

New Workers' Watchdog to protect workers' rights

Employers should take action now to avoid financial fines & damaging negative publicity when Workers' Watchdog is established.

25 August 2021

The Government recently announced the creation of a "powerful" new body to protect the rights of UK workers.

How they got there

The announcement concludes a consultation process launched in 2019. It appears to reflect the Government's intention to implement a key recommendation from the final Taylor Review and the Government's Good Work Plan. Brexit could also have played a part. As a condition for agreeing a trade deal, to ensure a level playing field, the UK and EU agreed to maintain their own labour and social levels of protection ("the non-regression principle"). This includes the provision of an effective system of enforcement of employment laws by public bodies. With enforcement split across a variety of disparate agencies that operate independently of each other, a common criticism of the UK has been that its labour and employment law regime fall short of providing some of our most vulnerable workers with an effective system of enforcement.

The new watchdog

Responsibility for tackling modern slavery, enforcing the National Minimum Wage and protecting agency workers is currently spread across the following three bodies:

- Gangmasters and Labour Abuse Authority
- Employment Agency Standards Inspectorate
- HMRC's National Minimum Wage Enforcement Team

These will be combined and brought under one roof in a new single enforcement body - referred to as the Workers' Watchdog.

According to the Government, this "one-stop shop" approach will improve enforcement through better co-ordination and pooling of resources and will enhance workers' rights by providing a single, recognisable port of call for workers so they know their rights and can blow the whistle on bad behaviour.

What will the watchdog do?

The Workers' Watchdog will continue HMRC's Naming and Shaming scheme, which calls out employers who fail to pay their workers the minimum wage and can fine them up to £20,000 per worker.

Both enforcement activities are to be extended to cover other regulations which protect the pay of workers employed through agencies or by gangmasters in the agricultural sector.

The new watchdog will accordingly have the ability to ensure that such workers receive the holiday pay and Statutory Sick Pay (SSP) they are entitled to without having to present a claim at the Employment Tribunals.

To help businesses comply with the rules, the new enforcement body will provide guidance on best practice. The guidance will complement the work carried out by Acas.

The watchdog will seek to build strong links with community and worker groups to spread awareness and support engagement with at-risk groups, including the low-paid and those in sectors like construction and agriculture which it is said could be at higher risk of abuse.

How successful will the new watchdog be?

There is something to be said for combining the responsibilities of three separate, independent enforcement bodies into a single enforcement body. For the co-ordination and pooling of resources reasons referred to and by providing workers with one organisation to contact to raise numerous types of complaint, the Workers' Watchdog should help protect them from certain forms of abuse.

The prospective extension of the Naming and Shaming and fines regime is welcome though some will say the measures announced to date do not go far enough.

The enforcement of discrimination breaches is conspicuously absent from the Government announcement. It would accordingly appear that the Equality and Human Rights Commission may continue to perform its current role in that respect.

How successful the Workers' Watchdog will be will largely depend on the adequacy of its workforce and whether sufficient funding is provided, year-on-year, to enable the watchdog to fulfil its responsibilities.

Combining three bodies into one is likely to present the Workers' Watchdog with some challenging employment issues in its formative years and on an ongoing basis in relation to employees on legacy terms.

What next?

The new enforcement body will be established by Act of Parliament when parliamentary time allows.

In the meantime, unscrupulous employers are on notice, a state clamp down on these abuses is coming.

To avoid facing a potentially financially crippling fine and brand damaging negative publicity, employers should take action now to ensure that their workforce receive no less than their legal entitlement to pay, including holiday pay, and SSP.

On announcing the creation of the Workers' Watchdog, the Government stated that it will also explore further measures to target abuses in the garment sector following reports of serious problems in the industry. Options being considered include creating a Garment Trade Adjudicator to investigate companies' supply chains or extending the licencing scheme that currently covers employers in the agricultural sector. If brands' behaviour does not improve, the Government has warned it could introduce harsher measures, including bans on goods made in factories where workers have been underpaid.

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