



Rooting out the rogues

Why vulnerable workers *and* good employers need a 'fair employment commission'

Summary

Whilst the vast majority of employers try hard to meet their legal obligations to their workforce, there are still far too many unscrupulous or rogue employers (and employment agencies) prepared to flout the law and so profit from exploitation. As a result, many tens of thousands of the most vulnerable workers in the UK economy – including many low paid *migrant* workers from the newly expanded European Union and elsewhere – are failing to benefit from the Government's very welcome policy programme since 1997 to establish a framework of decent standards in the workplace.

And they are not the only losers. The activity of their deliberately exploitative employers – including, in some cases, the non-payment of tax and national insurance – puts good employers at a competitive disadvantage, eventually forcing some to cut corners themselves or risk going out of business. And, when they do so, even more workers lose out.

Yet, all too often, such exploited workers are too fearful of victimisation or dismissal to raise a grievance and bring an Employment Tribunal claim – the principal method of enforcing most statutory workplace rights. As a result, unscrupulous or rogue employers can profit from exploitation with near impunity.

This briefing forms the joint submission of Citizens Advice and Citizens Advice Scotland to the TUC's Commission on Vulnerable Employment. We argue that it is time for the Government to give exploited workers somewhere to turn, through the creation of a 'fair employment commission' with the legal powers and resources both to secure individual vulnerable workers their rights, and to root out the rogues.

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Introduction

Tomasina, a young Polish woman in Manchester, has been employed as a night cleaner by a London-based contract cleaning company for the past 18 months, working seven nights per week. She has not had any paid holiday during this time, and when she recently asked her manager about this he falsely stated that she has no legal right to paid holiday. Tomasina fears that, if she “makes a fuss”, she will be sacked, as she has seen happen to fellow workers who complained.

Donna, a lone parent of three teenage children living in the West of Scotland, works 15 hours per week and is paid £5.00 per hour – below the National Minimum Wage of £5.52 per hour. However, even after being advised of her rights, she is too fearful of losing her job to complain to her employer.

Harry, a young man from the Czech Republic, has just been summarily dismissed from his job as a chef at a small hotel in Kent. He had been working 55 hours per week, without any rest breaks, and was sacked when he asked his employer for proper rest breaks and paid holiday.

Every year, some 275,000 mostly low paid, non-unionised workers like Tomasina, Donna and Harry seek advice from a Citizens Advice Bureau (CAB) about their job.¹ Some of these advice enquiries involve the company mergers, redundancies and other business changes that are inevitable in any modern economy, not least due to the influences of globalisation and new technologies, and the move to 24/7 business practices. Others reflect the fact that disputes between individual workers – or groups of workers – and their employer will

and do happen, just as they do in other areas of life. However, we estimate that at least 60 per cent – 165,000 or more – of these men and women seek advice from a CAB because they have been denied (deliberately or otherwise) one or more of their statutory workplace rights by their employer, including:

- denial of the statutory right to at least four weeks’ *paid* holiday per year – a key ‘work-life balance’ right
- denial of statutory sick leave and pay (SSP) when unable to work due to illness or, in some cases, work-related injury
- the reduction – most commonly in the case of migrant workers – of their already low wages to illegal levels by excessive deductions for accommodation, transport and other ‘services’. In many such cases, the accommodation provided by the employer is of extremely poor quality and/or grossly overcrowded
- being required to work 50, 60 or even more hours per week – sometimes after being forced or cajoled into opting out of the 48-hour legal limit on weekly working time, but more often than not without even being given the option – and/or the denial of proper rest breaks and sufficient days off from work
- summary dismissal simply on account of being pregnant, and denial of time off for ante-natal care and/or full entitlement to statutory maternity leave and pay
- the non-payment of wages owed and/or holiday and notice pay after leaving the employment – whether voluntarily, with a view to moving to a job with a ‘better’ employer, or after being summarily dismissed on some pretext.

Many have, in addition, been denied their rights to a written statement of their terms and conditions, and/or to itemised pay slips.

