



HOUSE OF COMMONS

## Business and Trade Committee

### Oral evidence: Labour markets reform: Workers' rights and protections, HC 703

Tuesday 7 May 2024

Ordered by the House of Commons to be published on 7 May 2024.

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Members present: Liam Byrne (Chair); Ian Lavery; Andy McDonald; Charlotte Nichols.

Questions 140 - 172

#### Witnesses

**IV:** Margaret Beels, Director of Labour Market Enforcement, Department for Business and Trade; and Jenny Herrera, Chief Executive Officer, Good Business Charter.



## Examination of witnesses

Witnesses: Margaret Beels and Jenny Herrera

**Chair:** Welcome to the fourth and final panel of this morning's hearings into how we improve the UK labour market. Thank you so much indeed for joining us this morning. Charlotte Nichols is going to open the questioning for us.

Q140 **Charlotte Nichols:** The enforcement of workers' rights—as we have heard today from a number of witnesses—sits within quite a complex landscape. Are there any areas of concern or gaps in the current system that make it difficult to protect certain workers?

**Margaret Beels:** There are indeed gaps, and some of them have been referred to already. For example, there is nobody responsible for making sure that workers receive holiday pay. We have the famous, or infamous, umbrella company problem, and we have heard this morning about the different layers of subcontracting that go on in the employment of individuals and the problems that that creates, where there are things like statutory sick pay enforcement. There are also employment tribunals and the fact that it can take a lot of time to get there, and then there is the question about enforcing the payments. Those are all gaps—and there are gaps in how much we understand what is going on as well, but perhaps I should pause at that point.

Q141 **Charlotte Nichols:** In terms of plugging some of those gaps, is there anything that can be done within the existing framework, or do you think we need to go back to the drawing board somewhat?

**Margaret Beels:** I think there are elements where there would need to be legislation. As you will know from other evidence I have given to this Committee, I see part of my role as trying to help to address some of the gaps, and you will see from the strategies that I have published that I advocate strongly for what I call joined-up thinking, so that bodies are not just looking at their own statutory remits, but are also considering who else could be engaged to address the harm that they are seeing. How can we get better channels of information so that workers know where to go for advice and businesses know where to go for advice? Those are things that I feel I can do within my remit without any statutory changes, and that is part of what I have been trying to do.

Q142 **Charlotte Nichols:** Ms Herrera, are there gaps, and if so, are there things we can do within the existing framework, or do we need to go right back to the drawing board on this?

**Jenny Herrera:** I think we have pulled out all these key areas where there are gaps and problems, although I don't know the ins and outs or the mechanics of how you would unpick that. Obviously, this idea of bringing it all under one framework is a good starting point, but really the reason that the Good Business Charter was created was this sense that we can't wait for legislation, we have to start incentivising and raising the bar, because all this stuff takes time to do well, and when we do it, companies



find new ways to go through those gaps. It feels like we're constantly playing catch-up, which is where—from what you were talking about earlier—charters can help to elevate and inspire, to lift the floor and start raising standards.

**Q143 Charlotte Nichols:** Ms Beels, in your answer, you spoke about umbrella companies, which is something that our Committee has previously raised a number of concerns about. How has non-compliance in the umbrella company market developed since we last spoke to you, and what progress has been made towards tackling these issues?

**Margaret Beels:** The Government have been consulting on how to look at greater controls over umbrella companies. As you know, there is no definition that captures umbrella companies within the Employment Agency Standards Inspectorate, so it cannot regulate them. There are one or two umbrella companies that are regulated by Gangmasters and Labour Abuse Authority, so that is where they work in that regulated sector. But the sorts of thing that I am concerned about include disguised remuneration, where people are getting paid but it is claimed that it is not pay, but a loan or something like that, which is not right. There is also the skimming off of money before it reaches the worker, where the end user pays money across to the umbrella company and the umbrella company takes a cut before it passes it to the workers. This is the sort of thing we see going on. There are allegations of non-payment of holiday pay, and abuse of national insurance and pension contributions. Then, there are things called mini-umbrella companies, which are fly-by-night umbrella companies that are here today and gone tomorrow, where there is a benefit because, as they are small companies, they do not have to pay the same national insurance rate, but then they fold up and the worker gets passed to other umbrella companies. That shouldn't happen.

