).²¹ The Trades Union Congress (TUC) estimates that an additional 1,797 labour market inspectors would be needed in order to meet the ILO benchmark.²² By 2021, in comparison to 2011, the UK saw enormous cuts both in the number of labour inspectors (32%) and consequently in the number of labour inspections (27%).²³

The HMRC NMW is also facing significant challenges since it has a duty to investigate every case, unlike the GLAA which uses the national intelligence model to sift the quality of the information to determine the cases that are most likely to be high risk (Respondent 6), but does not have the manpower to do it (Respondent 7). These trends, both in the GLAA and HMRC, indicate a concerning move towards an increasing reliance on private audits and self-regulation, the limitations of which have already been well documented elsewhere.²⁴ The EAS was not mentioned by respondents, which may be caused by its much smaller size and niche remit.

¹⁵ Barley, T. (2018) *Rules without Rights: Land, Labor, and Private Authority in the Global Economy*. Oxford: Oxford University Press.

¹⁶ LeBaron, G. (2020) *Combating Modern Slavery: Why Labour Governance is Failing and What We Can Do About It* *Combating Modern Slavery*, Cambridge UK: Polity Press.

¹⁷ Mustchin, S., & Martinez Lucio, M. (2020). The evolving nature of labour inspection, enforcement of employment rights and the regulatory reach of the state in Britain. *Journal of Industrial Relations*, 1-24. <https://doi.org/10.1177/0022185620908909>

¹⁸ BEIS (2021) *Establishing a new single enforcement body for employment rights: Government response*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf.

¹⁹ GLAA (2022) *Protocols make way for business-owned prevention activity*. Available at: <https://www.gla.gov.uk/whats-new/latest-press-releases/09112022-protocols-make-way-for-business-owned-prevention-activity/>

²⁰ ILO (2006) *Strategies and practice for labour inspection*. Available at: <https://www.ilo.org/public/english/standards/relm/gb/docs/gb297/pdf/esp-3.pdf>

²¹ FLEX (2015) *Combating labour exploitation through labour inspection*. Available at: <https://barrowcadbury.org.uk/wp-content/uploads/2015/10/FLEXPolicyBlueprintUpdate.pdf>

²² TUC (2021) *TUC action plan to reform labour market enforcement*. Available at: https://www.tuc.org.uk/research-analysis/reports/tuc-action-plan-reform-labour-market-enforcement#_ftnref5

²³ ETUC (2021) *Huge fall in labour inspections raises Covid risk*. Available at: <https://www.etuc.org/en/pressrelease/huge-fall-labour-inspections-raises-covid-risk>

²⁴ Bair, J., Palpacuer, F. (2015) CSR beyond the corporation: contested governance in global value chains, *Global Networks*, 15(1), pp.1-19, <https://doi.org/10.1111/glob.12085>; LeBaron, G. and Rühmkorf, A. (2017) Steering CSR Through Home State Regulation: A Comparison of the Impact of the UK Bribery Act and Modern Slavery Act on Global Supply Chain Governance, *Global Policy*, 8 (S3), pp.15-28, <https://doi.org/10.1111/1758-5899.12398>; Ford, J. and Nolan, J. (2020) Regulating transparency on human rights and modern slavery in corporate supply chains: the discrepancy between human rights due diligence and the social audit, *Australian Journal of Human Rights*, 26 (1), pp.27-45, <https://doi.org/10.1080/1323238X.2020.1761633>

Other problems raised in relation to HMRC NMW was the closed nature of their systems and the lengthy processes of investigation. An investigation can last up to nine months which “*simply doesn’t work*” for workers or businesses because, “*it makes everyone who interacts with that process feel like they’re engaging with an immensely slow bureaucratic machine and I think that accounts for a lot of the frustration*” (Respondent 7).

Despite the existent criticism, respondents also acknowledged positive aspects in relation to the work undertaken by the current enforcement bodies. Considering the limited resources of HMRC NMW and the GLAA in particular, respondents found that senior staff were very knowledgeable and capable, and were delivering a good service. The GLAA has been praised numerous times for the “*open and transparent dialogue*” it offers to those seeking advice or support, the speed with which it acts and the informative policy briefs it publishes, which supports businesses’ ability to navigate what they perceive to sometimes be a “grey” area of compliance (Respondent 11). Overall, warnings were issued repeatedly by respondents indicating that based on performance, resources and lack of clarity over their mandates and limited powers, these organisations require significant reform and that, “*...just bringing them together is not changing anything*” (Respondent 10), unless the merger was accompanied by other necessary changes.

Brexit and the Seasonal Workers visa scheme

Respondents reported that Brexit had also brought further changes and challenges to the enforcement landscape, with one noting “*I don’t believe the current enforcement bodies have been able to change with the change in hazards [that Brexit brought]*” (Respondent 9). Post-Brexit, labour providers recruiting staff through the Seasonal Workers visa scheme have been faced with the challenge of expanding their recruitment pool beyond the EU to dozens of countries from around the world. Although most workers are recruited mainly from 13 countries,²⁵ these are generally new source countries with whom labour providers and other bodies involved had no pre-existing work relationships, nor knowledge of the local context and employment laws.

Some respondents pointed out the minimal support received by businesses from authorities, further adding that repeated last-minute changes in regulations did not alleviate these problems, and in some cases exacerbated problems. By way of illustration, in 2021, the Home Office and Department for Environment, Food & Rural Affairs released new immigration rules, which had been expected for months, on Christmas Eve. 30,000 seasonal worker visas were announced at that time, despite stakeholders calling for a higher cap, which led to a continuation of severe labour shortages into 2022.²⁶

Aspects of the Seasonal Workers visa scheme also received significant criticism and calls for reform were put forward. For example, there is no minimum period of work that employers in the UK are obliged to provide to migrant workers;²⁷ this leads to situations where workers from Nepal, after being promised 6 months of work and incurring significant expenses and debt worth thousands of pounds, arrive in the UK to be told there is no work available for them and they need to return home.²⁸ Such glaring loopholes in the design of the scheme are highly problematic. First, the scheme is based on a workers’ pay principle and not an employers’ pay principle, putting at risk those who are in most need of work, income and support. Second, there is no flexibility allowed in the system – if a labour provider is unable to find employment for a worker who is already in the UK, the worker cannot be transferred to another labour provider. Third, the current system does not hold anyone to account, allowing responsibility to be passed between the key actors involved, i.e. the Home Office, the labour providers and farmers. Fourth, there are no grievance mechanism or fund available for workers who arrive in the UK and who are then told there is no work for them. All stakeholders, starting with the Home Office (which charges workers £259 each), labour providers, and producers and buyers, i.e. farmers and supermarkets, make no contribution to such grievance mechanism or fund. Fifth, on the one hand, having too many actors involved in the management of the scheme creates a disjointed approach and complicated system to navigate for all actors involved. On the other hand, the GLAA’s lack of remit over the risk of exploitation within the Seasonal Workers visa scheme is egregious; the GLAA only retains the power to check licences of Seasonal Workers scheme operators,²⁹ regulating labour providers, but not the hundreds of farms that directly employ workers.³⁰

Benefits of reform

Based on the above critiques, the need for reform to the current system of labour market enforcement continues to be clear, whether in the form of a SEB or otherwise.

In relation to the creation of a SEB it was recognised that this reform may bring multiple key benefits:

- The SEB would create one single point of contact for workers and businesses alike, serving as a one accredited source of information, advice, guidance and a grievance mechanism. As recognised by most respondents, the labour market enforcement system is generally fragmented with roles and responsibilities sitting with different agencies, which can make it difficult for workers and businesses to navigate the system and know where to address certain issues.
- The SEB can lead to a more joined-up approach. Given that some of the problems are overlapping and interlinked, the SEB model may work more effectively. This would be particularly relevant to problems that need the attention and involvement of multiple enforcement bodies and agencies, where responsibility is not clearly placed within one body. The Seasonal Workers visa scheme is an example of the labour market where a range of state and enforcement actors, including the GLAA, UKVI in the Home Office are involved alongside growers and labour scheme operators as non-state actors and “*it’s not really working that well, with a lot of failures and understanding where individual responsibility lies and (...) having this single enforcement body with this understanding of the dynamics that are present underneath all of this can certainly aid*” (Respondent 3). Moreover, gaps in communication and in intelligence collection could be avoided with one SEB, “*it would just create more complete pictures to enable more effective enforcement*” (Respondent 12).
- A joined-up approach under the SEB may engender a positive change in organisational culture. In the words of one respondent, “*There’s always going to be a degree of competitiveness between bodies that are separate (...) They all are passionate about worker exploitation. It’s just that they get a bit parochial. And part of what the Single Enforcement Body would bring is to break down some of that and perhaps give people pride in what they are doing.*” (Respondent 8)
- The SEB could address differences and inconsistencies across the constituent nations of the UK. For example, at the moment, “*In relation to its [GLAA] forced labour investigations and powers it’s England and Wales only, national minimum wage operates in England, Wales, Scotland and Northern Ireland, and the Employment Agency Standards operates in England, Wales and Scotland.*” (Respondent 6); therefore, a “*merger into SEB would allow to mix the different powers to enable a mandate and powers for the entire labour market*” (Respondent 6).
- A SEB may bring clarity over grey areas in employment law that currently create uncertainty for businesses. One respondent called for a simplification of employment laws so that the average employer and employee can easily access and understand them; simplifications in law and guidance would enable more effective interpretation and use by businesses who are currently, at times, unsure how to interpret aspects of the law or whom to contact for advice (Respondent 11). Similarly, implementing practical changes on the ground to reflect existing labour legislation would help. For example, while workers are entitled to holiday pay, unaware migrant workers often do not receive it;³¹ as one respondent suggested, holiday pay and other entitlements should be clearly displayed on payslips (Respondent 2).

