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Dear Darren,

Upholding enforcement rights – new enforcement body to protect workers’ rights, plans to modernise the regulation of trade unions, and Acas report into ‘fire and rehire’

I am pleased to inform you of the latest steps the Government is taking today to better protect and enforce workers’ rights, as we look to build back better from Covid-19.

Firstly, the Government has today published its response to our 2019 consultation on creating a single enforcement body for employment rights. This Government has been absolutely clear that we will do whatever we can to protect and enhance workers’ rights, and this new body will help the country build back better by taking a smarter approach to the enforcement of employment law.

Today’s response to the consultation sets out the overarching details of the new body. Responsibility for tackling modern slavery, enforcing the minimum wage and protecting agency workers – currently spread across the Gangmasters and Labour Abuse Authority, the Employment Agency Standards Inspectorate and HMRC – will be brought under one roof, creating a comprehensive new authority.

This “one-stop-shop” approach will help improve enforcement through better co-ordination and pooling of intelligence, and providing a single, recognisable port of call for workers so they know their rights and can blow the whistle on bad behaviour. It will also make it easier for the vast majority of responsible businesses to do the right thing by their employees by providing clear guidance on their obligations.

Our consultation response also confirms that we will extend state enforcement to cover holiday pay and statutory sick pay for vulnerable workers and will regulate umbrella companies. The new body will also enforce financial penalties against organisations that do not meet requirements to publish modern slavery statements, as well as run the unpaid tribunal awards penalty scheme.

Protecting workers requires both support for business – so employers understand how to comply – as well as effective, visible enforcement action to deter irresponsible employers from undercutting the vast majority who want to do right by their workers. The body will have a spectrum of powers and responsibilities to achieve this, including compliance notices and civil penalties, as well as the power to prosecute.

The single enforcement body will be delivered through primary legislation when parliamentary time allows and is the latest initiative in this Government's wider efforts to protect workers' rights. In the last year alone, the Government has boosted the minimum wage for around two million employees, protected furloughed workers' parental pay, cracked down on restrictive employment contracts, and more.

Secondly, as well as modernising our enforcement regime, the Government is today publishing its consultation responses on bringing the Certification Officer in line with other regulators; these reforms will implement technical measures passed by Parliament via the Trade Union Act 2016, providing reassurance to union members and the wider public.

Our reforms will make the Certification Officer a more effective regulator, with powers and funding more in line with similar bodies. They will give the Certification Officer the power to proactively investigate issues without having to wait for complaints from union members, the power to issue financial penalties, and put their office on a more sustainable model of levy funding. This proper and fair regulation will ensure all trade unions and employers' associations conduct themselves to the highest standards.

Thirdly, I wanted to update you on the publication today by the Advisory, Conciliation and Arbitration Service of their report into 'fire and rehire' and the Government's response to the evidence it provides. I have asked Acas to produce better, more comprehensive guidance to help employers explore all options before considering dismissal and re-engagement.

This Government has always been clear that we do not accept fire and rehire as a negotiation tactic. Workers up and down the country have worked flat out during the pandemic, carrying out essential work to keep our economy going. It is crucial that employers take their responsibilities seriously and act appropriately when it comes to discussions about changing employment contracts.

The report shows that the practice of 'fire and rehire' includes instances where it has been threatened but not implemented, as well as companies dismissing and re-engaging employees. It is neither a new phenomenon nor is it concentrated in a particular sector or type of employer. While there is no quantitative data, there is a sense that 'fire and rehire' had become more prevalent in the years before COVID as well as during the pandemic.

This is clearly a complex issue and we understand that sometimes, regrettably, employment negotiations will fail. In these circumstances, employers may feel they need to dismiss staff, and potentially re-engage them.

However, the Government wants to send a crystal clear message to employers that all options must be exhausted before considering dismissal and reengagement of staff. In the majority of circumstances, it is unacceptable to use the threat of 'fire and rehire' as a negotiating tactic to force through changes to employment contracts.

The United Kingdom has one of the best records on workers' rights in the world - going further than the EU in many areas - and we are determined to build on this progress. By protecting workers more extensively, supporting business to comply with the law, and preventing them from being undercut by a minority of irresponsible employers, we

can continue to be a high-wage, high-employment economy that works for everyone as we build back better.

The geographic scope of the bodies being subsumed into the single enforcement body vary; the Certification Officer's geographic coverage applies to Great Britain (there is a separate Certification Officer for Northern Ireland).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Paul Scully', is centered below the text 'Yours sincerely,'.

PAUL SCULLY MP
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