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Dear Liam,

Response to the Committee's letter on the Employment Rights Bill

Thank you for your correspondence of 17 January regarding the work of the Business and Trade Committee's "Make Work Pay: Employment Rights Bill" inquiry.

The Employment Rights Bill ("the Bill") represents the largest upgrade to employment rights in a generation and is one of the first significant milestones in a long-term programme of work to deliver the Plan to Make Work Pay. I look forward to ongoing engagement with the Committee regarding this programme of work and welcome the opportunity to set out responses to the Committee's questions below.

Pace of reform

This Government was elected on a manifesto which pledged an Employment Rights Bill within the first 100 days. I am proud that, thanks to the hard work of officials and Ministers working collaboratively across Government, we delivered on that promise. As is typical with employment legislation, technical detail on many of the policies in the Bill will be provided through regulations, and in some cases Codes of Practice, after Royal Assent. Ensuring there is clarity around changes for workers, businesses and unions is crucial for the effective implementation of the Plan to Make Work Pay. Through ongoing engagement and upcoming consultation, stakeholders will be closely involved in the development of policy to ensure measures are practicable and effective. The Government is committed to full and comprehensive consultation, continuing to engage and collaborate in a tripartite partnership, on the implementation of Make Work Pay. Our extensive consultation will ensure Make Work Pay works for workers and employers alike. We anticipate this meaning the majority of reforms will take effect no earlier than 2026.

The initial package of 6-week consultations, focusing on collective redundancy, statutory sick pay, zero and low hours contracts and industrial relations, closed in early December 2024. Government has since been working hard to analyse the responses, which have been invaluable to policy development. Responses to these consultations will be published in due course. This is the first step as we look to engage all stakeholders on how to best put our plans into practice, with further consultations to come in the months ahead.

Industrial relations

Through the Bill, the Government is changing the law on statutory recognition, so that working people have a more meaningful right to organise through trade unions. The Government recently consulted on a number of proposals in relation to the recognition process, including on unfair practices. We are analysing the responses carefully and will publish a response in due course. Any amendments to the Bill informed by the consultation will be set out in the Government's response.

The Government recognises that there are several approaches that can be taken within access policy and we are aware of a range of views in regards to digital access. We are committed to ensuring that access occurs in a regulated and responsible manner. The Bill establishes a clear legal framework that enables unions to request and negotiate for access with employers, supported by a fair and robust enforcement mechanism to safeguard against non-compliance. We recently consulted on certain aspects of this process, such as specific elements of the enforcement framework. We are analysing these responses carefully and will publish our response in due course. Any amendments to the Bill informed by consultation will be set out in the Government's response. Further details on the process, including the form and manner that a request for access should take, and the timeframe for negotiations, will be provided in secondary legislation following further consultation.

Equality at work

The Government is unable to comment on individual cases, as Ministers and civil servants do not have the authority to provide legal advice to individuals on discrimination issues, provide support to individuals in bringing complaints or court proceedings, or bringing complaints on behalf of another party. The Government is supportive of the Equality and Human Rights Commission's (EHRC) enforcement role, including its ability to enter into Section 23 agreements in order to put an end to discriminatory practices. It is right that the EHRC's use of these powers is subject to checks and balances in order to ensure fairness for all parties. Section 6(3) of the Equality Act 2006 sets out a list of circumstances in which disclosure is authorised, including with the consent of each person to whom the disclosed information relates, as well the disclosure of anonymised information. As the scope of the Bill concerns employment matters it would not be an appropriate legislative vehicle for amendments to measures which also apply in a wide range of other contexts. Any potential change to the procedural requirements relating to the powers of the EHRC would require careful consideration and we will continue to work closely with the EHRC in order to ensure it is able to fulfil its responsibilities effectively.

The EHRC has been included within Schedule 5 as one of the persons that the Fair Work Agency (FWA) can share information with or receive information from to support either body in the fulfilment of its public duties. The EHRC will retain its current responsibility to enforce the Equality Act 2010. This responsibility will apply to amendments made to the Equality Act 2010 by the Bill in the same way that it does to the rest of the Act, including equality action plans. While the FWA's remit is distinct, the Government will give careful consideration to the potential for joint working between the Commission and FWA in order to promote equality across the economy.

Modern slavery

As set out in our Impact Assessment, the package of measures in the Bill will predominantly affect workers in sectors that are not typically traded internationally (e.g. social care, hospitality). The Government does not, therefore, expect enforcement to be significantly affected by companies basing their operations overseas. In addition, the increase in total labour costs is modest and therefore the impact on export and import competitiveness is likely to be negligible. Nevertheless, the Government recognises the challenges with respect

to international labour rights. That is why we continue to work with the International Labour Organization and other international partners to strengthen workers' rights and enhance labour standards globally. Additionally, we ensure labour standards and workers' rights are protected in our Free Trade Agreements by committing both the UK and our partners to observe core labour standards.