¹ In this briefing we use the generic term ‘worker’ to cover both ‘employee’ and ‘worker’ as legally defined. In 2006-07, the 450 Citizens Advice Bureaux in England, Wales and Northern Ireland dealt with 505,000 employment-related advice matters, and the 71 Citizens Advice Bureaux in Scotland dealt with 47,400 employment-related advice matters. We estimate that these 552,400 advice matters were brought by some 300,000 individual clients (i.e. a client’s case may, and usually does, involve more than one advice matter). We further estimate that less than five per cent (i.e. fewer than 15,000) of these clients were *employers* seeking advice on their legal obligations to their workforce, and that the remaining 285,000 or more were workers seeking advice on their workplace rights.

Some have been subjected to bullying and verbal abuse, including racial discrimination, or even to threats of violence. And some have, like Harry, been summarily dismissed simply for asserting their rights at work.

Very few of these workers belong to a trade union – hardly surprising, given that in two out of every three private sector workplaces in the UK there is no union presence.² Most lack a full understanding of their workplace rights, and a significant – and growing – proportion are migrant workers, often additionally disadvantaged by their limited English language skills, cultural differences, and especially low awareness of their legal rights in the UK. In short, they are particularly vulnerable to unfair treatment or exploitation.³

Whilst the vast majority of employers try hard to meet their legal obligations to their workforce (even if they occasionally have a dispute with an individual worker or group of workers), it is clear that there are still far too many unscrupulous or rogue employers prepared to ignore or flout the law, and profit by exploiting such vulnerable workers. As a result, many tens of thousands of the most vulnerable workers in the UK economy are failing to benefit from the Government's policy programme, to establish a framework for decent minimum standards in the workplace.

Low paid and vulnerable

Many low paid people are employed in small, non-unionised workplaces such as care homes, retail outlets and distribution warehouses, hairdressers, bars, restaurants and hotels, or for contract cleaning, food processing, security and transport companies. These workers have no access to the

protective services of a trade union and have little awareness of their legal rights, let alone how to enforce them. A great many are women, often working part-time and/or at night, or as a homemaker, in order to juggle family or other caring responsibilities. They are – in the words of the former Prime Minister, Tony Blair – the “hard working, low paid families who do the jobs we all rely on”.⁴

And they are not the only losers. The activity of their exploitative employers puts good employers at a competitive disadvantage, eventually forcing some to cut corners themselves or risk going out of business.

A CAB in Kent were approached by a married couple, joint owner/managers of a small contract cleaning company. The couple's company had recently lost a number of contracts to competitors they knew to be paying illegally low wages (i.e. less than the National Minimum Wage) to migrant workers. Turnover is now so low that there was no profit to cover the couple's basic needs. The bureau reported the couple being in “great distress due to the looming loss of their business, their accumulating debts and their sense of unfairness”.

This can lead to a downward spiral of wages, conditions and even workplace safety – to the detriment of good employers, their workers (including union members in unionised workplaces), and taxpayers alike. For, as the Government has noted, vulnerable workers “often feel that they have little choice but to accept the terms on offer”.⁵

Yet, all too often, such workers are simply too fearful of victimisation or dismissal to even

² See: *Trade union membership 2006*, DTI (now BERR), April 2007; and *The hidden one-in-five: winning a fair deal for Britain's vulnerable workers*, TUC, September 2006.

³ This is not to say that all of the estimated 165,000 mistreated workers who seek employment advice from a CAB each year are necessarily the victim of *deliberate* exploitation. In many cases, the unfair treatment they have experienced can be seen to result from poor practice on the part of their employer due to, for example, an inadequate awareness or knowledge of the often inordinately complex legal provisions, a lack of specialist HR personnel to implement and oversee the necessary processes, and the demands of running a small firm in an increasingly competitive business environment – or a combination of such factors. Indeed, there appears to us to be a spectrum of employer conduct, with deliberate abuse by unscrupulous or rogue employers at one end, inadvertent poor practice by essentially well-intentioned employers at the other end, and many shades of non-compliance in between.

⁴ Rt Hon Tony Blair MP, speech to Labour Party Conference, 28 September 2004.