**Q144 Charlotte Nichols:** One of the things that I find interesting about how we have moved to this very outsourced model, in sectors right across the economy, is the fact that, from the original employer's point of view, surely that creates a massive reputational risk. With each layer of outsourcing, the more vicarious their responsibilities towards those workers become, and surely the more difficult it is for both Parliament and organisations such as the Good Business Charter to encourage the driving up of standards, because they are losing sight of what is happening under each umbrella.

**Jenny Herrera:** Yes, it is a massive challenge. The first of our 10 components is a real living wage, and the great thing about the payment of the real living wage—as set out by the Living Wage Foundation—is that it is not just for your directly employed, on-your-payroll staff; it is for your regular contractors. You are supposed to be looking at everyone that you could not do your business without, and making sure that they also are paid the real living wage.

We have been looking quite recently at industries such as events and security, and you start to figure out, "Well, who are the workers who are manning all these events?" We have talked about the definition of good



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work: our first five components are a real living wage, fair hours—guaranteed hours—employee wellbeing, a voice, and equality, diversity and inclusion. There is a real, broad consensus across these local charters, and across the previous panel, on those key aspects. We are saying, “Don’t just talk about the employees on your payroll. How many workers are you actually dependent on? Are all of them being afforded that voice, that wellbeing, and all of those different aspects?” Otherwise, we are totally losing control, aren’t we?

We also have ethical sourcing as one of our 10 components, so that starts to take it wider. Some people use that as the way to say, “Well, let’s look through both our supply chain and these outsourced contractors.” Sometimes they will pop them in there, and then we can at least pick up their treatment.

**Q145 Chair:** Margaret Beels, how did you feel when listening to the P&O evidence this morning?

**Margaret Beels:** Their chief executive was eloquent on the subject of the law, and it seemed to me to demonstrate the limitations of the law in terms of delivering a good deal for workers.

**Q146 Chair:** Do you think it is acceptable in the modern age that people are paid £4.87 an hour?

**Margaret Beels:** I believe that workers in this country need to be paid at least the national minimum wage rate. To be paid at that lower rate because it lines up with the international agreement, to my mind, begs questions about the international agreement.

**Q147 Chair:** And when workers are being asked to work, according to the ITV inquiry, 17 weeks without a break, is that acceptable in today’s age?

**Margaret Beels:** I have not seen that evidence, but I can see how a worker who lives aboard a ship could end up feeling that they were constrained.

**Q148 Chair:** When we took evidence from McDonald’s, we heard that some quite exploitative approaches to zero-hours contracts had led to imbalances of power that, in some cases, had led to the sexual abuse of workers. When the chief executive of McDonald’s came before us, he said that McDonald’s corporately should bear some responsibility for that, but then in writing he denied any vicarious liability. Do we have a problem with zero-hours contracts in this country?

**Margaret Beels:** Zero-hours contracts are lauded by some as being what the workers want. Zero-hours contracts seem to work well in an environment where there is a lot of work—where the worker can choose whether or not to work, because there is plenty of work available—but they work less well where workers are short of work and are looking for more.

For example, you find zero-hours contracts in the leisure and hospitality industries because employers are not sure about the availability of work.



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There is a big question to be thought about there—an important question about who takes the risk of there not being enough work. Zero-hours contracts put a lot of that risk on to the worker as opposed to the business that employs them. We need to think about whether or not that is right.

Q149 **Chair:** In your experience, have you seen examples of where zero-hours contracts can lead to imbalances of power that can then lead to abuse of employees?

**Margaret Beels:** Absolutely. I have been doing a lot of thinking about adult social care recently and the fact that 30% of adult social care workers are on zero-hours contracts. I was quite shocked by that statistic. If you look at the domiciliary workers, it is 38%. They are the care workers that go from one property to another to provide care. That is a figure that I feel is uncomfortable given the requirement for work in that area.

Q150 **Chair:** We have also heard evidence on this Committee—for example, when we took evidence from Asda and their owners TDR Capital—that accounts were so opaque that information was not available to, for example, trade unions who were bargaining on behalf of workers. Is there a need for greater information rights for workers in our country?

**Margaret Beels:** I agree that accounts can be very opaque. You have been talking about good work indicators, and one thing that slightly troubles me about good work indicators is the extent to which there can be creative accounting and they are made to look better than they are. I am in favour of transparency. If you have nothing to hide, why would you not be transparent?