²⁵ McKinney, C.J., Coe, S. and Stewart, I. (2022) *Seasonal worker visas and UK agriculture*. Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-9665/CBP-9665.pdf>

²⁶ National farmers’ union (n.d.) *Labour shortages cost millions in fruit and veg waste*. Available at: <https://www.nfuonline.com/uploads-and-information/nfu-horticulture-mid-season-labour-survey-results/>

²⁷ Home Office (n.d.) *Workers and temporary workers: guidance for sponsors*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1126580/Sponsor-a-Seasonal-Worker-01-23_1.0.pdf

²⁸ Mellino, E. and Das, S. (2022) Seasonal fruit pickers left thousands in debt after being sent home early from UK farms, *The Guardian*, 13 November. Available at: <https://www.theguardian.com/uk-news/2022/nov/13/seasonal-fruit-pickers-left-thousands-in-debt-after-being-sent-home-early-from-uk-farms>

²⁹ Home Office written questions (2022) *Agriculture: Seasonal Workers*. Available at: <https://www.theyworkforyou.com/wrans/?id=2022-12-14.110718.h>

³⁰ PQ 51713 [on: Gangmasters and Labour Abuse Authority: Inspections], 20 September 2022 105 PQ 59819 [on: Gangmasters: Licensing], 10 October 2022 <https://questions-statements.parliament.uk/written-questions/detail/2022-09-20/51713>; <https://questions-statements.parliament.uk/written-questions/detail/2022-10-10/59819>

³¹ Burcu, O., Gardner, A., Gray, C. (2021) *Understanding risks of exploitation for vulnerable migrant workers in the UK during Covid-19*, <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/july/im-pact-of-covid-19-on-romanian-and-bulgarian-workers-in-the-uk-agriculture.pdf>

Remit of the SEB

The SEB's remit would have to be wider than the current remit and powers of the GLAA. While the GLAA can investigate any sector, its licensing scheme regulates only businesses providing workers in agriculture, horticulture, fish processing, gathering shellfish, dairy farming, the packaging, or processing of any fresh produce - food, drinks and flowers. However, it does not operate nor regulate the Seasonal Workers scheme despite the scheme's focus on the horticulture sector.

Certain sectors have repeatedly been named to be at increased risk of exploitative labour practices. These sectors include construction, hospitality, nail bars, car washes, garment production, and processing and packaging warehouses. All these were stressed by our respondents too in relation to the SEB's remit. However, focusing on certain sectors only leaves other sectors potentially vulnerable. One respondent pointed out the adaptability that perpetrators display and how they go where “*money can be made and [where] there's less scrutiny*” (Respondent 4). This respondent's focus was therefore not on sectors prone to exploitation, but on the indicators of exploitation: “*We know what the bad actors look like. We know what bad practices look like. We know how supply chains work and therefore why would we say it's only set to A&B*” (Respondent 4). Another respondent proposed conducting risk assessments of sectors and workers' characteristics, suggesting this would allow and encourage a focus on vulnerable workers, particularly migrant workers, but without losing sight that labour enforcement bodies must protect the rights and interests of all workers, as per the ILO Convention 81 (Respondent 3).

One respondent proposed the SEB's priorities to be based on the definition of “vulnerable”, including those who are not legally allowed to work in the UK, migrants, minimum wage workers and gig workers (Respondent 10). Similar views were expressed that the SEB should cover the entire labour market but prioritising the most disadvantaged workers and the areas that pose the greatest risks (Respondent 8); this could be done by investigating sectors in which employees are paid within a set percentage of the National Minimum Wage (Respondent 9). In other words, respondents generally argued that a well-resourced SEB should have the flexibility to examine the sectors and workers most exposed to the risk of exploitation and modern slavery.

It was acknowledged by some respondents that those working for a SEB may come across other forms of exploitation, in addition to labour-based offences. It was proposed that a SEB may not be the right organisation, or have the right staff set-up and skills, to actively deal with cases of exploitation that sat outside of a labour remit. Inspectors would need to be aware of other forms of exploitation that may occur in, or be linked to, the workplace and know who and what organisations they can contact and refer to for support.

The domestic workers sector in particular should be considered in the debate on the remit of the SEB, as work that occurs behind the closed doors of private residences is currently not easily accessible to the current enforcement bodies. The GLAA can apply to the courts for a warrant to enter and search premises,³² but how this may be included or not within the remit of a SEB was not a topic many respondents felt able to engage with. Those who did, raised the possibility of placing domestic exploitation and abuse issues in the hands of the police rather than the SEB because of the intelligence held by the police forces and the nature of the perpetrators involved in domestic servitude (Respondent 12).

While respondents acknowledged the need to be able to identify other forms of exploitation and work in partnership to address it if found, the consensus was that labour inspectorates should primarily focus on labour exploitation. Previous studies confirmed labour exploitation does not necessarily happen in isolation, but may occur in combination with sexual exploitation, particularly in the case of waitresses and female cleaners.³³ Clear routes of referral and stakeholder partnerships would be beneficial should instances of sexual exploitation be identified.

Another area of consideration for the SEB debate is whether the informal economy and gig economy should fall under the SEB's remit. While some respondents argued that all labour relationships should be regulated, others argued that this poses specific legal challenges. In the context of the gig economy, currently, legal battles continue to take place in courts where companies are trying to show that individuals are genuinely self-employed and hence, they don't have an employer to employee or worker relationship (Respondent 2).

The entrance of informal labour into the operations of delivery services is easy. For example, some delivery apps incentivise riders to have someone else run their account when the account holder is on leave to keep the account at the top of the list for best rides; it is “*widely known that this attracts workers without legal right to work in the UK.*” (Respondent 1). Nonetheless, the gig economy also provides flexibility, which works well for some workers; the fact that workers enter this field of work having “full knowledge” about the working conditions it presents, may mean that this issue would be easier addressed by employment law rather than labour authorities (Respondent 12). Whether the gig economy should come under the remit of the SEB and how this would be best operationalised, remains a complicated issue that needs further consideration and review.

The informal labour market, as one respondent explains, presents more severe risks of exploitation, particularly debt bondage through recruitment fees and people smuggling, therefore it is seen as essential to regulate it (Respondent 1). Some respondents were highly critical of the under-resourcing and fragmentation of the current labour market enforcement system and its inability to enforce labour rights effectively in the informal labour market which impacts predominantly non-UK workers and enables cheap services like car washes, nail-bars, hospitality, and cleaning (Respondent 1). One respondent raised that the informal economy represents 10.3% of the UK's GDP,³⁴ and that businesses therefore ought to be more aware that informal work in their supply chains is likely and should be included in their risk assessments (Respondent 9).

Powers, features and responsibilities

The SEB's role needs to be clearly defined for its powers to be adequately drawn up. Respondents raised that the SEB would need a range of powers to be effective, and discussions concentrated on the benefits of compliance and enforcement.

Compliance and enforcement

Equipping the SEB with the power to issue penalties is one way to ensure problems are addressed. Currently employers who fail or refuse to pay statutory sick pay and minimum wage can incur civil penalties; in the case of non-payment of minimum wage, criminal legal proceedings can also be initiated and employers can be obliged to pay money owed going back six years.³⁵ HMRC NMW can also pass the names of businesses and employers to BEIS which may put them on a public “list of shame”.³⁶

Many respondents believe that severe penalties are needed for “*businesses to take it seriously*” (Respondent 4), and that the financial penalties must be higher than the benefits businesses would otherwise derive from breaking the law (Respondent 6, Respondent 7). Moreover, it is believed that penalties will act as an incentive and will even the playing field:

“We're not penalising people. [...] When we speak to responsible businesses, they want a level playing field. It's the irresponsible businesses that think this [compliance] is a burden” (Respondent 4).

