

A silhouette of a construction team carrying a long beam across their shoulders against a sunset background. The team consists of several workers in hard hats and work clothes, moving from left to right across a curved surface. The background is a gradient of orange and red, suggesting a sunset or sunrise. The overall mood is one of teamwork and industry.

dti

**SUCCESS AT WORK**

Protecting vulnerable workers,  
supporting good employers

MARCH 2006



# **Success at Work**

Protecting Vulnerable Workers, Supporting Good Employers

A policy statement for this Parliament

Department of Trade and Industry  
March 2006



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## FOREWORD

Since 1997 we have created one of the most successful labour markets in the world with more people in work than ever before and the highest employment rate in the G8. Our approach has been based on combining social justice with economic prosperity so that businesses grow and employment expands, delivering opportunity for all.



The foundation for our success has been a strong and stable economy in which businesses have been able to invest and grow, taking advantage of the opportunities offered by the global economy. Meeting the challenge of global change requires higher productivity so we have reduced barriers to job creation and given businesses the flexibility they need to adapt as well as helping to develop a highly skilled workforce.

We know that work is the best route out of poverty and prevents people from falling into poverty in the future. Employment enables people to provide for themselves, their families and their future retirement. So we have made sure there are more jobs, it pays to work and that people get the help they need to find a job. We have improved the quality of work by establishing decent minimum standards in the workplace and tackled unfairness by addressing discrimination and barriers to progression.

But we know we need to do more. The Government has an aspiration of an 80 per cent employment rate - the modern definition of full employment – so that the UK's full potential can be achieved. This means opening up new opportunities for people who are currently excluded from the labour market and meeting the challenge of an ageing society. At a time of increasing global, social, demographic and technological change we need to ensure that business and employees both continue to succeed. This document sets out the next stage of our approach to supporting businesses and people in work.

We need to do more to encourage diversity in the workplace and give people choices over how they balance their work and family life. We need to improve skills and training further, so that everyone has the chance to make the most of their potential. And crucially we need to ensure that vulnerable workers are not mistreated but get the rights they are entitled to.

Equally importantly, we need to continue to provide a strong economy and a stable and proportionate regulatory framework in which complying with the law is easy and simple. We need to enable high performance workplaces that innovate and foster enterprise.

Our progress over the last eight years has been significant but it is not yet complete. We set out here our measures for this Parliament. By supporting employers, unions and workers we can give everyone the confidence to navigate the challenges and opportunities they will face over the next eight years. DTI is working to create the conditions for business success and help the UK respond to the challenges of globalisation and demographic change.

A handwritten signature in black ink that reads "Alan Johnson". The signature is written in a cursive style with a large, stylized initial 'A' and 'J'.

Alan Johnson



## INTRODUCTION

There are **more people in work** today than ever before and our earnings from work have never been higher. Since the beginning of 1997, the number of jobs has increased by over 2 million with more women in work than ever before and unemployment remains at a low level. New jobs have been created in every region of the country, with the fastest rates of growth in employment occurring in financial services, transport and construction as well as in education and health. We are earning more: real earnings have increased by 28 per cent since 1997, with women making larger gains than men and the lowest paid improving their earnings by more than any other group.

Britain's labour market is characterised by **diversity and flexibility**. There are a wide variety of patterns and types of work available: from part-time work of just a few hours to agency work to opportunities to work overtime. It is a dynamic labour market. Businesses are able to respond swiftly to changing consumer demand and new opportunities. Employees regularly choose to get a better or different job – a choice exercised by around 4 million people a year. When there are redundancies, the strength of the labour market offers good opportunities to get new employment. And policies to “make work pay”, through the introduction of tax credits and to make work possible through active support for the most disadvantaged, have helped open up employment to more and more people.

The climate of **industrial relations in Britain is sound**. Industrial dispute numbers are at record lows. In 2005 there were just 157,000 days lost through industrial action. This is the lowest figure for any year since records began in 1891. The total number of stoppages in 2005 was 116, again the lowest on a record stretching back to 1930. The UK's industrial relations framework is working better than ever, with average working days lost declining from an average of 7.2 million a year in the 1980s to 660,000 in the 1990s and now reaching the current historic low.

Our record on **health and safety at work** is one of the best in the world. Since the Health and Safety at Work Act came in to force 30 years ago, fatal accidents have fallen by over two thirds. Over the past 5 years work-related ill-health had fallen by a tenth and it is estimated that days lost fell by 15 per cent.

These achievements are a tribute to our businesses and the people who work in them. They are also the result of our following policies to **promote economic stability** along with a labour market where adaptability and flexibility to promote employability and competitiveness are combined with a commitment to fairness. We are determined to retain this approach and will resist any reductions in our flexibilities in areas like working time. And we have no intention of changing industrial action laws or taking other measures that would damage employability or competitiveness in the UK.

This paper is about how **we can build on** what has been achieved for businesses and for people in work. The starting point is that, while our labour market and workplaces have real strengths, we recognise that we now face two challenges. The first is to respond to the quickening pace of global economic, technological and social change. The second is that, despite the progress we have made in extending opportunity and fairness, there are still too many people who aren't fulfilling their full potential or are stuck on the margins of the labour market.