Q151 **Chair:** Interesting. This problem was compounded in the case of Wilko, for example, by some failures in the audit regime, which failed to reveal the risk that that business was running. Of course, when it went bankrupt thousands of workers lost their jobs and the taxpayer then had to pick up the bill for pension liabilities. This obligation on getting information and reporting right probably spans some quite big parts of the economy.

**Margaret Beels:** Yes, that's right.

Q152 **Chair:** Do you think that enforcement of workers' rights in our country is strong enough?

**Margaret Beels:** I have been listening to the discussion about the numbers of inspectors and reflecting. The question about whether we have enough inspectors and whether they are doing the right things and going to the right places is something that exercises me regularly. As has been said, we are way below the ILO standard. I recently read a report that looked at enforcement of the national minimum wage across Europe and how it is done in different countries. I looked at the patterns and we are by no means alone in having numbers of inspectors that are well below. That to my mind is about prioritisation and budgets.

I have strategies that say—maybe you would argue it was a counsel of despair—if in a tight public finances regime I take as an assumption that



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the bodies are not going to get more money to pay for more inspectors, my focus is on how we get the most out of what is there. I am seeing all three bodies feeling quite constrained by their budgets. I worry that that might mean that they are less prepared to work beyond their narrow remits because they will have targets set for what they have to deliver. If they are doing things that are not delivering their own targets, that is potentially a problem for them. I see this joined-up approach as really important.

Q153 **Chair:** So would you like to see stronger enforcement of labour rights than perhaps we have today?

**Margaret Beels:** Yes.

Q154 **Chair:** You have previously expressed to the Committee that you were frustrated about the delay in the publication of the labour market enforcement strategy. Where is this strategy now?

**Margaret Beels:** Thank you for the Committee's support last time. We did eventually get that first interim report published. Last year, we did a bit better. I submitted the draft strategy at the end of March and it was published by the middle of October, which isn't great, but it's better. My target this year is to get it published before the summer recess—partly in the expectation that people might have other things on their minds after the summer recess, so I'm quite keen to get it published before then, but more particularly because these things have a currency and an immediacy. If there are issues that we think need to be addressed, I want them to be addressed now—not in six months' or nine months' time.

Q155 **Chair:** I think you've told us in the past that Kevin Hollinrake, the Minister, had asked you for advice on how to improve the labour market enforcement strategy. What was the result of that conversation?

**Margaret Beels:** I've had positive support from Minister Hollinrake. I wrote to him and he responded within two or three weeks of me writing. He very much supports the work that I'm doing in trying to draw the enforcement bodies together.

Q156 **Chair:** Does he support it so much that he is going to actually move ahead and introduce the single enforcement body?

**Margaret Beels:** I have to, of course, reflect on what they actually say about that, which is that they are pausing their plans to create a single enforcement body. That is what they say.

Q157 **Chair:** We've heard from conversations about trade talks that that generally means they have broken down.

**Margaret Beels:** They reflect on the fact that there will be a "significant organisational change" and that creating the body "would disrupt the work of the existing operational bodies." What Minister Hollinrake is looking to me for is to see what could be done within the existing regime. I've flagged to Ms Nichols some of the gaps that I can't fill.

Q158 **Chair:** We have a picture of the existing regime here and it is incredibly



complicated.

**Margaret Beels:** It is.

Q159 **Chair:** You have flagged to us today that there is a real anxiety that people are sticking within their boundaries, rather than working together to improve things overall.

**Margaret Beels:** You won't be able to see this document, but the work that we did on adult social care has been a further development of that sort of mapping.

**Chair:** That looks even more complicated.

**Margaret Beels:** It looks even more complicated because of the number of Government Departments that are involved in the provision. I think every interface creates a problem in terms of the exchange of data and the exchange of common purpose, so I would far rather see things drawn together.

Q160 **Andy McDonald:** It is a bit dispiriting because it was five years ago that the Government announced that they would create a single enforcement body. That seems to be something of a pipe dream at the moment. However, if it were to happen, what should the scope of a single enforcement body be?