⁵ *Success at work: protecting vulnerable workers, supporting good employers – a policy statement for this Parliament*, DTI (now BERR), March 2006.

raise the matter with their employer, let alone to make a complaint (where provided for) to one of the four statutory enforcement bodies – the National Minimum Wage (NMW) enforcement division of HM Revenue & Customs (HMRC), the Employment Agency Standards Inspectorate (EASI), the Gangmasters Licensing Authority (GLA), and the Health & Safety Executive (HSE) – or to raise a grievance with their employer and then bring an Employment Tribunal claim. In particular, pregnant women, new and lone parents, carers, ethnic minority workers, and those who – on account of their age, disability, lack of skills, or immigration status – face the greatest challenge in finding alternative employment (or accessing the safety net of welfare benefits) are often unwilling to put their job at risk by ‘putting their head above the parapet’.

As a result, unscrupulous or rogue employers (and employment agencies) can profit from exploitation with near impunity. Indeed, it would seem that many such employers deliberately recruit only the most vulnerable workers – including newly arrived migrant workers and even illegal migrants – in the expectation that such workers will not challenge their exploitation. As the Government itself has noted, “employers who look to employ illegal migrant workers do so because they want to avoid providing minimum standards, such as the National Minimum Wage and paid holidays”, and so cut costs.⁶ And if a worker, tired of being exploited, leaves for another job, in a tight labour market the employer will usually be able to find someone else willing and eager to fill the job – at least until they too tire of being exploited and themselves move on.⁷ These are, in the words of the Prime Minister, Gordon Brown, the employers who “profit from fear”.⁸

Enforcement of workplace rights

Not all mistreated workers are so fearful, of course, and others eventually become willing to take action after they have left, or been dismissed from, the employment in question. Every year, a total of some 4,000 workers complain about their treatment to the National Minimum Wage enforcement division of HM Revenue & Customs (HMRC) and the Employment Agency Standards Inspectorate (EASI), for example, and some 100,000 claims are lodged with the Employment Tribunals. But it is widely acknowledged that the combined total of complaints to an enforcement agency and Employment Tribunal claims represents only the tip of the iceberg of all unfair treatment at work.

This is not least because the combined remit of the four existing statutory enforcement bodies is far from comprehensive. Each of the four bodies has a narrow and closely defined remit, either in terms of the statutory rights it seeks to enforce (HMRC and HSE), or in terms of the *targets* of its enforcement activity (EASI and GLA). This means that there is no statutory enforcement body to complain to, if:

- 1 the worker is not employed through an employment agency (the remit of the EASI)
- 2 the worker is not a ‘labour provider’ in the agriculture, horticulture, forestry, shellfish gathering and associated processing and packaging industries (the remit of the GLA)
- 3 the complaint is not about the National Minimum Wage or a health and safety matter.

In such circumstances, the only way for the worker to try and enforce his or her rights is to raise a formal grievance with the employer and, if that does not resolve the matter, to lodge and pursue an Employment Tribunal claim.

⁶ Ibid.

⁷ One ACAS-funded research study concluded that “most [exploited] workers believed that little could be done to tackle the problems that they were having at work, or felt that the only solution was to leave the job”. *The experience of ethnic minority workers in the hotel and catering industry: routes to support and advice on workplace problems*, ACAS, March 2007.

⁸ Rt Hon Gordon Brown MP, speech to TUC Congress, 10 September 2007.

Furthermore, whilst successful enforcement action by HMRC will bring direct benefit to a worker complainant (in the form of, for example, payment of arrears of the NMW), the EASI and GLA cannot secure the rights of individual workers. Indeed, successful enforcement action by the EASI and GLA might well *disadvantage* a worker complainant. For example, a worker's complaint to the GLA that results in the labour provider losing its licence is likely to have only one consequence for the worker in question: he or she will lose their job. Thus there is little if any *personal* incentive for a mistreated worker to make a complaint to the GLA or EASI.

As for the Employment Tribunal system, again there are gaps in its coverage of vulnerable workers. In order to bring a claim for unfair dismissal, for example, a worker must have the legal status of 'employee' *and* have been so employed for at least 12 months – a position that some unscrupulous or 'rogue' employers are careful to deny their workforce. Some employers find a pretext on which to dismiss each worker within the first year of employment). Exploited *migrant* workers who have failed (perhaps through ignorance) to register under the Worker Registration Scheme, or who are otherwise working illegally in the UK, have no right of access to the system at all.

