

Labour Market Enforcement Strategy 2025 to 2026: call for evidence
ACS Submission

ACS (the Association of Convenience Stores) welcomes the opportunity to respond to the call for evidence on the Labour Market Enforcement Strategy 2025 to 2026 and value the opportunity to work with the Director of Labour Market Enforcement and her team. ACS represents over 48,500 local shops and petrol forecourt sites including Co-op, BP, One Stop and thousands of independent retailers, many of which trade under brands such as Spar, Budgens and Nisa.

We welcome the establishment of the new Fair Work Agency to bring together existing enforcement bodies. The new body could effectively coordinate enforcement activity beyond the 'core remit' of the ODLME bodies but must have better support for business through education and advice at the forefront of its strategy. The culture of a new body must be to work in partnership with retailers, some of whom have recently been unfairly and immediately penalised by HMRC for technical breaches of the NMW regulations.

ACS has a proud record of producing definitive compliance advice across a range of regulatory areas to assist businesses and enforcement bodies alike. We are committed to supporting good enforcement of the NLW and NMW through materials and communications.

The convenience sector provides local, secure and flexible jobs across all types of communities. Outlined below are the key data points on employment in the convenience sector based on our Colleague Survey of 896 people working in the convenience sector¹ and our Local Shop Report that surveys over 2,000 convenience store owners²:

- 445,000 people employed in the convenience sector.
- 65% are female, 35% are male.
- 18% work less than 16 hours per week, 50% work less than 30 hours per week.
- 98% of colleagues are on a permanent contract
- 83% feel secure in their current role
- 83% say they understand their employment rights

Answers to the questions in the call for evidence are below. If you would like more information, please contact ACS Public Affairs Manager Jordan Newfield:

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Employment rights enforcement priorities and governance

1. Briefly, and in no more than 100 words, what do you believe should be the priorities for employment rights enforcement as we transition to the FWA?

The FWA should prioritise supporting businesses in understanding and complying with the new employment rights legislative framework by providing clear, accessible guidance and education. An intelligence-led enforcement approach is essential, focusing on high-risk sectors and deliberate non-compliance while avoiding punitive actions for technical errors. This ensures a level playing field and builds trust between businesses and regulators. Enhanced coordination among enforcement bodies and stakeholder engagement, including

¹ ACS Colleague Survey 2024

² ACS Local Shop Report 2024

trade associations, will further facilitate compliance, minimise exploitation, and uphold fair working standards across all sectors.

2. The FWA will take some time to be set up. What should priorities be for the enforcement bodies before then? What should be FWA medium to longer-term priorities and why?

Before the FWA is operational, enforcement bodies should focus on intelligence-led data gathering to identify and address high-risk areas of labour market non-compliance. This approach ensures resources target business that deliberately exploitation while avoiding disproportionate scrutiny on compliant businesses.

Medium to long-term priorities for the FWA should include building strong relationships with business sectors, particularly through trade associations, to foster a culture of compliance. By offering clear guidance, education, and practical tools, the FWA can help businesses navigate complex regulations.

3. The FWA will have a statutory duty to publish annual reports and a triannual strategy, overseen by a social partnership board with tripartite representation from business representatives, trade unions and independent experts. What data and reporting should the FWA publish to ensure good accountability and transparency, via these publications or otherwise?

Don't know

Communication and engagement

1. How do you expect stakeholders to be engaged by the FWA and what do you see as the benefits?

The FWA should prioritise open engagement with stakeholders, emphasising explanation and guidance before enforcement. Businesses should feel confident in approaching the FWA for advice without fearing immediate penalties, fostering a culture of trust and collaboration. Stakeholders, including trade associations, can serve as valuable partners in disseminating clear, accessible guidance and best practices. This proactive engagement will help businesses navigate regulations, reduce unintentional non-compliance, and ensure fair treatment.

2. By which channels might awareness of the FWA be increased before and once it is established and why do you recommend them?

Awareness of the FWA can be effectively increased through trade associations like ACS, which are well-placed to communicate directly with businesses. ACS' Employment Expert Group, bringing together senior HR professionals and independent retailers, offers a platform to share guidance and updates on employment issues.