Firstly, much has changed in Britain over the past decade, but the evidence points to the **pace of change accelerating** in the decade ahead. As consumers we are demanding greater value and higher quality. We want more variety and we want more say. As citizens we want better, but also more responsive, public services. At work we want greater fulfilment as well as good pay. There will be new opportunities but also new threats. We are becoming more demanding consumers and employees and therefore the demands on us as managers, employees, trade unions and entrepreneurs are becoming greater.

The next big social change we all face across the developed world is an **ageing population**. As 'baby boomers' reach retirement age, the impact on the labour market will be profound. The proportion of people aged over 65 is projected to increase from 16 per cent today to 23 per cent by 2030. By 2050 there will be 2 people of working age for every pensioner compared with 10 people 100 years ago. Employment is at the heart of our response to this challenge, because through employment we provide people with a foundation from which to build a retirement income.

The total span of our working lives looks set to extend, but during those years we are likely to want **more flexibility in our working patterns**. Many people already combine work with childcare responsibilities. Some 68 per cent of mothers report that flexi-time is available to them<sup>1</sup>. As our population ages and with smaller families, more of us will also have to combine caring responsibilities for adults with work. The need to make the most of the skills of women at work will become more pressing. 1.2 million more childcare places have been created since 1997 and tax credits now help parents with childcare costs and those on lower incomes, but we must continue to improve the provision of childcare, to enable more flexible and part-time working at all levels. And as we become more affluent the value we put on having more time compared to more pay is likely to change and more of us will want to have opportunities to do something different or simply to change pace.

The ways we create wealth and earn our livings are being transformed. **Innovation** is creating new industries and bringing an end to some old ones. The world economic map is being redrawn with the growing strength of India and

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<sup>1</sup> Based on findings from the Maternity and Paternity Rights and Benefits: Survey of Parents 2005. Employment Relations Research Series No.50.

China, a strength that will be based increasingly as much on technical and scientific innovation as on large scale cheap labour. In order to compete on the basis of innovation and technological excellence, as we must, we need an ever-higher skilled workforce and regulatory practice that promotes enterprise, competition and adaptability. Rising productivity will allow us to produce more with less, while the global economy will open up new opportunities to UK employees. Changes in demography will, over time, see changes in the nature of our work with more of us providing one another with services from healthcare to leisure.

All of these forces will change the employment landscape across the country. To prosper in the future Britain will need to be a country rich in human capital with the ability to apply that human capital successfully to produce innovative, high quality goods and services. The **premium on skills will grow**. Some skills will become redundant and others will become essential, with lifelong learning increasingly important for an individual's prospects and for Britain's competitiveness. Having basic skills, already a key determinant of labour market success, will be more important than ever. Individuals, employers and government need to invest in the skills that will lead to greater wealth for individuals and economic success for Britain.

Managers, entrepreneurs, employees and trade unions will face **new demands and challenges at the workplace**. Companies will come under increased pressure from global competition. If they are to succeed, employees will need to learn new skills and demonstrate the ability to adapt and innovate. Trade unions will need to recruit members in new industries and low paid sectors. They will look to develop new ways of supporting people so that individuals can get the help they need in, for example, gaining more skills or working more flexibly. Growing prosperity will create new opportunities to build successful businesses and new employment. Work patterns will become more flexible in response to new demands from customers and the needs and wishes of employees. To rise to the challenge of globalisation, we will need more high-performing, good workplaces.

Secondly, **making a reality of employment opportunity for all**, with high and sustainable levels of employment, is a fundamental responsibility of any modern government. It is the means to tackle poverty and social exclusion and ensure that everyone shares in the growing prosperity of the nation. That is why we put so much emphasis on the importance of having a legal framework for the labour market that avoids obstacles to the creation of jobs and enables business to grow. It is why we created Jobcentre Plus – to bring together rights and responsibilities for those out of work, along with active labour market policies - to help the most disadvantaged overcome their barriers to work. It is crucial to our future that individuals and groups are not excluded from the labour market, preventing following generations growing up in poverty and inheriting low expectations while employers face a shortfall in prospective employees.

High employment levels combined with the **national minimum wage** have done much to improve the position of the lowest paid. Since 1997 the numbers earning less than half the average median hourly wage has fallen by two-fifths. Over one million people (about 70 per cent of them women) have benefited from the minimum wage each year and it has contributed to a 2 per cent drop in the gender pay gap since 1997.

But there are **still too many whose skills and potential are not realised**. For instance, if more women were to participate in the labour market and make full use of their talents, the UK economy could be up to £23 billion better off<sup>2</sup>. There is still more that needs to be done to break down the barriers that prevent many people from moving off benefits and into work, as was set out in the Government's green paper this year<sup>3</sup>. And there are some who are treated unfairly or abused. The challenge is to change this once and for all to the benefit of the individuals themselves and to the country as a whole.