One respondent recalled the case of the Groceries Code Adjudicator who in 2015 did not have the power to fine a large supermarket which was found to have intentionally delayed the payment of millions of pounds to suppliers to boost its own targets and profits;³⁷ the respondent stated the need to penalise such behaviour to prevent its recurrence (Respondent 14).

Another respondent raised that when businesses are found in breach of compliance and face a business-threatening licence revocation, they often appeal the decision, which can incur costs of several thousand pounds on legal advice for both parties (Respondent 6). A financial penalty would be easier to issue for an enforcement body and reduce the occurrences of legal disputes, whilst potentially achieving similar outcomes of compliance improvement.

³² GLAA (2020) *Parliamentary Question; migrant workers: domestic service*. Available at: <https://www.gla.gov.uk/media/6075/philips-130520-domestic-servitude.pdf>

³³ Surtees, R. (2008). Traffickers and Trafficking in Southern and Eastern Europe, *European Journal of Criminology*, 5 (1), pp. 39-68

³⁴ World Economics (2022) *United Kingdom's Economics*. Available at: <https://www.worldeconomics.com/National-Statistics/Informal-Economy/United%20Kingdom.aspx>

³⁵ ACAS (n.d.) *National Minimum Wage entitlement*. Available at: www.acas.org.uk/national-minimum-wage-entitlement/if-an-employer-does-not-pay-minimum-wage#:~:text=if%20HMRC%20finds%20that%20the,the%20underpayment%20is%20worth%20less

³⁶ UK Government (2021) *Employers 'named and shamed' for paying less than minimum wage*. Available at: <https://www.gov.uk/government/news/employers-named-and-shamed-for-paying-less-than-minimum-wage>

³⁷ Butler, S. (2016) Tesco delayed payments to suppliers to boost profits, watchdog finds, *The Guardian*. Available at: <https://www.theguardian.com/business/2016/jan/26/tesco-ordered-change-deal-suppliers>

On the other hand, some respondents felt that enforcement was “heavy handed” and not always beneficial. Compliance through engagement with businesses was also seen as an effective way of getting companies to change their practice; deferred prosecution agreements were given as an example of where this compliance approach within a determined period of time can work well. Only when a company does not meet its conditions for correction, prosecution processes follow (Respondent 12).

“I do not think in practical terms there will ever be sufficient resources to enforce law by prosecution (and keep on enforcing law), and that is why law enforcement has to go hand in hand with disruption strategies as they apply to, say, organised crime, as well as compliance strategies so that some companies willingly become legal and thus do not need to have the constant gaze of the law keeper to remain legal” (Respondent 12)

In summary, respondents envisaged the SEB to be able to make use of a range of powers from engagement, fixed and variable monetary penalties, restoration and compliance notices, to deferred prosecutions and enforcement undertakings, and cost recovery with the escalation to prosecution for non-compliance. One respondent highlighted the different powers needed for sanctions:

“you want to increase the range of sanctions you can use so you can implement a proportionate approach (...) where some staff might have all of the inspection powers, all of the civil inspection powers, but not the criminal investigation powers, and that they’re only deployed by a select few in appropriate cases” (Respondent 6).

Addressing pervasive pay issues

The government has so far indicated that minimum pay, holiday pay, and statutory sick pay will all be enforced via the SEB.³⁸ These three issues related to pay are some of the most prevalent labour market infringements. In 2019, TUC reported that 2 million workers are not receiving their legal entitlement to holiday pay, the equivalent of £3.1bn per year.³⁹ However, pay infringements are not always investigated. For example, several respondents claimed that the HMRC has informal thresholds below which they will not investigate.

A respondent captured the importance of equipping the SEB with powers to investigate pay infractions:

“People don’t see it as bad unless it’s at the most extreme. People immediately think when you say torture of the most extreme forms, and yet the most day-to-day forms, the ones which affect most people, are not these extremes of torture. It’s the everyday occurrences which affect most people and are most pernicious because of that” (Respondent 12).

Addressing pervasive pay issues would benefit a significant number of workers and, importantly, ensure that employment legal standards are being upheld to normalise payment and working conditions compliant with legal norms (Respondent 1).

Particularities around pay were also raised as some respondents saw the labour reform as an opportunity to both improve working conditions and sanction companies for pay non-compliance. Non-payment of holiday pay is enforced by individuals effected bringing a claim to an employment tribunal. If successful, the tribunal can order the employer to pay compensation equivalent to the unpaid holiday pay. The question that arises is if the SEB’s powers will simply be

“to order the employer to pay the employee the holiday pay that is owed to them? Or will the SEB be given wider powers such as the power to force employers to pay additional compensation to the employee or issue the defaulting employer with a fine in addition to having to pay back the unpaid holiday pay to the employee, like the HMRC’s powers in respect of non-payment of the National Minimum Wage” (Respondent 2).

If holiday pay issues can be raised by an employee directly with an employment tribunal, this is not the case for statutory sick pay issues which cannot be raised directly with a tribunal. Concerns related to statutory sick pay must be raised with the HMRC, who will investigate and if payment is owed, it will issue the employer with an order to pay. If such powers of investigation are to be passed on to the SEB, then appropriate resources must be considered, both due to the prevalence of this problem and the specialist skills required in calculating it.

“The argument for having certain rights such as payment of the National Minimum Wage and holiday pay enforced by a state body is that enforcement is not reliant on the individual employee/worker bringing a claim or making a complaint, and that non-payment of the NMW and holiday pay are the types of breaches most commonly suffered by low paid and vulnerable workers. The only answer to this is to ensure that any state enforcement body is sufficiently resourced both in terms of finance and staff.” (Respondent 2)

When labour-related issues are filed with an employment tribunal, the non-payment of tribunal awards has been a “persistent and long-standing problem” (Respondent 2). At present, if a tribunal award is unpaid, then the employee has to take legal action against the employer through the civil courts to enforce the tribunal award. The concern is that “it is often the very low paid and vulnerable workers that experience these situations and quite often they are the workers who don’t bring claims to an employment tribunal” (Respondent 2). Under the new BEIS penalty scheme, individuals can register their unpaid award free of charge 42 days after the date of the tribunal’s judgment and once verified, a warning notice is sent to the employer informing them of the risk of incurring a penalty and public naming for non-payment.⁴⁰ If the practice continues and the SEB relies on workers to raise the non-payment of the tribunal awards, given workers reluctance to act, it is likely that they will not attain remedy and businesses will not be penalised. In contrast, the SEB could pro-actively and regularly monitor the system to identify companies that fail to pay tribunal awards (Respondent 2).

A respondent further stressed the need not only to address pay issues, but to do so in a timely manner to deliver justice. Enforcement procedures by the labour market enforcement bodies or through the tribunal system currently take too long for many workers. The SEB should therefore be provided with civil powers and the focus must be on workers and the reality of their situation and life circumstances (Respondent 13).

Investigative powers

Increased investigative powers would be needed by the SEB. Currently, powers are not standardised across the enforcement agencies, nor across the separate nations of the UK (Respondent 6).

The GLAA’s powers and remit are limited and fragmented. For instance, since 2017, the GLAA has been invested with extended powers to “prevent, detect and investigate worker exploitation across the entire economy”, although only in England and Wales.⁴¹ Despite these extended powers, it can still only issue licences to four specific sectors: agriculture, horticulture, shellfish gathering, and processing and packaging. The GLAA has no oversight over the Seasonal Workers scheme which the government defines as entirely “labour provider” driven.

Others expressed frustration at the fact that the GLAA has the remit to inspect and issue licences to businesses who provide workers to the fresh produce supply chain, but is not able to inspect garment factories, as seen in the Leicester case (Respondent 6). One respondent further explained:

“Its investigative powers can be used only where you’ve got a threshold of forced labour allegedly identified that enables you to use your PACE [Police and Criminal Evidence Act] powers, but in any other circumstances, you turn up at a textile sweatshop, knock on the door, get asked what powers you’ve got? None. No. So that’s it. You are stuck outside the door. So you can’t do anything. You can try and persuade, and you might find the odd case that you’ve eventually can push the boundaries to get the warrant to go in and check things, but [...] we weren’t looking at forced labour.” (Respondent 6).

Given these diverse powers and remits, multiple respondents viewed it as an organisation with ‘no teeth’ (Respondent 9). Increased investigative powers were also thought to enable SEB’s ability to work proactively rather than reactively (Respondent 1).