3. Where can communications around compliance and enforcement be improved such that workers are aware of their rights and their obligations? What evidence do you have that they work?

Don't know

4. Who do you see as the key partners for the FWA thinking both of other agencies or wider stakeholders (for example, by sector) and why?

HMRC – for their expertise in enforcing wage compliance and intelligence gathering capabilities for identifying non-compliance risks

Department for Business and Trade – for their role in shaping employment policies and supporting businesses.

Resourcing and prioritisation

1. What should the 3 enforcement bodies be doing now to ensure the FWA achieves sustained and lasting improvements in employer compliance?

The three enforcement bodies should focus on intelligence gathering to identify and address labour market risks, ensuring enforcement efforts target high-risk sectors and deliberate non-compliance. This data-driven approach will provide a strong foundation for the FWA's strategy and resource allocation. Additionally, they should prioritise clear and accessible guidance for businesses, fostering a culture of compliance through education and support rather than punitive measures. Collaborating with trade associations and sector-specific stakeholders can enhance communication and compliance efforts.

2. How should the FWA prioritise its resource between compliance measures (helping employers) and enforcement measures (punishing poor practice, deliberate and serious non-compliance)? How might its success in both areas be assessed?

The FWA should adopt a balanced approach, prioritising intelligence and risk-led enforcement to target deliberate and serious non-compliance while supporting employers to prevent unintentional breaches. Resources should focus on compliance measures, such as clear guidance and education, to help employers understand and meet their obligations, ensuring a broad reach to businesses of all sizes. Enforcement measures should focus on penalising clear and calculated breaches, avoiding disproportionate action for technical errors that cause no worker harm.

The FWA should also consider the development of an “earned recognition” model. Where by employers demonstrate positive compliance with employment regulations and as a result receive less enforcement visits. This does not mean no enforcement action, but structure engagement and testing instead of blanket enforcement visits across sectors.

3. What are the key labour market non-compliance risks for which the FWA needs to be ready? What is the evidence for this?

Key labour market non-compliance risks for the FWA include businesses misunderstanding or failing to comply with the new requirements in the Employment Rights Bill, particularly the rights to guaranteed hours, reasonable notice of shifts, and compensation for cancelled shifts. Smaller retailers, often without dedicated HR professionals or functions, are at heightened risk of non-compliance due to the complexity of implementing these provisions. They may struggle to understand thresholds for "low hour" contracts, requirements for guaranteed hours, and the specifics of notice periods and compensation.

- 4. Holiday pay will be a new area of enforcement for the FWA. Where are the key priority areas as regards holiday pay non-compliance (for example, by employment model or by sector) and how might these risks be tackled?**

Don't know

Moving towards a FWA

- 1. What do you value about the present practices of the 3 employment bodies that you want to see continued by the FWA and why?**

We value the targeted enforcement approach of the three employment bodies, which focuses on addressing deliberate non-compliance and exploitation in high-risk sectors.

- 2. What would you like to see done differently?**

We would like to see clearer, sector-specific guidance on longstanding issues of confusion, such as employer requirements for dress codes or uniforms for workers on the minimum wage (NMWM11220). Employers need practical advice on reimbursing uniform costs and determining whether expenses affect minimum wage compliance. Additionally, guidance on working time for salaried hours workers (NMWO8000) must address complexities like defining "working hours" and accounting for variable schedules. This clarity is especially critical for smaller businesses without HR functions, helping them avoid unintentional breaches and better support compliance. Simplified, accessible resources would reduce confusion and foster greater confidence among employers.

- 3. The enforcement bodies currently use different approaches for compliance and enforcement – which of these do you think are most effective and should therefore be preferred for the FWA and why?**

Don't know

- 4. In establishing the FWA is there any good practice you would like to highlight from other UK and/or international regulators/enforcement bodies, either in the labour market enforcement space or beyond?**

The concept of earned recognition, where businesses with a proven track record of compliance are formally recognised, is a valuable practice that could be adopted by the FWA. This system encourages long-term compliance and fosters trust between businesses and enforcement bodies.

Additionally, the primary authority model, which provides a single, authoritative interpretation of rules, is highly effective in ensuring consistent enforcement and reducing confusion for businesses navigating complex regulations.