**Margaret Beels:** I think that is a really important question, and one that I've been giving thought to and want to carry on giving thought to. In a way, the plan to create a single enforcement body was created five years ago, but is that still the right answer today or have things changed? Are things different? One of the questions that I think about is: who should be enforcing workers' rights? That is, the question of there being statutory enforcement bodies versus the worker themselves having to go to an employment tribunal in order to enforce their rights. I think in deciding what the single enforcement body should be doing, we should also be looking at that question: what is the most effective way of enforcing workers' rights? I'm not sure it is simply by putting together the three bodies.

Q161 **Andy McDonald:** You are basically saying that we're not in a happy position in terms of the ability of workers themselves, either through their trade unions or not, to enforce their rights? Of course, we have got significant backlogs in employment tribunals, so anybody who does get redress is going to be waiting a long time for it—and will be put off. Is that right?

**Margaret Beels:** At its simplest, an employment tribunal resolves the case of the individuals bringing the case. Then there is the question of what then happens to other workers employed by the same firm, or what happens to other workers in the same sector? The importance is for businesses, in terms of clarity about what they have to do.

Q162 **Andy McDonald:** Have you any handle on the extent to which tribunal awards, once they are eventually achieved, are ever paid?



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**Margaret Beels:** I do not track that myself but I know that is a problem that has been flagged and was flagged to this Committee, I think.

Q163 **Andy McDonald:** Do Violation Tracker provide any useful input? There is a portal that provides this information from tribunals and other—

**Margaret Beels:** The Department itself is responsible for that.

Q164 **Andy McDonald:** Should it be? In the United States, that is actually outwith Government and outwith the control of Government.

**Margaret Beels:** The enforcement of employment tribunal findings was thought of as being potentially within the scope of a single enforcement body.

Q165 **Andy McDonald:** We have seen our tangled diagrams of all the cross-departmental responsibility. First, is there a worry that if, for example, there was a single enforcement body, it would just be the badly-resourced individual enforcement bodies amalgamated to produce a super under-resourced single enforcement body? How might we smooth that transition?

Secondly, given we are competing with tangled webs here—we have ours, you have yours—would it not be infinitely better if we had a ministry of labour, as obtains in other jurisdictions around the world? Have you considered that or is it outside your remit?

**Margaret Beels:** I remember we had this conversation the last time. I said then, and I repeat, that I think there needs to be a greater priority and urgency about workers' rights and Ministers should be leading that. But, if we think about the adult social care issues that I have been looking at, one of the issues is which is the Department with lead responsibility for adult social care? It is the Department of Health and Social Care. They set the policies. Another Department is responsible for the local authorities. The procurement processes of the local authorities, in some measure, drive the behaviour of the contracting, and that then feeds through to how workers are paid. Therefore, I do not think a ministry of labour would address all the issues that need to be addressed if you want to secure workers' rights.

Q166 **Andy McDonald:** We have heard— I will finish with this, Chair—other evidence that good work and good pay not only leads to people having good, secure lives, and flourishing lives, but is actually good for the economy more broadly. Is that your view?

**Margaret Beels:** Absolutely.

**Chair:** You can keep the floor, Mr McDonald.

Q167 **Andy McDonald:** If I could, that would be helpful. Jenny, I am very interested in the issue of voluntary charters; we had a few mentioned today and with you it is the Good Business Charter. How do those charters improve the quality of jobs for workers? What are the benefits of them?





**Jenny Herrera:** The benefits of them are that they bring us up. Rather than being on the floor and then enforcing when people fall below, it is really about inspiring employers to do better, to go beyond the legal minimum. We worked with the TUC and the CBI to bring together something that is stretching enough for businesses to make sure that they are working towards it but is making sure that the workers are heard. As I mentioned, there is real, broad consensus around that.

What we see as a benefit is you start with, probably, your more responsible employers—let's face it—the ones that are like, "Yeah, we pay the real living wage. We do not actually have anyone on zero-hours contracts because we do not think they are right. We care for our employees in lots of different ways. We give good sick pay. We have a really diverse workforce who have a voice." So you have those employers saying, "This is what we believe in," and actually all the evidence is stacking up about having better productivity and more innovation because you have a diverse workforce. Customers are demanding it; employees are demanding it. The real value and benefit comes—we talked about a level playing field—when others are encouraged to bring themselves up to that level. You do not have the responsible employers here, but arguably they will do better, because that is what customers and employees want. They are recruiting the best talent, because employees are looking for organisations that care about all this stuff. That is the idea, that we bring it in to something—that is what is happening in Greater Manchester, the Liverpool city region and in London—and we get a few employers that accredit or certify, and then that drives good behaviour up, so that we are not just sweeping off the floor, but we are actually inspiring.