In addition to the above, a further issue mentioned by respondents was the need to investigate and take action against directors of companies that run phoenix companies i.e. the practice of carrying on the same business through a series of successive companies. Change to legislation was called for by several respondents so that action can be taken against directors that close businesses that come under pressure from enforcement bodies and re-open them under different family members’ names. According to an interviewee, enforcement bodies need access to accounts and balance sheets, and to be able to take action not only against companies’ directors but also “enablers”, such as accountants (Respondent 10).

³⁸ BEIS (2021) *Establishing a new single enforcement body for employment rights. Government response.* Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf

³⁹ TUC (2021) *TUC action plan to reform labour market enforcement.* Available at: https://www.tuc.org.uk/research-analysis/reports/tuc-action-plan-reform-labour-market-enforcement#_ftn5

⁴⁰ BEIS (2018) *Employment Tribunal naming scheme guidance.* Available at: <https://www.gov.uk/government/publications/employment-tribunal-naming-scheme-guidance/employment-tribunal-naming-scheme-guidance#:~:text=BEIS%20penalty%20scheme,-Individuals%20can%20register&text=If%20the%20award%20remains%20outstanding,and%208%25%20inte>

⁴¹ GLAA (2017) *New powers for law enforcement to combat slavery and labour exploitation.* Available at: <https://www.gla.gov.uk/whats-new/press-release-archive/01072017-new-powers-for-law-enforcement-to-combat-slavery-and-labour-exploitation/>

Naming and shaming

- Respondents were torn about whether the SEB should adopt a naming and shaming approach. Whilst respondents appreciated this may be a useful approach to complement the power of issuing penalties, they also reflected on the risk of alienating businesses.
- One respondent criticised HMRC NMW for its naming and shaming approach for triggering resistance from businesses: “...you put your head above the parapet, you get named and shamed when actually you’ve been engaged and you’re trying to do something about it” (Respondent 9). Another respondent further explains this problem: “because it’s still not seen to be good enough, despite being ahead of the game, so many other businesses then prefer to stay put and hide in the shadows. The risk is if you are transparent and open and to a certain extent you want to understand it [labour exploitation and modern slavery], then the media will be after you. Campaigners will be after you (...) we still yet haven’t got a culture that we reward transparency” (Respondent 4).
- Respondents who welcomed a public naming and shaming saw this as a way of holding everyone to account, bringing everyone up to the same level and sharing responsibility appropriately (Respondent 11). Other respondents who were unsure about this approach thought it may be useful only if the companies involved are known names in their sector or whether they operate in a sector that pays particular attention to modern slavery (Respondent 5).

Awareness Raising

Among its responsibilities, respondents thought that the SEB should raise awareness and inform business and workers about their rights and responsibilities. It was noted that awareness raising conducted solely by the SEB was unlikely to be effective, instead, cooperation with NGOs and businesses will be needed to yield better results. A well planned and coherent strategy for sharing information should be devised and roles and responsibilities will need to be clear (Respondent 4, Respondent 5). Some respondents considered that community-specific interaction and education should be the remit of NGOs because they are already well networked and trusted by the community and have staff with relevant communication skills, adjusted to communities’ and workers’ needs (Respondent 14).

A particular consideration in the development of the SEB should be given to informing and educating businesses operating in different sectors. It is more difficult for messages to penetrate sectors which are less organised or dominated by a handful of buyers as it is the case of supermarkets in the food industry (Respondent 5). In the agricultural sector, a disconnect in messaging can appear between the ends of the supply chain, i.e. buyers (supermarkets) and producers (small farms); small farms that employ workers through the Seasonal Workers scheme were reported to sometimes struggle to be up to date with changes in legislation.⁴² At times, changes to the immigration system and the Seasonal Worker visa are made without notice by the Home Office, leaving businesses with the risk of operating unintentionally outside the law (Respondent 11). For some, the Covid-19 pandemic offered good examples of what effective briefings look like, i.e. on point, regular and followed by a Q&A session, and they suggested these could be transferred to the labour market to keep all stakeholders up to date (Respondent 14).

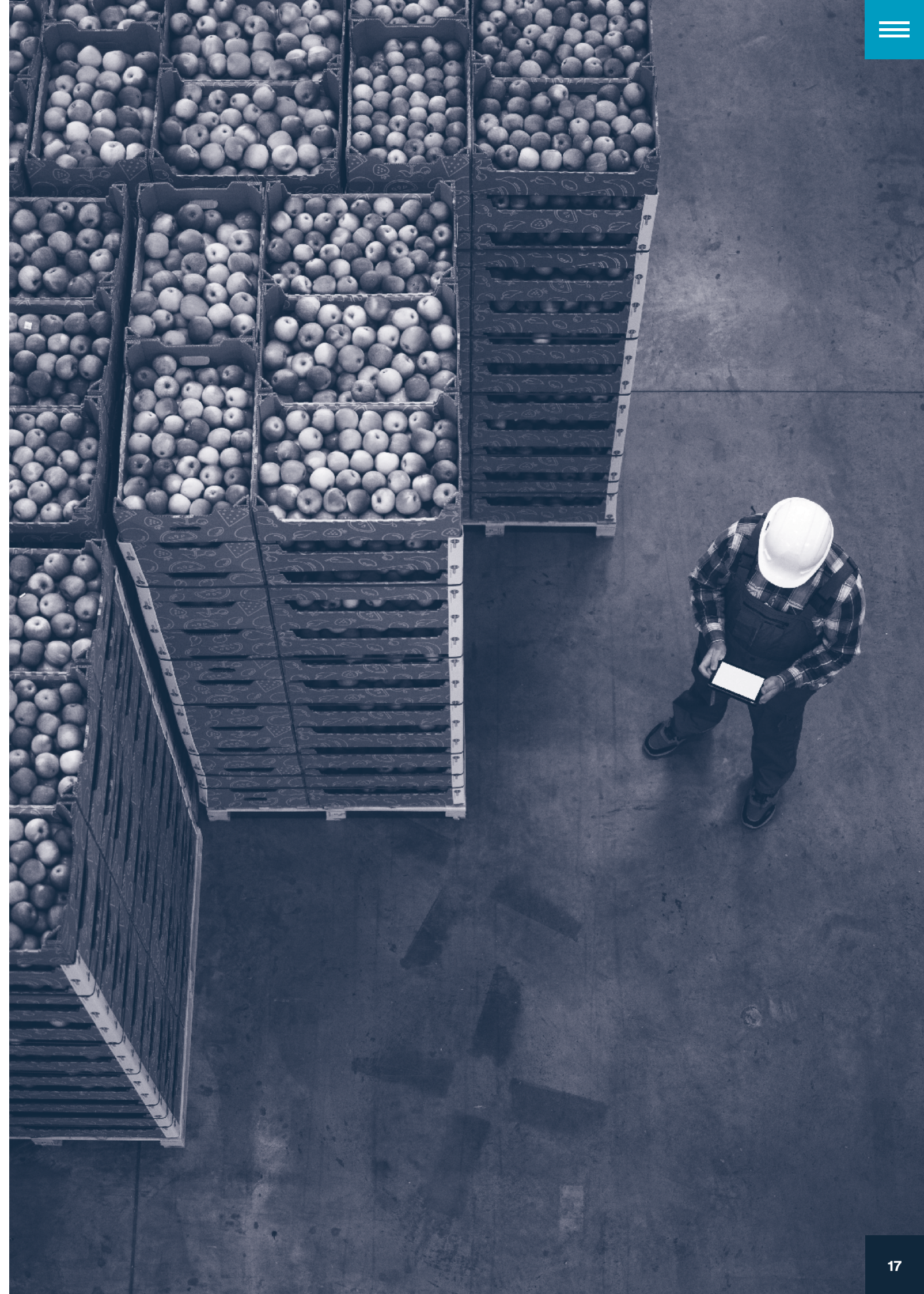
Data collection

More systematic and robust data collection was also seen as important to enable the SEB to intervene more effectively (Respondent 7). Currently the labour market enforcement bodies have different data sources that could be brought together to identify non-compliance. The investigation of non-compliance should not only rely on desk-based sources but also include worker interviews (Respondent 7).

Transparency and openness

Whilst the GLAA was described as open to dialogue and engaging, the HMRC was seen as its exact opposite. “Businesses feel there’s very little channel about substantive engagement. HMRC have a kind of position where they want to avoid providing any advice which could be liable for so as a matter of policy they don’t provide advice” (Respondent 7). As the tax authority, there is recognition that HMRC cannot disclose certain confidential information. However, it was proposed that the SEB could offer an opportunity to reconsider HMRC’s role as a more transparent body, willing to provide more details on the progress of an investigation and its outcome, and offer advice more broadly to those seeking clarifications on the tax system in the future (Respondent 7). Similarly, respondents raised concerns over the lack of genuine engagement from the Home Office, including Immigration Enforcement, which is essential for improving the Seasonal Workers visa scheme.