This document sets out a strategy for meeting these challenges by:

- **Helping individuals** to realise more of their potential at work and helping employers reap the benefits of more diversity: by improving access to skills, eroding barriers of discrimination and offering more opportunities to work flexibly
- A new impetus to improve the position of **vulnerable workers** and promote social inclusion, using risk-based principles to avoid penalising good employers
- **Facilitating economic and social change** by providing stronger support for business, employees and trade unions to adapt, respond and benefit from change
- Fostering the high performance, "**good workplaces**" that are a building block of successful business and rewarding employment.

In the strategy we propose some further extensions of legal entitlements during this Parliament, alongside measures to simplify and clarify laws and make it easier for employers to comply. Inefficient regulation can impose a significant cost on business without improving regulatory outcomes. Our ultimate goal is to reduce the compliance costs and complexity on business of employment law and to foster compliance while continuing to deliver excellent regulatory outcomes including cracking down on illegal operators. There are also proposals to improve access to information and provide better guidance including looking at experience in other countries. We want to do more to ensure people receive their legal entitlements. And we want to improve the support available to

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<sup>2</sup> Shaping a Fairer Future, Women and Work Commission, February 2006

<sup>3</sup> A New Deal for Welfare: Empowering People to Work, January 2006

individuals and businesses. Above all the aim of our strategy is to support and encourage good practice by the managers, employees, investors and trade unions that between them can create the high performing, good workplaces we need to succeed.

## HELPING THE INDIVIDUAL IN A CHANGING WORLD

Our ambition is to lift people out of dependence and liberate the talent and capability of everyone. By supporting people to fulfil their potential, we help individuals, and, therefore, our society to respond to the challenges of demographic change and globalisation.

Work is at the heart of that vision; as well as underpinning our economic growth, employment is the best route to independence, enables people to keep their children out of poverty, lays the foundation for successful retirement and enables people to develop their potential. For many, work supports better health outcomes over their lives; and there is a clear correlation between unemployment and ill-health. As we showed in the introduction, there are more people in work than ever before and they enjoy more support to get into work and rights at work than ever before. From the National Minimum Wage to the New Deal, from tax credits to the extension of paid maternity leave, new rights and responsibilities, with adequate support, help to ensure people get some protection from the challenges of a fast moving and often pressurised world in a way which maintains our flexible labour market. All are necessary if we are to respond to the challenges of globalisation.

Our aim is to provide employment opportunity for all. This means we must continue to increase the number of people who are in work and provide them with the support and skills that they need. We already have an employment rate of nearly 75 per cent - one of the best in the world - but we want to go further and achieve 80 per cent. Achieving this will give us the highest employment of any major country. More people in work means a more prosperous society and more people better equipped to lead a fulfilling life and to make informed choices for their retirements. In future we will have to make the most of all parts of the workforce. We will not be able to waste the talent of parents who want to work flexibly after having a baby, and discrimination in any areas will not only continue to be wrong but it will be bad for the economy as well. We will also need to reform our welfare system to ensure that we extend employment opportunities for all. Our proposals are set out in January's green paper<sup>4</sup>.

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<sup>4</sup> A New Deal for Welfare, *ibid*

This section sets out what more we can do to achieve this by helping employers and employees to:

- Reap the benefits of a diverse workforce
- Help people balance work and family life
- Achieve fair pay, holidays and hours
- Develop and maintain skills.

### Benefits of a Diverse Workforce

The economic imperative for more diverse workplaces cannot be ignored. To fill their vacancies employers must more and more draw from a diverse pool of talent. As they do, they increasingly recognise the many benefits of a diverse workforce and the increased economic drag of **discrimination**.

Many groups have seen their activity in the labour market increase. For many groups the employment rate gap has narrowed. Since 1997, most groups have seen participation increase: an increase of 9 per cent in the case of women and of nearly 23 per cent in the case of older workers. Many disadvantaged groups have benefited significantly: the rate of employment among disabled people has gone up by 7 percentage points and for ethnic minorities by 3 percentage points.

Although the increase in participation in the workplace amongst women since 1997 has been particularly marked, more must be done to realise their skills and potential through greater participation in better quality jobs. Women are crowded into a narrow range of lower-paying occupations that do not make the best use of their skills. They still face substantial penalties in terms of pay and progression for taking time out of the labour market or reducing their working hours to care for children or other relatives. The glass ceiling remains in evidence: only a third of managers and senior officials are women and women tend to work in lower branches of management. The lack of flexibility at senior levels is particularly acute<sup>5</sup>.

It is clear too that there still exists a substantial **gender pay gap**. This is particularly pronounced for women working part-time. The Women and Work Commission's report *Shaping a Fairer Future* points the way forward with a number of practical ideas for tackling the pay and opportunities gap. Led by the Minister for Women, the DTI's Women and Equality Unit will examine the recommendations in detail and produce an action plan. The Commission will come together in one year to receive a report into progress on recommendations and comment on their effectiveness.