More generally, there is now widespread consensus that Employment Tribunals are "increasingly complex, legalistic and adversarial".⁹ Yet, for low paid workers, the cost of legal representation is likely to be prohibitive – there is no 'legal aid' for representation at a tribunal hearing (other than in exceptionally complex cases, in Scotland), and the resources of Citizens Advice Bureaux and other providers of *free* legal representation such as community law centres are extremely limited. This makes the pursuing of an Employment Tribunal claim an especially

daunting prospect for pregnant women, new and lone parents, carers, migrant workers, those with mental health problems, and other vulnerable individuals lacking the necessary time, energy and other resources to prepare and present their case. Every year, about one-third of all Employment Tribunal claims are withdrawn *by the claimant*, and Government research has found that in half of such cases this is because the claimant considers there to be too much stress, difficulty, fuss and/or expense involved in continuing.¹⁰

Even where an Employment Tribunal claim is successfully the making of a monetary award by the tribunal all too often proves to be a hollow victory, as the employer simply fails to pay the award. Employment Tribunals have no powers to enforce such unpaid awards, and the legal, financial and practical obstacles to enforcement through the County Court system by individual claimants are so immense that many do not even try. Others initially try but soon give up.¹¹ This lack of teeth undermines the credibility of the Employment Tribunal system as a whole. It means that, in the relatively rare event that an Employment Tribunal claim is brought against a deliberately exploitative employer, he or she can simply ignore it without fear of sanction. The following two case histories from the same CAB in Cornwall illustrate this.

Matthew, a young vulnerable man, sought advice from the CAB in January 2007. He had been employed as a full-time catering assistant by a local food-processing company for almost four weeks after finding the job advertised in the local Jobcentre. Despite being told that he would be paid fortnightly, by the fourth week he had received only weekly 'subs' of about half the wages owed to him. Then, when Matthew became ill and telephoned his workplace to say that he would not be in that day, the owner/manager of the company told

⁹ See: M. Gibbons, *Better dispute resolution: a review of employment dispute resolution in Great Britain*, DTI (now BERR), March 2007.

¹⁰ *Findings from the 2003 Survey of ET Applicants*, DTI (now BERR), August 2004.

¹¹ See the Citizens Advice reports *Empty justice* (September 2004) and *Hollow victories* (March 2005).

him “we will call it a day, but may want you back if we are busy”.

Over the next few weeks, Matthew made repeated telephone calls and wrote to the company requesting payment of some £350 outstanding wages and owed holiday pay, to no avail. During the last telephone call, the owner/manager was verbally abusive. Eventually, Matthew sought advice from the CAB, which advised him on his rights and the process for bringing an Employment Tribunal claim for the unpaid wages and holiday pay. However, Matthew opted not to bring an Employment Tribunal claim, as he felt daunted by the process and fearful of intimidation by the employer at any hearing. Matthew was left on welfare benefits and in debt, and depressed by his first work experience for some years.

Sam, a man with a young family, sought advice in May 2007. He had been employed as a full-time chef by the same local food-processing company as Matthew for five weeks in early 2007. He had never received a written statement of terms and conditions, or itemised pay slips. After five weeks Sam was summarily dismissed, for no apparent reason, and did not receive his final fortnight's wages or notice pay.

When Sam approached the owner/manager to ask for this money, he was abusive and threatened violence. Sam wrote to the company, but received no response. With the assistance of the CAB, Sam brought an Employment Tribunal claim for unpaid wages and notice pay, and in early August 2007 won an award of more than £700. However, the company did not attend the tribunal hearing or otherwise contest the claim, and has so far not paid any of the award. As a result, Sam was left two

months in arrears on his mortgage, which he has since had to refinance.

The practice of employing clearly vulnerable workers for a short period before dismissing them without paying some or all of the wages seems to be commonplace. For example, a man who approached a CAB in London had been employed by a local restaurant for four weeks, and then summarily dismissed without ever receiving any wages. A man who sought advice from a CAB in the West of Scotland had worked on a casual basis for an employment agency but had not been paid for his last shift; when he telephoned the agency, the manager had been threatening and abusive. And a young Polish man who sought advice from a CAB in Dorset had worked for a contract cleaning company for three weeks, without ever being paid. In such circumstances, there is no enforcement agency that can assist and so the only remedy available is to bring an Employment Tribunal claim for unauthorised deductions of wages. Yet, as the cases of Matthew and Sam demonstrate, against deliberately exploitative employers this remedy is simply ineffective.