⁴² Burcu, O., Gardner, A., Gray, C. (2021) *Understanding risks of exploitation for vulnerable migrant workers in the UK during Covid-19*. Available at: <https://www.nottingham.ac.uk/research/beacons-of-excellence/rights-lab/resources/reports-and-briefings/2021/july/impact-of-covid-19-on-romanian-and-bulgarian-workers-in-the-uk-agriculture.pdf>



Modern Slavery Act and Due Diligence Framework

Despite the introduction of the Modern Slavery Act in 2015 and the numbers of potential victims referred into the NRM increasing from 2,337 in 2014 to 12,727 in 2021,⁴³ it is unclear if the SEB will be responsible for identifying, reporting and working to prevent modern slavery abuses. Currently, the GLAA is the only labour market enforcement body working to prevent and identify such cases. Modern slavery is a serious crime and the remit of the SEB will need to be clear in relation to it. Clarity needs to be established on where the responsibility lies for action when indicators of modern slavery are encountered. Wider stakeholder engagement and multilateral agreements will likely need to be in place, including with first responders such as police forces, to ensure access to victim support and protection is available should modern slavery be identified or suspected.

According to the government's consultation report,⁴⁴ the SEB will enforce Section 54 of the Modern Slavery Act. Section 54 refers to transparency in supply chains, whereby large commercial organisations that meet certain criteria have to submit a modern slavery statement annually describing the steps they have taken to ensure modern slavery is not occurring in their supply chains. Respondents reflected that while Section 54 is meant to be enforced by the Home Office, the enforcement is not effectively implemented. A central repository has been established for companies to submit transparency statements, but no penalties have been instigated against companies that are not complying with this requirement. If a company has not taken any steps to ensure the absence of modern slavery in its supply chains, it can simply publish a statement stating this. Over the years, multiple calls have been issued for the government to improve the reporting requirements for modern slavery statements; the low quality of the reports submitted, in the eyes of some respondents, have resulted in this requirement being a tokenistic act (Respondent 4, Respondent 12). It is therefore not clear how the SEB would manage and review modern slavery statement submissions, and take action upon companies in this regard.

The perceived lack of progress on preventing exploitation prompted respondents to state:

"[W]e don't take that as seriously. I think what was done in the Modern Slavery Act back in 2015 was what was politically possible at that time. It should not be, in my opinion, seen as a ceiling. It should be seen as a very low floor if we are serious about driving out this behaviour, then that has to be meaningful sanctions. Otherwise, business doesn't take it seriously." (Respondent 4).

The latter part of this statement reinforces the importance of having legal tools and meaningful sanctions to change businesses behaviour. Respondents further suggested that the UK needs to consider drawing on international guidelines such as *UN Guiding Principles on Business and Human Rights* for states and companies, and that SEB could be "one of the vehicles that holds businesses to account to doing that" (Respondent 4).

A number of European countries are introducing national due diligence frameworks and discussions are taking place for mandatory human rights due diligence (mHRDD) to be introduced at the EU level too. Respondents expressed concern that the UK, once a global supporter of anti-slavery efforts and due diligence, is now falling behind since it has not expressed its intention to participate in such frameworks (Respondent 2, Respondent 4). Without effective due diligence practices clearly in place and communicated, British companies risk having to navigate EU frameworks in isolation. As a respondent states, the SEB's role could be one of "helping interpret mHRDD and what does human rights due diligence look like, demonstrate good practice, and holding people to account", including conducting a "salient risk analysis" and not just fulfilling the task of ensuring transparency in supply chains (Respondent 4).

Along the same lines, other respondents stressed the positive role that SEB could play in supporting businesses to "guide awareness across the sectors to enable businesses to fulfil their duties under Section 54 and be grounded in an understanding of the characteristics that produce hyper precarity in the labour market as a whole" (Respondent 3).

The continuum of labour exploitation

While respondents agreed that the SEB's remit should be wider than the current GLAA's remit, whether it should incorporate the full spectrum of exploitation, from underpayment of wages to modern slavery offences, is a contested topic.

Consensus amongst respondents was that offences happen on a continuum of labour exploitation because, as one respondent explained, "people are often shifting like this up and down the level of abuse and exploitation they're experiencing in their work" (Respondent 14). Given the expectation that the SEB will be financially constrained, respondents expressed a variety of views on what the best approach would be to tackling exploitation and which forms should be tackled.

Some respondents agreed that there is a risk that the SEB may be taking too much on and will fail to deal with less severe, yet prevalent, breaches of labour rights, such as non-payment of minimum wage and holiday pay, and section 54 of the MSA (Respondent 2). The concern often voiced was that "if these sorts of behaviours are not addressed early on (...) simple exploitation can quickly turn into forms of modern slavery" (Respondent 4). Similar views were expressed by others: "A more coordinated approach is needed to tackle lower-level labour violations to prevent drifting into more severe exploitative practices that are then more difficult to solve" (Respondent 6); "A single enforcement body absolutely would have to have a role in the extreme ends, especially that extreme end" but this comes with the risk of "over focus[ing] on exploitation though and leave everything in the middle" (Respondent 14).

However, some stressed the need to use resources proportionally with the issues faced: "Where to set the threshold for enforcement action? Would SEB include non-payment of holiday pay? If there is a case of one worker, it might be more effective to contact employers directly. Proportionate approach is needed to protect resources but also to treat each individual case" (Respondent 6). Others emphasised the need to prioritise hazards and risks "so that we go in after the big tickets first", and then where possible "give the tools to industry to go deal with the small ticket issues" (Respondent 9).

The SEB presents the potential to overcome these chasms in a more unified manner: "the current fragmented approach that they have makes everything siloed" and does not allow for both ends of the continuum to be tackled (Respondent 3), i.e. the GLAA addresses the extremely serious cases, HMRC the non-payment of wages, but there is not necessarily a "continuous thread between them" (Respondent 3).

Grievance mechanism

Establishing a mechanism for remediation of victims of labour exploitation appeared to be a new concept for many of the respondents. When explained, some agreed that such a mechanism, provided it was "efficient and fair" (Respondent 3) and "accessible and affordable" (Respondent 4), could be built within the SEB. The system could represent a good reporting pathway particularly for workers who do not speak English, do not understand the law and have a high degree of fear (Respondent 5). The system would have to be secure and to preserve confidentiality to ensure no repercussions are faced by the individual worker.

Stemming from the context of HMRC in particular, a need for a more accessible complaints process led by the SEB that encourages and supports workers and third parties to file complaints was raised:

"Workers are too often unaware of their rights and confined routes to complain or it is too complex which can be discouraging for them. And so, I think there needs to be a process to inform and encourage workers (...) Well, there's you know three or four bodies (...) I think it's probably dissuasive to raising a complaint at all. So having a single body in a single point of contact for workers, be it the minimum wage being holiday pay, health safety issues" (Respondent 7).

Whilst the mechanism described may be a sensible addition to a SEB, who this regulator would be, who they would report to and what the penalties and remit would be is a topic open for discussion. This idea would require further thought to avoid unnecessary replication and gaps or overlap of responsibilities.

Staff, skills and training

The GLAA has faced repeated criticism of recruiting mainly from police officers and as a result having become more focused on enforcement rather than compliance. The future SEB would need to consider recruitment strategies to attract staff from a diverse group of people with relevant knowledge and expertise in the labour market and a range of skills such as frontline skills, investigative skills, risk analysis and identification, and tax enforcement based on strong knowledge of employment law (Respondent 1).

If the SEB is to deal with a wide range of issues on the labour exploitation spectrum, internal specialisation may be needed, which could create internal silos, but not fragmentation into separate bodies (Respondent 1). This may still allow for a joined-up approach and successful internal cooperation (Respondent 4). There was also a recognition that those working for the SEB may not need to be trained on every issue they may encounter. However, they would need to ensure that the SEB team was able to access external expertise, advice and skill sets when required (Respondent 7).

⁴³ Home Office (2022) *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary 2021*. Available at: <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021>

⁴⁴ BEIS (2021) *Establishing a new single enforcement body for employment rights: Government response*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/991751/single-enforcement-body-consultation-govt-response.pdf.