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<sup>5</sup> *Shaping a Fairer Future*, ibid

We must also recognise that the average employment rate of people from ethnic minorities is still – at 59 per cent - too low. This problem is most acute within particular groups. Whilst some ethnic groups have an employment rate close to the UK average, others face much lower rates of employment: sometimes as low as 23 per cent. The economy cannot afford to exclude these talents and we aim to increase participation levels amongst ethnic minorities. Working with our colleagues on the Ethnic Minority Employment Task Force, a cross-Whitehall body overseeing the Government's strategy to increase the ethnic minority employment rate, we are looking at ways to tackle systematic discrimination and promote equality and diversity in the workplace.

As an independent, impartial body Acas is well placed to help promote equality and diversity in the workplace. The Acas network of 21 specialist equality advisors works closely with organisations, providing them with information and good practice frameworks to get the most from diversity.

Across the whole workforce as people live longer, healthier lives, they are likely to be capable of working longer. The workplace needs to adapt to allow all people to participate fully for as long as they choose to work. The best employers are already doing a great deal to facilitate older workers.

#### **Marriott Hotel, Grantham**

Part of the Marriott Group, the Marriott Hotel in Grantham operates an open recruitment policy in which all applicants are assessed on ability to carry out the new role and never age. No mention of age is ever shown on the recruitment advertisements that they use. The application form does ask for the age of the person applying, but this is purely so the company can manage and monitor diversity. The hotel carries out career and personal development plans annually for all associates regardless of age. Although the company's retirement age is 65 for all workers, they have reviewed this and altered it in Grantham to a deferred retirement policy. In such cases the associate will make an application to the hotel, which will be discussed and reviewed by the General Manager and the HR Manager. All cases of deferred retirement are reviewed annually.

In support of the initiatives already being taken in the workplace, in October 2006 we shall bring in legislation outlawing unjustified **age discrimination** in both employment and vocational training. All training will be covered that contributes to employability. This includes training provided by employers, private training companies or Further Education or Higher Education institutions.

Under the new legislation workers will have the right to equal terms and benefits unless employers have objective grounds to justify any differences. We want to

promote a culture change by giving employers a duty to consider requests to work beyond retirement age. Employers who wish to set a retirement age below 65 for their employees will have to be able to provide real evidence that it is necessary and justified. The legislation has been drawn up through extensive consultation with stakeholders. We have committed to carry out an evidence-based review of retirement ages five years after the introduction of the legislation: if this review finds that a default retirement age of 65 is no longer appropriate for the UK, we will abolish it.

This is the final new strand of discrimination law, which has evolved over many years. There are now seven major statutes and 70 regulations that address discrimination issues. Ultimately, this has led to a complex overall framework of legislation. It is often difficult, particularly for smaller employers, to understand and implement it and also difficult for employees to understand their rights. Good employers rightly seek legal clarity and certainty. Employees rightly expect to be able to understand their rights and responsibilities and to be able to enforce those rights.

We are committed to bringing forward a **Single Equality Act** to modernise and simplify equality legislation. We will publish a consultation on the Discrimination Law Review in the summer. The review will seek to:

- Increase clarity, and thereby the effectiveness of rights and responsibilities, through streamlining discrimination law
- Improve guidance about discrimination law
- Make it easier for employers to understand and comply with discrimination law.

Other areas of employment law that are being simplified are summarised in a box on page 40.

## Work-Life Balance

In 1997 we started a programme of changes that recognised the importance of **balancing work with bringing up a family**. There is now a strong foundation of family-friendly and flexible working legislation in Britain. Key measures since 1997 have included:

- Maternity pay extended from just 18 weeks to 6 months with a further 6 months unpaid maternity leave. Paid leave is being further extended to 9 months in April 2007, with the aim of making it a full year by the end of this Parliament
- Statutory Maternity Pay increased from £55 a week in 1997 to £108.85 a week from April 2006
- Two weeks' paid paternity leave for employed fathers
- Right to take time off work to deal with family emergencies for all employees
- A right to request flexible working hours for parents with young or disabled children and equal treatment for part-timers
- 13 weeks' parental leave for each child
- 18 weeks' parental leave for parents of children for whom an award of Disability Living Allowance has been made
- 26 weeks' paid adoption leave rights for adoptive parents for the first time
- 1.2 million extra childcare places
- Free part-time early education places for all three and four year olds
- Extra financial support for parents, including the Childcare Tax Credit
- Over 500 Sure Start Local Programmes providing a range of health, parenting and family support to over 400,000 children in disadvantaged areas.

### Take-up of family friendly rights<sup>6</sup>

- Three quarters of mothers took their full entitlement to maternity pay. This is up from two thirds in 2002. Mothers are also taking more time off. The average period of maternity leave is six months, up from four in 2002
- A vast majority (93 per cent) of fathers took time off around the time of the birth, with four-fifths (79 per cent) taking up their new entitlement to paternity leave
- Both mothers and fathers are reporting greater provision and greater take-up of flexible working entitlements. It is most likely that this is due to the introduction of the right to request flexible working. For example:
  - Provision of flexi-time has increased: 68 per cent of mothers report that flexi-time is available to them, up from 44 per cent in 2002. 54 per cent of fathers report availability of flexi-time, up from 22 per cent in 2002
  - And take-up of flexi-time has increased significantly too. 47 per cent of new mothers work flexi-time compared to just 17 per cent in 2002. Almost triple the number of new fathers now work flexi-time, with 31 per cent reporting that they work this way, up from 11 per cent in 2002
- The proportion of mothers who changed their employer upon returning has halved from 41 per cent to 20 per cent. Much of this change is thought to be due to the right to request flexible working.