The Government is committed to tackling human rights and labour abuses, modern slavery, and environmental harms in global supply chains. In addition to the UK's Modern Slavery Act 2015, the Government supports voluntary human rights and environmental due diligence approaches adopted by UK businesses across their operations and supply chain relationships. This is in line with the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Responsible Business Conduct, as set out by the Minister for Trade Policy and Economic Security, The Rt Hon. Douglas Alexander MP, before the Committee on Tuesday 21 January. DBT also oversees the UK's National Contact Point for Responsible Business Conduct, an independent unit tasked with promoting the OECD Guidelines and managing a non-judicial grievance mechanism to resolve complaints through mediation. The Government also notes that UK companies with a turnover generated in the EU of more than €450 million will be in scope of the Corporate Sustainability Due Diligence Directive and has been in regular contact with the European Commission on this issue at the Trade Specialised Committee on Level Playing Field.

The Government views import bans such as those set out in the US and EU legislation mentioned as one of an additional range of tools that can be used to tackle forced labour in global supply chains. We will continue to assess and monitor the effectiveness of new policy tools that are emerging to ensure we can best tackle environmental harms and human rights, including forced labour, in supply chains. Departments regularly engage with stakeholders in business and civil society, as well as our international partner governments on these issues. The Government will consult thoroughly with interested stakeholders as it considers any further action.

Regarding the Modern Slavery Act 2015, the Home Office does not routinely review the quality or accuracy of individual modern slavery statements or assess compliance with Section 54 of the Modern Slavery Act 2015. Section 54 was designed to increase transparency, allowing scrutiny by consumers, investors, and civil society to hold businesses to account. The Government is considering how it can strengthen the Section 54 regime, including penalties for non-compliance and will set out the next steps more broadly in due course. The Home Office is currently working with a wide group of stakeholders from business, academia and civil society to update the Section 54 Modern Slavery Act statutory guidance. This will further support businesses to produce high quality statements, which are underpinned by effective measures to prevent and effectively respond to instances of modern slavery in supply chains.

Umbrella companies

The Government is aware umbrella companies which are non-compliant with employment law can be used to deny people the employment rights that they are legally entitled to. The previous Government consulted on proposals to regulate umbrella companies in 2023, and this Government is now considering how to proceed.

At the Autumn Budget, the Chancellor announced that the Government will introduce legislation, effective from April 2026, to make recruitment agencies using umbrella companies legally responsible for accounting for PAYE on workers' pay. This measure supports a level playing field for compliant umbrella companies and those businesses who already ensure that their labour supply chains are free of tax fraud and avoidance. It will protect workers and their incomes by ensuring they do not receive large, unexpected tax

bills in the future as a result of tax fraud and avoidance by their employer. More details about this measure can be found in the policy paper "*Tackling non-compliance in the umbrella company market*" published on 30 October 2024.¹

Single status of worker

The Government remains committed to consulting on moving towards a single status of worker. Our aim is to ensure that all workers know their rights and have protection at work, so we intend to consult on a simpler framework for employment status that differentiates between workers and the genuinely self-employed. We were clear that some reforms in the Plan to Make Work Pay will take longer to undertake and implement, and we see consulting on a simpler, two-part framework for employment status as a longer-term goal.

Enforcement and Fair Work Agency

The Government is fully committed to ensuring that the Bill is implemented effectively and delivers real benefits for workers and employers alike. We are in the process of carefully planning the operational model of the Fair Work Agency (FWA.) We understand the importance of having a well-funded and properly equipped body, and we are firmly committed to ensuring the FWA has the resources it needs to do its job. This includes providing appropriate funding and ensuring we retain expertise of current staff. Details of implementation and funding will be provided in due course.

The FWA will have an ambitious single set of powers, which will allow it to investigate, inspect and take action against businesses that are flouting the law. As the Committee is aware, the FWA will bring together the functions of the existing state enforcement bodies. The legislation currently in Parliament has been drafted in such a way as to ensure that the varying enforcement powers across the range of bodies are retained but, crucially, will be able to be used by FWA enforcement officers across a much wider range of offences.

We are also updating powers to ensure that they remain fit for purpose as in some cases, developments such as the growth of online employment businesses mean that current legislation no longer operates as intended. Alongside enhanced powers we are also being careful to ensure there are appropriate safeguards, to ensure accountability and transparency. We are confident that the approach we are taking will ensure that FWA will have the necessary tools to tackle all forms of labour exploitation in its remit while also working to support businesses seeking to remain compliant.

I trust that the Committee will also review the evidence I presented before the Public Bill Committee and take this into consideration as part of its work.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Justin Madders', written over a horizontal line.

JUSTIN MADDERS MP

Minister for Employment Rights, Competition and Markets
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¹ <https://www.gov.uk/government/publications/tackling-tax-non-compliance-umbrella-company-market/tackling-non-compliance-in-the-umbrella-company-market-3>