Training suggestions that were raised included:

- sectors specific skills (Respondent 9)
- business skills, i.e. staff that “*speak the language of businesses and understand businesses*” would help to engage effectively with businesses against labour exploitation (Respondent 4)
- awareness of lower-level violations to improve pre-emptive action (Respondent 3)
- a common understanding of human trafficking and migrant rights across all agencies and not “*hived off into discrete units*” (Respondent 3)
- people skills that enable them “*to speak with victims of severe labour exploitation and modern slavery who might be traumatised*” (Respondent 2)
- cultural communication skills, i.e. an acknowledgment that people express themselves differently and may have different sensitivities (Respondent 14)
- anti-discriminatory training, particularly towards minorities who can feel alienated when they feel judged by the attitudes of staff (Respondent 14)

Retaining staff

Retaining staff in labour market enforcement agencies is challenging. Before the Covid-19 pandemic, in 2019-2020, GLAA's staff turnover was 21.6% in comparison to 17.9% which represented the public sector average in 2019;⁴⁵ while figures oscillate over time, in the most recent report 2021-2022, GLAA employee turnover (15.97%) was still higher than the set target (12.4%).⁴⁶ High staff turnover in labour market agencies was thought to be due to the low levels of pay and limited opportunity for promotions. Some see the SEB as an opportunity to overcome this obstacle: “*we hear quite a lot that in the Employment Agency Standards Inspectorate their inspectors move out of that area completely in order to get promotion, whereas with a larger body there's the potential for career development within the body*” (Respondent 8). High staff turnover can slow down investigative processes. In the case of HMRC, accounts were shared of businesses' frustration, for example, within one investigation business staff deal with three or even four different staff and feel that they have to walk them through the process from the start. High staff turnover also does not enable individuals to build subject matter expertise (Respondent 7). The SEB will need to consider how staff retention can be best ensured.

Organisational culture

If the SEB is to be established through the merger of multiple bodies, bringing together different organisational cultures will be a challenge to consider. One of the main envisaged benefits of creating the SEB is to have one joined up approach and one single point of contact, and if this benefit is to be achieved, a coherent organisational culture needs to be developed. A respondent recalled that:

“When HMRC was formed in 2005 by the merger of the Inland Revenue and HM Customs and Excise, it's probably fair to say that but a few of the employees in either of those original organisations still identify as being from those organisations. You know, 17 years later, so these are big, big things to deal with” (Respondent 8).

Others warned about the effect that different organisational cultures may have on the ground, for example, “*some lower forms of exploitation, say, wage theft, was not being covered because they were employed by a different organisation with a different set of cultural values and then there was no immediate pressure for them*” (Respondent 12). This is where training and a strong new overarching organisational culture will be useful.

Partnerships

Building robust partnerships and regular meetings with civil society organisations are crucial to help the future SEB stay connected with on-the-ground developments, and in particular with the concerns and barriers of marginalised workers. It is therefore necessary to consider how partnership engagement mechanisms could be structurally designed into the SEB. As one respondent put it:

“Partnership doesn't mean sitting in a meeting together. It means a shared responsibility (...) they are going to have to learn that actually, it cannot be incidental and needs to be a strategy. There needs to be working with those partners in terms of where's the mutuality? What's this? Partners' expectations of them as well as their expectations of partners. And that's not very well worked out. And then it needs to be nurtured and grown. (...) I just don't think civil servants have been encouraged to look at it that way and been given the mandate to genuinely work in partnership. I think they've been locked up at meetings and then said 'well, we can't say anything', that's not possible, it just frustrates everybody but I don't blame them. I blame, if you like, the culture and the sort of setting.” (Respondent 4)

Partners should be recognised for the important role they play and be treated and compensated appropriately. Future collaborations have to be funded: “*...it can't be done on sort of donations and temptations and begging IT companies which, you know, means we are just not being very serious about this agenda*” (Respondent 4).

It was pointed out that collaborations with unions can be difficult because vulnerable workers are less likely to be part of a union. Moreover, “*Unions really struggle to advise people when they have immigration status issues that intersects with their employment rights. That is also the same for the advice sector. They really struggle because the immigration system in the UK is extremely complicated, but also it's a criminal offence to give immigration advice when you're not accredited*” (Respondent 14). Multiple respondents raised similar concerns about NGOs and traditional unions not always being equipped with the necessary legal training to provide adequate advice, or in the case of the latter, to even have the resources to enable it to reach out to migrant workers which are hard to unionise. However, some highlighted that “*indie trade unions*” should be considered. These are trade unions specialised in representing lower paid vulnerable migrant workers, such as the United Voices of the World (Respondent 2). Others suggested the SEB should also cooperate with established bodies like ACAS for informing and advising people (Respondent 2, Respondent 10).

Another important point raised by a respondent was the need to reinforce the partnership between the SEB and the police, based on a clearer defined remit of their powers, particularly in relation to trafficking (Respondent 14). A representative of an NGO who works directly with survivors further explains:

“Trafficking is a serious crime, and it's generally a serious organised crime, so one might expect it to fall outside the remit of a single enforcement body, but then that relationship between the police and a single enforcement body is going to be really important because what we get at the moment is people go to the police and they say either they say that's a civil problem, i.e. it's kind of a contract problem.” (Respondent 14)

Beyond partnerships at the national level, post-Brexit, international partnerships are perhaps more important than ever before. If previously the UK had bilateral arrangements with collaborative agreements and the ability to easily share data with police forces and labour inspectorates in multiple European countries, these are no longer in place or are very different. While the UK will retain access to certain EU databases subject to restrictions, the biggest challenge for UK and European policing regarding data sharing and joint operations is the loss of Schengen Information System (SIS II) and membership to Europol.⁴⁷

With labour recruitment from the EU declining strongly post-Brexit, recruitment of workers ventured into new and further afar geographical areas. As the identification of victims increased too, the building of international partnerships is essential to tackle problems both in the host country and country of origin. There is a particular need to engage with countries from which workers were not traditionally sourced from pre-Brexit. These countries present multiple risks of exploitation since the UK does not have prior relationships with them (Respondent 9) and labour recruiting companies are still learning to navigate their domestic labour legislation (Respondent 11). At the moment, the GLAA cannot fill these gaps and offer businesses the support they need when recruiting further afar and there is a clear need too for other government departments to establish and facilitate relevant international relationships with countries where workers are sourced from. The SEB could have the power and remit to develop new relationships with these countries outside the EU from which seasonal migrants are recruited (Respondent 9). Similarly, another interviewer argues that since a range of labour issues stem from international recruitment, from recruitment fees charged by intermediaries to fake online accounts posing as British companies, SEB could have a role in helping or supporting to correct issues in source countries (Respondent 8).

⁴⁵ GLAA (2020) GLAA End of Year Performance Report. Available at: <https://www.gla.gov.uk/media/5781/public-facing-glaa-2019-20-end-of-year-performance-report.pdf>

⁴⁶ GLAA (2022) Gangmasters and Labour Abuse Authority Annual Report and Account. Available at: <https://www.gla.gov.uk/media/8946/glaa-annual-report-and-accounts-2021-22-web-version.pdf>

⁴⁷ Coleman, C. (2022) Beyond Brexit: policing, law enforcement and security. Available at: <https://lordslibrary.parliament.uk/beyond-brex-it-policing-law-enforcement-and-security/>



Structure & governance

While it is the three main agencies of GLAA, HMRC NMW and EAS, that have been at the centre of discussions to create a SEB, there may be scope for other agencies to be merged into this structure, as it was discussed at the start of this report in the ‘fragmentation of labour market enforcement’ section.

All respondents believed that it was essential for the SEB to be accountable, but there were differing opinions regarding to whom it should be accountable. Some proposed that the SEB should be accountable to BEIS (Respondent 2, Respondent 10) or Parliament (Respondent 4). Another idea was to set up the SEB as an executive agency, in which case it would “report to the secretary of state in the ministry that’s its home” (Respondent 6). The idea that the SEB should be “an arm’s length body with its own board and the board would have an accountability to ministers and to Parliament (...) and a degree of independence from political influence” (Respondent 8) was also brought up. Some respondents warned, however, against a governance board structure made up of different stakeholders, as they believed it might not be effective due to the presence of numerous diverse interest groups and the executive could always find some board members who would support their decision-making; they proposed instead having a diverse “consultation forum” (Respondent 8).

Additionally, some respondents discussed the possibility of establishing adjudicators or an independent board to review the performance and effectiveness of the SEB annually (Respondent 5, Respondent 10). These boards could include representatives from trade bodies, NGOs, academia, trade unions, and cross-sector experts (Respondent 10). It was also suggested that performance indicators be put in place to measure impact, rather than just outputs, as some thought it is currently “difficult to understand how enforcement bodies are doing” (Respondent 10). As one interviewee explains, HMRC, for instance, has key performance indicators, but “more transparency is needed to evaluate its performance” since it is a body “not used to be held accountable” (Respondent 7).

Not all respondents were certain to whom SEB should be accountable but were adamant that its governance and performance should be well scrutinised, particularly considering the long vacancy of important scrutiny roles at the moment such as the IASC and Victims Commissioner (Respondent 14).