Time for a new approach

We have considerable sympathy for the view that the existing approach to employment regulation – one based largely on ever more comprehensive and complex employment law, supposedly backed by the recourse of *individual* workers to an Employment Tribunal – places a heavy compliance burden on the great majority of ‘good’ employers. However, regulations fail to adequately tackle this minority of deliberately exploitative employers. In the words of one employer, cited in the CBI report *Lightening the load*, “legislation is never going to impact on [rogue] employers as they don’t care about compliance in the first place”.¹²

Furthermore, we have suggested that, in terms of the enforcement of the basic

statutory rights of *vulnerable* workers, and the tackling of deliberately exploitative employers more generally, the Employment Tribunal system is extremely inefficient, for two reasons. Firstly, as described, only a small minority of exploited workers proceed to make an Employment Tribunal claim – the great majority suffer in silence. One 2004 survey of 500 vulnerable workers with problems at work found that just 12 (2.4 per cent) had sought to resolve the problems by bringing an Employment Tribunal claim.¹³ Secondly, even in the rare event that a claim is *successful*, including payment of the award, only the individual claimant benefits. Most if not all of his or her fellow workers are most likely being similarly exploited. And the employer remains free to go on exploiting these and future workers.

Given this situation, we have repeatedly suggested that there needs to be an alternative way of tackling the exploitation of vulnerable workers by unscrupulous or ‘rogue’ employers – one that does not rely on individual workers entering into a stressful, costly and potentially damaging legal confrontation with their employer (or former employer, where they have already left or been dismissed). In particular, we have argued that the more *proactive* enforcement regime associated with the National Minimum Wage – one based on carefully targeted inspections of suspect employers by HMRC, as well as on the investigation of individual, anonymous and third party complaints – should be extended to cover *all* basic statutory workplace rights.¹⁴

The Government has stated that it established this largely inspection-based approach to enforcement of the NMW because it did not

want workers “to have to rely on taking action against their employer themselves, as intimidation or fear of losing their job could prevent a worker from making a complaint” – an argument that, for the reasons outlined above, applies just as much to most other basic statutory workplace rights as it does to the NMW.¹⁵ And, despite its very limited resources – until recently, it has had only about 100 staff assigned to enforcing the NMW – there is broad support among both trades unions and employer bodies for the Government’s view that the work of the HMRC in this area amounts to “a well-established success”.¹⁶

Not only has HMRC revealed non-compliance with the NMW by more than 14,000 employers, and secured more than £25 million in arrears of wages for some 80,000 workers, but the number of NMW-related claims made to Employment Tribunals has been kept lower than it might otherwise have been.¹⁷ In 2006-07, for example, only 806 (0.6 per cent) of the 132,577 claims accepted by Employment Tribunals involved a NMW-related claim. It seems reasonable to conclude that this record of success was a significant factor in the Government’s announcement, in December 2006, of a 50 per cent increase in the financial resources devoted to NMW enforcement from April 2007.¹⁸

In 2005, the Trade & Industry Committee of MPs concluded that the NMW enforcement regime “would seem a model that might be extended beyond enforcement of the NMW to other areas of regulation”.¹⁹ We believe that it is now time for the Government to do exactly that, and to give exploited workers somewhere to turn, through the creation of a ‘fair employment commission’ with the legal

13 A. Pollert, “The unorganised worker, the decline in collectivism, and the new hurdles to individual employment rights”, *Industrial Law Journal*, Vol. 34, No. 3, September 2005.

14 See, in particular, the Citizens Advice briefings *Fairness & Enterprise: the CAB service’s case for a Fair Employment Commission* (October 2001) and *Somewhere to turn: the case for a Fair Employment Commission* (October 2004), as well as the Citizens Advice reports *Wish you were here* (September 2000), *Birth rights* (March 2001), *Nowhere to turn: CAB evidence on the exploitation of migrant workers* (March 2004), *Still wish you were here* (December 2004), and *Hard labour* (November 2005).