There are wider benefits to the changes we have made. Giving children the best start in life is not just a matter of fairness but also a foundation for continued economic prosperity. That is why we are committed to eradicating child poverty by 2020: to break the cycle of social exclusion and extend opportunities to everyone. Supporting healthy child development during the earliest years of life helps improve social and educational attainment levels, to the benefit of society as a whole.

There is also a good business case for these changes. Employers who have introduced family friendly working policies report improved morale, commitment and retention of staff, leading to financial savings, improved customer service

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<sup>6</sup> Based on findings from the Maternity and Paternity Rights and Benefits: *ibid*

and the ability to react more effectively to changes in demand. Increasing the scope for flexible working can also help employers recruit and retain people from the widest possible pool of talent. To ensure small businesses benefit, we have ensured that all of these proposals offer the flexibility which is required for both employer and employee.

Increasing opportunities for individuals to control their work-life balance is of fundamental importance to meeting the demographic challenges of the future. The increased flexible working opportunities available in today's workplace give people more control as pressures change at different stages of life. Through the **Work and Families Bill**, we have already announced the other changes we will make to family-friendly law in this Parliament. It extends the opportunities to control work-life balance that many individuals need to participate and prosper in the labour market. As part of this package, statutory maternity and adoption pay is being extended from six to nine months from April 2007. This is the penultimate step towards the goal of a year's paid leave by the end of this Parliament when fathers will gain a new right to additional paternity leave during a child's first year, if the mother returns to work. This will enable parents to have greater choice about how to share the responsibility for bringing up their children.

Five million full-time employees now have some form of flexible work arrangement following the introduction of the right to request flexible working for parents with young children in 2003. To date 90 per cent of flexible working requests have resulted in an agreement with employers. In the current Bill we are extending the right to request flexible working to carers; we will keep the position for parents of older children under review.

To ensure that both businesses and individuals can easily understand their rights and responsibilities under family friendly law we will **simplify the guidance on maternity leave and pay**. Once the measures in the Work and Families Bill have been introduced, we will consider the case for further simplification of the way in which employers administer Statutory Maternity Pay.

### Flexible Working Arrangements

Not everyone wants to work full time and many like the benefits of part-time or fixed-term work at some point in their working life. Indeed fewer than one in ten people who work part-time do so because they cannot find full-time work. People use a variety of arrangements to achieve their aims, including choosing to work through an employment agency. Temporary workers have legal protection and recent research sponsored by the EU shows that temporary workers are among the happiest in the workforce<sup>7</sup>.

We have ensured that all **agency and other workers** in the UK benefit from many of the minimum rights introduced since 1997: they are covered by the

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<sup>7</sup> Temporary Employment Contracts, Workers' Well-Being and Behaviour: Evidence from the UK, King's College, London

National Minimum Wage, working time legislation, health and safety and social security provisions (such as maternity and sick pay). We have also changed the law to ensure that part-time workers get the same rights as their full time colleagues for example on pay, access to pensions, bonuses etc. We have extended protection to employees on fixed-term contracts so that they are treated in the same way as comparable permanent employees. Part-time, agency or fixed-term work is to the benefit of both parties. The employer has a flexible source of labour enabling them to respond to peaks and troughs in demand and keep skills and talent in the labour market. Individuals have the chance to try out different forms of work and different workplaces.

To maximise the benefits of alternative work patterns, part-timers must have access to good quality stimulating work which offers the opportunities for development that full-time staff enjoy. In their recent report, the Women and Work Commission proposed a Quality Part-Time Work Initiative, which would promote projects such as web-based job matching and job share services. By increasing the quality of work available, employers will retain able and experienced staff and see a higher return from their investments in training.

We have been considering the **current framework and coverage of employment rights** to see if they are still appropriate and fair and support our aim of high participation in work. We published a consultation on the issue of the differing rights and responsibilities in employment law of “employees” and “workers” in July 2002. We had over 400 responses to this consultation<sup>8</sup> and separately had a wide range of discussions with stakeholders. The responses provided a range of views from individuals, representative bodies, businesses and trade unions. Workers have access to a range of minimum standards including the National Minimum Wage and the right to four weeks’ paid holiday. They are likely to be the largest numbers benefiting from our commitment to make time equivalent to bank holidays additional to annual holiday entitlement. They have the right to limit their working hours to 48 on average or to work longer, including in a range of jobs, if they choose to opt out. They are protected from discrimination on grounds of gender, age, race, disability, sexual orientation and religion or belief.