Q168 **Andy McDonald:** You have 10 component parts—how did you settle on those?

**Jenny Herrera:** The Good Business Charter was founded by Julian Richer, a retail entrepreneur. It started with what he does in his business, how he for decades built up his business on treating people right, so that they treat customers right—if your employees are happy, they are going to give better customer service. That business won a lot of awards for that. It started there with the real living wage. He is passionate about zero-hours contracts, so that was in there, as were employee wellbeing, employee representation, working with the TUC, and equality, diversity and inclusion.

We really wanted to have a holistic, responsible business. That is not just about being a responsible employer towards workers; it is broader than that. We have the environment in there, and paying a fair share of taxes, because, frankly, it is not okay to operate in the UK and not do that—customers care about it. Then we have ethical sourcing and prompt payment of suppliers, which a lot of people think is operational, but those are small businesses going out of business because they are not paid on time.

Q169 **Andy McDonald:** We heard from P&O, which thinks it is running wonderful health clubs for its employees and that that is great. In a



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situation where there is self-accreditation and people boast about badges on ESG and all the rest of it, it's difficult to make sure that that is enforced, isn't it? Is this a territory where we should be looking at enforcement? If these are the things that we want to happen, is that the sort of thing that we should be doing as an enforcement measure, rather than it being above the charter?

**Jenny Herrera:** I would say two things. One is that it has to be all 10, and that has been an interesting journey for the past four years. Some organisations are great at eight or nine of them, but then say, "Oh yes, we have a tax haven so we are not paying our taxes." Or, as in the case of P&O Ferries, it might think it is doing great wellbeing, but it is not paying the real living wage to its staff.

**Q170 Andy McDonald:** Will you say a little more about the sectors that might be more amenable, and about those that are not?

**Jenny Herrera:** Yes. The real living wage is a challenge, and obviously we are in a challenging environment, so the sectors that find it harder would be the hospitality or care sectors. And from talking to supermarkets, I know that even retail has been under pressure to raise wages to the real living wage, but then what about the outsourced delivery drivers and security? Those are the sorts of sectors that struggle.

**Q171 Chair:** On a final question, an election is imminent, and who knows what the outcome might be. What are your recommendations and advice to the next Government about what they should be doing to improve labour rights in our country, based on your experience?

**Jenny Herrera:** I suppose it would be about having, as part of the manifesto, a real focus on responsible employers and feeding that through everything. Procurement should therefore be for organisations that can clearly show they are responsible employers. We talked about NEST, and it is about looking at how investing is for organisations that are able to meet our 10 criteria. We used to think that that was basic common sense, but it turns out that, sadly, it is a high bar. We should be placing in there that we are really passionate about responsible employers.

One thing about the way something like the Good Business Charter works is that organisations have to own it, and they have to promote it internally and externally. That is a great way of employees being aware of what their rights are and the fact that their employer is doing all that. When those employees look for another job, they look at whether the other employer is doing it as well. We are bringing it in as part of the heart of who we do business with in this country.

**Q172 Chair:** It does not sound like P&O is going to qualify any time soon. What is your advice, Ms Beels?

**Margaret Beels:** Before I say that, may I clarify that the figures that I gave you on zero-hours contracts relate to England? I do not have the numbers for the devolved Administrations, although that is one of the things that I will follow up on, because it is such an important sector.



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**Chair:** Thank you for that clarification.

**Margaret Beels:** On what I would hope for when I am reading the manifestos—that is an important thing for me in deciding where I will put my vote—I am concerned about the end delivery of the right to rights of workers. We have a national minimum wage and it has a certain coverage, but as Jenny talked about, other workers are in the supply chain, and what is being done to make sure that this is a good work country? I shall be looking for the commitments that deliver a good work country for us.

**Chair:** That is a very nice note on which to end. Thank you so much for your evidence, and thank you so much for the work that you are doing. It is much appreciated. That concludes this panel and this session.