15 *National Minimum Wage: annual report 2002/03*, DTI (now BERR)/HM Inland Revenue (now HMRC), September 2003.

16 *National Minimum Wage: annual report 2005/06*, DTI (now BERR)/HMRC, November 2006. See also Chapter 6 of *National Minimum Wage: Low Pay Commission Report 2007*, Low Pay Commission, Cm 7056, March 2007.

17 Source: HMRC. Figures cited are to 31 March 2007.

18 Paragraph 4.65 of 2006 *Pre-Budget Report*, HM Treasury, Cm 6984, December 2006.

19 Paragraph 36 of *UK Employment Regulation*, Seventh Report of Session 2004-05, House of Commons Trade & Industry Committee, HC90-1, March 2005.

powers and resources to secure individual vulnerable workers their rights, and to root out the rogues.

The Government's "next task"

We have welcomed the Government's increasing recognition of the problems caused by unscrupulous or rogue employers, and the difficulties faced by the most vulnerable workers in resisting exploitation by such employers. In March 2006, in its strategy document *Success at work*, the Government stated that, having "got more people into jobs and put in place an improved framework of workplace rights" since 1997, its "next task" is to "ensure that the most vulnerable workers get those rights and are not mistreated". And, recognising that there is a small minority of employers who "deliberately flout the law", it acknowledged its "responsibility to ensure that the vulnerable are not put at risk" and its "duty to enforce the law against those who break it".²⁰

During 2006, the then DTI (now BERR) established two 'vulnerable worker pilots' – one in London with a focus on the building services sector, and one in Birmingham with a focus on the hospitality sector – aimed at mapping the issues around the exploitation of vulnerable workers and identifying "gaps in the enforcement framework". Both pilots went operational in June 2007, and are intended to operate for two years. Also in June 2007, the then DTI (now BERR) established a Vulnerable Worker Enforcement Forum, chaired by the Employment Relations Minister, to "consider whether abuses are tackled effectively through existing enforcement and support mechanisms or whether improvements to existing mechanisms, or new approaches, are needed". This Forum, in which Citizen Advice is very pleased to participate, has now met several times, and is due to meet four more times before producing a report in 2008.

We warmly welcome these and other initiatives, including a doubling of the number of EASI inspectors (from 12 to 24), and provisions in the Employment Bill. Provisions will strengthen the penalty regime for non-compliance with the National Minimum Wage and introduce 'fair arrears'; strengthen the penalty regime for offences committed against employment agency legislation and enhance the powers of the EASI.

More particularly, we welcome and endorse the recognition by the Secretary of State for Business, Enterprise & Regulatory Reform, John Hutton MP, in his speech to the TUC Congress in September 2007, that "the existence of workplace rights is not enough if employers think they can flout the law with impunity ... Rights that exist only on paper are not worth the paper they are written on ... we must step up enforcement in workplaces across Britain [so as to] root out the rogues, whichever sector they are in".²¹ And we welcome the Prime Minister's explicit commitment, at the same TUC Congress, to examine "how by bringing the powers of all the enforcement agencies together they can be more effective".²²

Rooting out the rogues

However, we believe that, if it is to genuinely "shine a light into the dark corners of the labour market and rid Britain of practices that have no place in a modern economy"²³, then the Government must do more than simply combine the powers of the four existing enforcement agencies. This could include the creation of a single gateway for complaints to HMRC, the HSE, the EASI or the GLA, as well as the removal of existing legal, technical and organisational barriers to the inter-agency transfer of intelligence information and other data. For, as already noted above, the combined remit of these four agencies is far from comprehensive, leaving many vulnerable workers (and those who advise and assist

²⁰ Op cit, note 5.

²¹ Rt Hon John Hutton MP, speech to TUC Congress, 12 September 2007.

²² Rt Hon Gordon Brown MP, speech to TUC Congress, 10 September 2007.

²³ Rt Hon John Hutton MP, speech to TUC Congress, 12 September 2007.

them) with no enforcement agency to which they can make a complaint, even where they are willing and able to do so.