In addition to the points raised in relation to accountability the geographical location of the SEB’s offices was deemed important. Some respondents emphasised the importance of the SEB having regional offices to allow staff to develop a good understanding of the local area and economy, collect intelligence on the ground, and be close to targeted sectors such as farming or fishing regions (Respondent 2). Another respondent suggested that a centralised system with local hubs might also make the SEB “more directly approachable and less like a monolith that’s not particularly accessible” (Respondent 3).

Clarity on laws and standards, powers and remits, and expectations

The need for clarity on laws, standards and expectations was raised among NGO and business respondents. Concerns were expressed by several respondents expressed on the lack of clarity over what constitutes abuse, modern slavery, the hazards and risks associated with them and effective ways of assessing them. Respondents also called for clearer guidance on these, including associated hazards and risk factors.

It was proposed that businesses receive a list of hazards against which they can assess and prioritise their risks of modern slavery:

“You could put in there what we expect you to be tackling [in relation to modern slavery]. And have an action plan in place for your top 20 per cent of hazards, irrespective of the size of your business. That action plan then needs to be able to go into detail of what is reasonably practicable. That’s why those words are used in health and safety and that’s why a small business or a large business can both operate under the same scheme.” (Respondent 9).

A call was also made for a more systematic risk assessment, similar to those for the HSE where “an employer is responsible for the health, safety and welfare of its workers, visitors, etc. Now, if modern slavery, non-payment of wages, bonded labour etc. Why are we not applying that legislation to welfare?” (Respondent 9). The same respondent opined: “at the moment businesses don’t understand what is expected of them under modern slavery or worker exploitation. If that is clear, then compliance can become more standard about it” (Respondent 9).

Other respondents felt up to date and clear on HSE and modern slavery requirements, but were less clear on the conditions of employment for workers arriving on Seasonal Workers' visa. One respondent exemplified:

"In terms of pay, the HMRC are interested about their terms of employment, the hours that they work, the grievance and disciplinary procedures, the performance review of workers (...) But how soon does an employer need to provide a contract to the worker? The worker shall not pay for accommodation if they work less than 16 hours. Where's that come from? Who's there to tell me about employment law and council me and advise me and tell me what standard I'm auditing to and explain to me where that is enforceable in the law."

The GLAA was often depicted as a reliable port of call when seeking advice on labour issues, there was however no equivalent organisation for stakeholders to rely on or approach for advice in relation to employment law and human resources. Respondents called for clarity about the interpretation of the law through more guidance notes and standards (Respondent 5) and some further suggested that the government could offer a service where businesses could ask for clarifications on certain aspects of the law (Respondent 11). In the quest for further clarity, it was also proposed more training to be offered to industry *"I think one of the things that would be really, really helpful is if these regulatory bodies created an audit standard so that business auditors can take Home Office/GLAA/ HMRC accredited courses which meet the guidance standard set by these regulation bodies"* (Respondent 11).

Immigration

The relationship between labour agencies and the Home Office over the issue of immigration was not well defined or understood. Based on the interviews conducted, stakeholders are not always clear as to whether businesses have a duty to report workers with an irregular status to the Home Office. The *"Full guide for employers on preventing illegal working in the UK"* states that employers have a duty to check employee's right to work although are not duty bound to report individual cases.⁴⁸ However, a representative of an NGO argued that

"The GLAA shares data with the Home Office and because it's following the NPCC, which is the National Police Chiefs Council, because they share their policy, they abide by their rules. The guidance from the NPCC is actually extremely clear that they that they should be. And they should be sharing with the Home Office for the purposes of immigration enforcement, not just generally, but for the purposes of immigration enforcement." (Respondent 14).

Additionally, according to section 52 of the Modern Slavery Act 2015, public authorities in England and Wales have a statutory duty to notify the Home Office when they come across potential victims of modern slavery, regardless of whether this comes from a victim or another party.⁴⁹

The GLAA rejects that they are *"working hand in glove with immigration, leading to deportations. Any illegal migrant that we come across that has been exploited is first and foremost a victim, and we will treat them as such"* and explain their position:

"It is a requirement of our licensing standards that a licence holder abides by the law and conducts right to work checks. In an investigation we may identify immigration offences but that is not our priority, however if we were to identify criminality relevant to any other Government department, where we have an information sharing agreement we would pass information. We cannot turn a blind eye to any offence we may identify".

A comparative study that examined labour inspectorates in Austria, Czech Republic, Netherlands, UK and Germany found they all tend to focus particularly on identifying undeclared migrant labour and bogus forms of employment,⁵⁰ attesting to the concern that the primary focus of these bodies is criminal enforcement rather than human rights and labour rights protection. Alongside the interviews in our study, this highlights more generally the need for clarity and communication on when and how data are shared between labour authorities and immigration enforcement. The absence of such clarity results in a lack of trust by victims into labour market enforcement bodies and henceforth a reduced level of reported exploitation incidents.

Safe ways of reporting exploitation by workers, regardless of their immigration status, are as contested. Protecting anonymity arguably encourages reporting. Moreover, enforcement bodies need the cooperation of the victims to tackle the source of exploitation and this is unlikely to happen without safe ways of reporting. However, safe reporting and firewalls on data sharing are a much more contested topic. The two opposing opinions on this were summed up by one respondent:

"NGOs' position is to separate immigration from labour market enforcement. I am not sure that is always possible because they often go hand in hand. They go hand in hand with tax evasion and money laundering. These things are all connected. A business that launders money is likely to use workers that do not have the legal right to work and control them." (Respondent 10).

Other respondents expressed that people should not fear deportation if they report labour exploitation and so *"confidentiality is sort of absolute paramount here, so that for instance, the enforcement body would not be allowed to give information to the immigration authorities"* (Respondent 5). The lack of consensus over whether labour market enforcement agencies should share information with immigration authorities and whether safe ways of reporting can be established impacts the nature of partnerships that can be established between government bodies and NGOs: *"genuinely work in partnership with community organizations that can then offer the kind of holistic support, it's really important. But to do that, the community organizations have to trust that you're not going to put all their clients at risk of immigration enforcement"* (Respondent 14).

It is not just NGOs and trade unions such as FLEX,⁵¹ PICUM and TUC that have been calling for a "firewall" to be set to prevent sharing data between public bodies, and safe reporting ways to be established. The previous Director of Labour Market Enforcement, Matthew Taylor, called for safe ways of reporting that ensure the protection of migrant workers.⁵²

Certain countries have taken steps in this direction. The Netherlands implemented a *"free in, free out"* policy that *"allows migrants with irregular status freely to enter a police station to report a crime and be permitted freely to leave without being arrested or held in custody. [...] It was deliberately decoupled from politicised questions surrounding migration control, and instead emerged primarily as a policing and crime prevention initiative"*.⁵³ Other European countries offer some "relief from immigration enforcement" through special visas; in Spain, for example, immigration enforcement proceedings are suspended for those reporting to be victims of trafficking, while Belgium offers a period of "reflection".⁵⁴ However, it was found that these approaches were only used in exceptional circumstances and were unevenly implemented due to lack of training of law enforcement officers who retained discretionary powers.⁵⁵ Similarly, some states in the US moved towards a "non-cooperative policy" between police forces and immigration officials with the view to create "sanctuary cities" – safer areas where victims can report abuses without fearing deportation; these stemmed from concern for public security and desire to encourage cooperation with the police. Due to the lack of data and analysis on this topic, the effectiveness of these policies is unknown and debates continue on whether such firewalls shield criminals or offer protection to those in need.⁵⁶

Despite disagreements over whether undocumented workers should be reported to immigration services, most respondents very strongly expressed concern about the Home Office's potential influence over the SEB. An immigration enforcement motivated agenda would not help to address the problems in the labour market which businesses and workers currently face. *"Exploitation in the UK is so focused on criminal law and so focused on immigration enforcement that they don't necessarily see it as a fundamental part of the anti-trafficking and anti-modern slavery approach."* (Respondent 3).