We found that temporary work, such as agency work, is greatly valued by employers and many individuals. We were given examples of some abuse and **lack of knowledge about existing rights** but there was a lack of evidence suggesting the only appropriate remedy for this was wholesale change to the current system. The main additional rights sought by some respondents were to give workers, after 12 months in a job, protection from unfair dismissal and to give pregnant women the right to return to a job after they have had their baby. But there are practical objections to such an extension of rights. It would be unfair to employees to give unfair dismissal rights to workers – who unlike employees do not have to give notice if they wish to leave a job – and employers

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<sup>8</sup> For summary of responses log on to – [www.dti.gov.uk/er/successatwork.htm](http://www.dti.gov.uk/er/successatwork.htm)

would be likely to respond by requiring workers to give notice, undermining the very flexibility we know both employers and workers value. Moreover, by its nature temporary work rarely lasts for 12 months; and we have protected people on fixed-term contracts from constant extension of such contracts. Therefore it is not possible or practical to give a worker a right to keep or to return to a job which by its very nature is no longer likely to exist. Nor is it within an agency's capacity to promise to place a worker in a similar job on her return from maternity absence as the availability of such a similar job is also not within an agency's control. However, a pregnant agency worker or one returning from time away from work when she has a baby is not unprotected. She cannot be discriminated against and has every right to go back on the books of the agency which placed her, or any other agency, and to seek work for any hours she wishes. Agency workers are used to changing assignments, indeed many choose to do so. Several employers commented that extending all rights would be likely to result in a reduction in temporary work and that all these lost jobs would not be replaced by permanent ones.

Having reviewed the evidence provided in responses to the consultation and taken account of action already undertaken since 1997, we believe changes to the legal framework would not prevent instances of abuse or lack of awareness. It could however damage labour market flexibility and result in a reduction in overall employment. We have concluded that the present legal framework reflects the wide diversity of working arrangements and the different levels of responsibility and rights in different employment relationships. **The Government believes that it meets the labour market's current needs and there is no need for further legislation in this area.**

As we explain in this paper, we will tackle abuse when it happens. We will, help people understand the current framework better, and the rights to which they are entitled, whether that be employee, worker or self-employed and how to enforce those rights. **We will improve the guidance** through the new employee pages on the direct.gov website on which we will develop an associated interactive tool, so that individuals have a much clearer idea of their legal position and are not tricked out of their rights. We will work with a range of experts to establish how best to publicise it.

Many who choose part-time work do so through an **agency** – because this way they can get flexibility and variety to enter the job market. UK legislation governing agencies has recently been completely overhauled and a proposal for further legislation, the Agency Worker's Directive, has been under discussion in the European Union. The Government continues to support the underlying principles of the Directive. In addition, we are aware of a number of issues currently affecting the most vulnerable agency workers. While the majority of agencies treat their workers fairly, we want to tackle the following areas of abuse through a package of action, on which we will consult, to include provision of better guidance for workers and for agencies, closer work with other Government Departments and legal and other measures.

We understand that some agencies mistreat vulnerable workers by, in effect, making it a condition of offering them work that they pay for additional services such as accommodation, transport and so-called safety equipment often at exorbitant rates. Some agencies also seek to evade existing controls by providing such services through associated companies in which they have a financial interest or from which they receive payment for introducing their work-seekers.

We have already made it an offence to make an offer of a job conditional on a worker paying for other services. We will **consider whether we should strengthen this by including a right of withdrawal**, subject to an appropriate notice period, from any service after a work-seeker has taken a job. We would need to protect the worker from detriment in their job for exercising the right to withdraw. We will also explore whether it would be possible to deal with associated companies without making it impossible for legitimate agencies to offer the option of services such as transport to remote areas at reasonable rates which we know workers value.

We are aware of cases where vulnerable workers, especially from overseas, are given loans to help them take up temporary employment, and then loan repayments and high levels of interest are deducted through wages without the consent of the worker.

We already require that where any loan is provided by a UK agency to a work-seeker to enable him or her to take up a position with a hirer, the work-seeker cannot be required to repay a greater sum than the money loaned. While we are unable to control situations where work-seekers take loans at high levels of interest outside the UK, we will **consider whether we could strengthen existing legislation** by, for example, preventing loan repayments being deducted from wages by a UK agency without the express consent of the work-seeker. Before taking any final decisions on action, we would, of course, need to establish the extent to which UK agencies currently provide loans and their reasons for doing so.

There have been cases of HGV drivers seeking to gain employment through agencies without proper driving qualifications and seeking to work longer hours driving than is legal and in a very few cases, we have evidence that agency staff have colluded with workers to evade the law.

Existing agency legislation already covers these issues and legitimate agencies ensure appropriate qualifications are in place before placing a worker and seek to ensure drivers working for them do not exceed their hours. While it is very difficult to remedy a situation where a worker deliberately chooses to lie to all their employers about their driving patterns, we will **consider whether we should require all agencies placing drivers to make all reasonable checks in this area**. We would

intend to explore this issue further in discussion with stakeholders and the Department of Transport and Vehicle and Operator Services Agency as we would not want to place additional heavy burdens on legitimate firms. In particular, we would want to be sure before making any changes that any action would actually make an appreciable difference to our ability to prevent or crack down upon rogue agencies and drivers.