If these gaps in the enforcement framework are to be filled, as we believe they should be, then the Government must legislate to extend the combined remit of the four enforcement agencies to cover all other basic (or core) statutory employment rights, such as that to paid holiday. Furthermore, it must equip the four, newly integrated agencies – or a new, single agency perhaps – with the legal powers both to secure individual workers their statutory rights (including, where necessary, the bringing of an Employment Tribunal claim on their behalf, and the enforcement of any award), and to impose effective sanctions on persistently exploitative employers. As the TUC has noted, “employers that break the law should face proper punishment, not minor fines that hardly dent profits”.²⁴

At the same time, the Government must ensure that this new enforcement framework covers *all* categories of workers, including agency workers and the more than one million homeworkers. Homeworkers face particular difficulties when seeking to enforce their rights through the Employment Tribunal system due to their often uncertain employment status.²⁵

Furthermore, the Government needs to equip the enforcement agencies (or new, single agency) with the structures, systems and resources to proactively mine the sometimes rich seam of *local* knowledge about deliberately exploitative employers. It is vital to ensure that the agencies (or agency) can, in the words of the Prime Minister, Gordon Brown, “reach out to those too unaware or

too intimidated to complain”.²⁶ Local trade union officials, CAB advisers and others often know only too well who and where the worst employers are but, for a variety of reasons, may not be in a position to make a formal complaint. Since going operational in late 2006, the Gangmaster Licensing Authority has adopted a more proactive approach to the gathering of local intelligence information, seemingly with success, and the EASI has also begun to explore how it can tap into the knowledge of local stakeholders.²⁷

Whether it be an integrated network of the four, existing enforcement agencies or a new, single agency, the ‘fair employment commission’ will need to work closely with the all bodies involved in employment, human rights and business to ensure a more joined-up system of advice, guidance and support for small employers.²⁸ The need for such a new, joined-up approach becomes even more imperative given the Government’s ambitious target to “raise the employment rate to 80 per cent”, by helping into work over two million disabled people, lone parents and older people – many of whom are, by definition, vulnerable and so at risk of exploitation by rogue employers.²⁹

We recognise that to do as we suggest will involve a number of political, organisational and budgetary challenges. But it is only by confronting, and overcoming, these challenges that the Government will create a genuine ‘fair employment commission’ that is capable of ensuring, in the words of the Secretary of State for Work & Pensions, Peter Hain, that the “vital new employment rights enacted [since 1997] are a reality in every workplace in Britain”.³⁰

24 F. O’Grady, “Stop employers’ exploitation”, *The Guardian*, 24 September 2007.

25 See, for example: *Subject to status: an investigation into the working lives of homeworkers in the UK*, National Group on Homeworking, November 2007.

26 Rt Hon Gordon Brown MP, speech to TUC Congress, 10 September 2007.

27 *Gangmaster Licensing Authority evaluation study: baseline report*, University of Sheffield Public Services Academy, August 2007.

28 Bodies would include the Equality & Human Rights Commission, ACAS, the Small Business Service, Jobcentre Plus, the forthcoming Commission for Employment & Skills and the proposed local employment and skills boards.

29 *In work, better off: next steps to full employment*, DWPP, Cm 7130, July 2007.

30 “Hain 4 Labour”, Labour Party deputy leadership election campaign leaflet, Peter Hain MP, May 2007 (published on: www.hain4labour.org). Mr Hain committed himself, if elected as Deputy Leader of the Labour Party, to “ensuring that the vital new employment rights we have enacted are a reality in every workplace in Britain – establishing a new Employment Rights Commission with tough new powers and proper resources to enforce the rights that workers already have and to investigate breaches”.

The Citizens Advice service helps people resolve their money, legal and other problems by providing free advice and information, and by influencing policy makers.

CAB advisers:

- interview clients – face-to-face in bureaux, in community venues, at home – and by phone, to find out what the problems are and help to prioritise them
- write letters or phone companies and service providers on behalf of clients
- help clients to negotiate with companies or service providers such as creditors or to appeal against decisions
- help with form filling, for example, to claim for social security benefits.
- represent clients in court and at tribunals
- refer clients with complex problems to CAB specialist caseworkers or to other agencies when appropriate
- collect evidence about their client's problems to campaign to improve services

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