⁴⁸ Home Office (2013) *Full guide for employers on preventing illegal working in the UK*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/304793/full-guide-illegal-working.pdf

⁴⁹ Home Office (2022) *Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, Quarter 2 2022 – April to June*. Available at: <https://www.gov.uk/government/statistics/national-referral-mechanism-and-duty-to-notify-statistics-uk-april-to-june-2022/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-quarter-2-2022-april-to-june#:~:text=As%20specified%20in%20section%2052,potential%20victims%20of%20modern%20slavery>

⁵⁰ Vogel, D., Rogoz, M. and Kraler, A. (2017) *European Policy Brief. The demand-side in anti-trafficking: current measures and ways forward*. Available at: https://www.lastradainternational.org/wp-content/uploads/2020/10/WP3_Policy-Brief_Measures_FINAL.pdf

⁵¹ Labour Exploitation Advisory Group (LEAG), Joint Council for the Welfare of Immigrants (JCWI), Latin American Women's Rights Service (LAWRS) and Step Up Migrant Women coalition (SUWM) (2022) *Safety for Migrant Workers: the case for safe reporting mechanism*. Available at: <https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=978ed78e-f05a-47a4-a1bd-428030176527>

⁵² Taylor, M. (2021) *Executive Summary: United Kingdom Labour Market Enforcement Strategy 2021/22*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040245/E02666976_BEIS_UK_Labour_Market_Enforcement_Strategy_2021-22_Executive_Summary_Accessible.pdf

⁵³ Timmerman, R, Leerkes, A. and Staring, R (2019) *Safe Reporting of Crime for Victims and Witnesses with Irregular Migration Status in the Netherlands*. Available at: <https://www.compas.ox.ac.uk/wp-content/uploads/SR19-Netherlands-country-report.pdf>

⁵⁴ Compas Oxford (n.d.) *Safe reporting of crime for victims and witnesses with irregular migration status in the United States and Europe*. Available at: <https://www.compas.ox.ac.uk/wp-content/uploads/Safe-reporting-project-Research-Highlights-and-Learnings-for-the-EU-Victims-Strategy-Final.pdf>

⁵⁵ Ibid

⁵⁶ Delvino, N. (2019) *Safe reporting of crime for victims and witnesses with irregular migration status in the United States*. Available at: <https://www.compas.ox.ac.uk/wp-content/uploads/SR19-US-country-report-1.pdf>

Underfunding

A primary concern related to the establishment of the SEB was resourcing. Respondents found it difficult to envisage a SEB that would tackle labour abuses and exploitation adequately and undergo the deeper reform needed to be effective without significant investment being available. Respondents raised several negative consequences from establishing an under-resourced SEB:

- inability to fulfil an extended remit and responsibilities
- not all market violations and abuses will be addressed, some will be prioritised, while others will be marginalised, recreating today's problems
- the SEB will not be practically able to carry out monitoring and enforcing of holiday pay, minimum wage pay and statutory sick pay abuses because of the prevalence of these infringements on the labour market and the complexity of the cases they can present
- the number of inspections and inspectors will remain below the ILO standards and behind most European countries
- the SEB will be reactive rather than proactive, therefore continuing the pattern of the current labour enforcement agencies, and achieving limited success in adequately supporting workers
- it will send a weak and unrealistic signal to businesses which fail to comply with the law and will see no incentive to permanently improve their compliance
- may create a culture of 'passing the buck' where nobody takes responsibility for system failures

An underfunded SEB may achieve little and make limited progress away from the problems labour market enforcement is already facing. Some respondents worried that the SEB may be a *"cost saving dressed up as a merge, and actually if you end up with just now a big entity that doesn't want to talk to you and it's not clear about what it's doing, then the merger per se doesn't solve the problem"* (Respondent 4). It is important to note that an underfunded SEB also poses additional risks. As many respondents stressed, not only the risk of failing to address the current problems, but it may face new challenges that come with mergers in general, for example, the difficulty of creating an overarching organisational culture, moving headquarters and offices which incurs extra costs, dismissal and recruitment of staff, and loss of expertise.

A respondent took a broader view of the system and called for an assessment of other agencies' budgets with which the SEB would work, such as the Crown Prosecution Service which *"is so under-resourced that you would not send anything [referrals] there"* (Respondent 5). Further, as the "United Kingdom Labour Market enforcement strategy 2021/22" report by the Office of the Director of Labour Market Enforcement highlighted, the increase in funding for the SEB should also take into account contextual changes, such as increase in the proportion of the workforce earning National Living Wage/National Minimum Wage.⁵⁷

Political leadership

The importance of leadership and confidence (Respondent 4, Respondent 2), and political will (Respondent 1), were identified as crucial elements when reforming the labour market enforcement system. Several respondents praised the former Anti-Slavery Commissioner, Dame Sara Thornton, and former GLAA Chief Executive Paul Broadbent for their leadership and confidence in driving changes in the labour market over the years (Respondent 4). Likewise, Theresa May and Matthew Taylor whom she commissioned to write the "Good work" report when she was Prime Minister in 2019, were seen as the driving force for change, with the right ethos and willingness to establish the SEB (Respondent 2). The view often expressed was that when the government changed, the breaks were pulled, as exemplified by the fact that *"It's taken over two years just for the government to respond to their own consultation about the SEB [and still] there's no employment bill being brought before Parliament"*. This led some to wonder whether *"there is still the political will to actually get the SEB up and running?"* (Respondent 2). Business secretary Grant Shapps' recent announcement that the establishment of the SEB has been put on hold due to the limited amount of Parliamentary time left to deliver it, appears to confirm the respondents' concerns about the delivery of a meaningful labour market enforcement reform.

⁵⁷ Taylor, M. (2021) *Executive Summary: United Kingdom Labour Market Enforcement Strategy 2021/22*. Available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040245/E02666976_BEIS_UK_Labour_Market_Enforcement_Strategy_2021-22_Executive_Summary_Accessible.pdf



Conclusion and considerations

This study has considered policy debates and current views on the benefits and considerations of a SEB for UK labour market enforcement, examining how such an entity may best be structured and resourced to maximise the opportunities offered through one enforcement body that can be more than the sum of its parts.

A group of stakeholders from policy, practice, business and civil society consulted for this study agreed that the UK needs a coherent labour market enforcement body to enable improvement and transform the way labour infractions and abuses are remedied more effectively. Whilst views varied on whether the SEB should be an amalgamation of the three main enforcement bodies as initially envisaged, or whether this should be a new entity entirely, respondents agreed that fundamental questions remain about the SEB's funding, remit and powers.

Respondents agreed that the SEB needs an extension of powers and remits, with varied views on how these would be best applied in practice. They also strongly agreed on the need for funding, training and retaining staff, and the need for more clarity on laws, standards as well as the importance of government support in general and political will. Respondents disagreed on the role of labour enforcement bodies on immigration issues, and how partnerships could best be structured. Whilst respondents were clear that the SEB should be held accountable, views varied on the most appropriate mechanism for this. All respondents - regardless of their position on information sharing between labour market enforcement bodies and immigration enforcement - stressed that the SEB should be operating independently from Home Office powers and governance.

The notion of establishing a SEB has been revisited within a context of anticipated policy and legislative changes relevant to preventing and addressing exploitation in the UK. A new Modern Slavery Bill is expected to be introduced, whilst the Retained EU Law (Revocation and Reform) Bill is progressing through Parliament, which stipulates that by December 2023, all UK regulations previously passed to implement EU directives will be abolished unless the government opts to amend or retain them (Respondent 2). Additionally, throughout this study respondents expressed a need for improving employment law and addressing grey areas and loopholes. Despite the challenges of political prioritisation, discussions on the development of the SEB - which is explicitly supported by the government and the opposition - must not be allowed to stall.

For the SEB to function effectively and succeed in improving labour market enforcement, this study poses a series of considerations for policymakers, practitioners and partners:

- **Adequate funding and resource.** Respondents expressed concern that a SEB could face severe funding limitations within the context of continued austerity and constraints for institutional resourcing. Adequate funding and resource must be provided in tangent with an increase in powers and remit, which are key to meaningful reform of labour market enforcement.
- **A clear remit.** It must be clear what categories and areas of enforcement the SEB covers, and whether this will include the gig and informal economies in addition to the formal economy. The SEB presents an opportunity to address a current lack of clarity across enforcement law and practice and a fragmented labour enforcement system.
- **Modern slavery mandate.** An expanded SEB is expected to enforce Section 54 of the Modern Slavery Act in relation to modern slavery statements, and should hold responsibility for identifying, reporting, and investigating modern slavery. This mandate must be supported with sufficient legislative remit, funding, and capacity.
- **Defined powers.** The SEB needs to have access to wide ranging powers from normative, compliance-led influence through to light and hard enforcement powers, which are currently spread across the existing labour market enforcement bodies. These enforcement powers should be operable and consistent throughout the UK.
- **Guidelines for businesses.** Assisted by clearly defined powers of the SEB, guidelines should be issued to businesses to ensure they understand and can meet expectations on labour market compliance.
- **A strengths-based partnership approach.** The SEB should embody a truly functional partnership between relevant partners (enforcement agencies, civil society, businesses domestically and internationally) whereby contributions are recognised and compensated.
- **Transformative institutional change.** The SEB needs to recruit a more varied body of staff with wider experiences and backgrounds, whilst supporting current staff through training and opportunities for promotion to encourage retention of expertise. This would facilitate the cultural change needed for the establishment of a reformed and revitalised single labour market enforcement body.



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