There are cases where unscrupulous individuals hire a venue for very short period, invite would be actors/models to attend and then engage in hard-sell tactics to persuade them or their parents to pay high fees for the provision of 'services' and the promise of work which never materialises.

While legitimate companies do not indulge in such hard-sell tactics, we will **explore the possibility of introducing a cooling-off period**, perhaps by banning the seeking or taking of fees on the day that a model/actor first met an agent. We would want to ensure that this would not disrupt legitimate industry practice but such a proposal would give individuals a chance to reconsider and perhaps make the practice less attractive to unscrupulous agents.

Any action taken will be done in a manner that ensures that enforcement action is targeted where there is risk. In addition, we will also look at how we can **simplify the information provision requirements** on agencies supplying workers for very short-term tasks. We are aware that aspects of this current provision form an administrative burden for agencies and user companies but do not seem to have any real benefit.

In short, we want to **tackle these issues in a manner most effective for workers and least burdensome for industry** and so will be looking to undertake a full consultation on the detail with a wide range of stakeholders.

### **Pay, Hours and Holidays**

Britain now has a fair employment framework with decent minimum standards for all. Since 1997, we have established, for the first time, rights on pay, hours and holidays. This has not been at the expense of economic growth or jobs. Since the National Minimum Wage was established, employment has risen by around 2.2 million while real earnings have grown by 20 per cent. The new framework includes:

- a minimum wage of £5.35 an hour from October 2006
- a free choice to work longer, but a right not to work more than 48 hours on average a week
- an entitlement to rest periods
- an entitlement to four weeks' paid holiday.

The ability to spend time away from the workplace is an important component of work-life balance and helps reduce stress. It is, however, anomalous that generally the lowest paid have bank holidays included in their annual holiday entitlement. We will therefore make **paid leave for bank holidays additional to the annual holiday entitlement**, bringing this disadvantaged group into line with the majority of the workforce. This will be on a pro rata basis for those working part-time as with the existing entitlement.

To ensure that the impact of this change does not affect the employment security of those involved, we will consult with stakeholders before any detailed changes are proposed. We will examine all the appropriate options, including how the change might be phased in over time. As the implications for the lowest paid are significant, the interaction with the National Minimum Wage will play a key part in the development of this policy. We will, therefore, make the information and evidence generated in our assessment of the regulatory impact of this policy available to the Low Pay Commission and invite them to take account of our plans when recommending the NMW in future.

We are also committed to ensuring people are able to exercise real choice about the hours they work by tackling the working of excessive hours. People now can work long hours if they wish to do so, for example, to earn more overtime, but they also have the **right to choose not to work longer than 48 hours on average a week**. Since that right came in both average hours and the proportion of people working longer hours have fallen. We remain committed to the flexibility this choice offers.

With life expectancy steadily improving, people at work are keen to have more information and involvement about their workplace **pensions**, as well as greater security and protection for them. The introduction of the Pension Protection Fund is a major advance. We are also improving the quality of pension fund trustees and strengthening scheme member representation. And for the first time, this year larger employers will have an obligation to inform and consult their employees on potential changes to schemes.

Pensions are also becoming an increasingly important part of the bargaining and consultation exchanges between employers and trade unions. The 2004 Workplace Employment Relations Survey (WERS) suggests pensions may now be a quite common subject in collective bargaining, although some other evidence suggests it is less widespread.

The trend to pensions becoming a more common subject for collective bargaining raises the issue of its inclusion in the statutory recognition procedure. In our 2002 review of the 1999 Employment Relations Act we said we would consider such an extension were there to be clear evidence that pensions had become typically part of voluntary collective bargaining. The WERS evidence suggests it is now appropriate for us to **initiate, with the social partners, an examination of the evidence and case for extending the statutory procedure**.

### Accenture – moving away from a work hard, play hard culture

Accenture, a global management consulting, technology services and outsourcing company, is moving away from the traditional work hard, play hard culture in its sector. Combining better resource management, removal of paid overtime, revision of flexible working options and implementation of a time off in lieu system with strong leadership messages and careful monitoring of working hours is changing the culture of the organisation.

Accenture's traditional culture was found to be increasingly at odds with its new strategic delivery model and the climate created by the Working Time Regulations. The company began to move towards a more intelligent use of its workforce, bringing in specialist expertise on projects to troubleshoot particular problems, rather than relying on their own staff to do everything. In an increasingly competitive marketplace, all Accenture's major rivals had abolished overtime payments. It had also noticed a shift in expectations among graduate recruits, with work-life balance higher up the list of priorities.

Accenture's first step was to initiate a programme of cultural and behavioural change across the UK practice, spearheaded by its 'people advocates', a cross-section of partners and managers who put their name to key initiatives and drove change messages down through the business.

### Skills for life

More than simply having the opportunity to work, people must also have the opportunity to take up and progress in work by gaining **new skills and abilities**. Basic skills are more important than ever for entering the labour market. And skills drive productivity by equipping workers with the ability to manage complexity and adapt to change. Technology and consumer demands are driving change in all workplaces. Instead of jobs for life, individuals are increasingly seeking variety in their careers. They need support to develop new skills and adapt existing talents and knowledge to serve new roles. Opportunities must be created for workers at all levels to upskill and reskill.

The goal of the Government's Skills Strategy is to ensure that employers have access to the skills to support the success of their businesses and individuals are equipped to be both employable and personally fulfilled. We are seeking to ensure that the provision of skills meets employers, and individuals' needs.

**Train to Gain** for example is a new national programme to help employers get training for their employees, designed and delivered to meet their operational needs. It is the key mechanism for making publicly-funded training more demand led, rather than driven by the supply decisions of colleges. It will be available across all Learning & Skills Council regions from August 2006.

Alongside Train to Gain, we are also establishing a specialist network led by National Skills Academies, to bring together colleges, private training providers, specialist vocational schools and other relevant providers. They will play a role in improving the quality and delivery of vocational training.

### **The National Manufacturing Skills Academy**

The National Manufacturing Skills Academy is one of four national skills academies under development. The Academy aims to drive up the quality of course content, teaching and assessment across the full range of skills needed for manufacturing in the UK. It will build on existing best practice and provision including Centres for Vocational Excellence. The Academy is scheduled to launch in selected English regions by September 2006.

To establish the Government's long-term ambitions for improving the UK's skills base in order to increase productivity, growth and benefits to society, Lord Leitch was asked in late 2004 to lead an independent review of skills.

The **Leitch Review**<sup>9</sup> published its interim analytical report, *Skills in the UK: The long-term challenge* in December 2005 alongside the Government's Pre Budget Report. The interim report sets out:

- The increasing importance of skills to the economy and society
- Skills in the UK today
- Looking forward to 2020, the UK's likely skill levels compared to a range of comparator nations.

The Leitch Review will publish its conclusions and recommendations to Government in 2006. It will report back:

- The skills profile that the UK should aim to achieve in 2020 in order to drive growth, productivity and support social justice
- The appropriate balance of responsibility between Government, employers and individuals
- The policy framework required to support this.

**Unions** too are important sources of help and advice on skills in the workplace and have a vital role to play in workforce development. Union Learning Representatives (ULRs) are lay union representatives, whose main function is to

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<sup>9</sup> The Leitch Review - Skills in the UK: The long-term challenge, December 2005

advise union members about their training, educational and development needs. They can help to raise productivity and motivation by promoting a positive attitude towards training and supporting and encouraging learning at all levels and all stages of a career.

There are now nearly 12,000 trained ULRs who last year alone helped over 67,000 workers with their training and development needs. They are an expert source of advice from which both employers and workers can benefit. They are particularly effective in reaching workers with basic skills needs; people who may be reluctant to take advantage of training opportunities. Research has shown that they have a significant impact on increasing enthusiasm for learning among both workers and employers.

Most ULRs have been trained as part of Union Learning Fund (ULF) projects. Now in its ninth year, the ULF has supported hundreds of projects from over 50 different unions. The projects have ranged from tackling basic skills needs – a key focus of the Fund – to continuing professional development. Projects have developed networks of ULRs and established learning centres in workplaces and in union premises.

The profile of learners engaged in ULF learning activities suggests that unions have been very successful in reaching out to non-traditional learners including older males, people in minority ethnic groups and shift workers. An estimated four-fifths of ULF learners have qualifications below NVQ level 2 or equivalent.

To build on these successes additional resources we are making available (£1.5 million in 2006-07 and £3 million 2007-08) to help develop a new Union Academy. The new Union Academy will be launched on 2 May. It will aim to substantially expand and improve the level of training and development available for trade union officials and representatives. This will provide a platform for the expansion of ULRs in the workforce and provide access to many more learning opportunities in the workplace, helping as many as 250,000 workers a year by 2010.

These are key issues for the workplace. The latest data shows a trend towards more workplace dialogue about skills and training, though there is little evidence that they are subject to collective bargaining. We will work with stakeholders, including Sector Skills Councils, over the coming year to develop best practice in this area.

## **VULNERABLE WORKERS AND SOCIAL INCLUSION**

Our approach since 1997 has been to ensure that jobs are available by creating climate for business success and job creation. Employment levels are at record highs with over one million businesses and organisations in the UK employing almost 25 million people. Those workers can now expect decent standards of treatment in the workplace, improving their quality of work.

### **Minimum standards introduced since 1997**

- A minimum wage of £5.35 an hour from October 2006
- A minimum wage for 16 to 17 year olds, up to £3.30 from October 2006
- A free choice to work longer, but a right not to work more than 48 hours on average a week
- Rest periods
- Four weeks' paid leave
- Access to a discipline and grievance procedure
- A reduction in the qualifying period for unfair dismissal from two years to one
- Protection for workers raising concerns about wrongdoing at work (through the Public Interest Disclosure Act)
- Comprehensive reform of the Regulations governing employment agencies and businesses

### **Family friendly measures**

- Increased maternity leave
- Paternity leave, adoption leave, parental leave and time-off for domestic emergencies
- A right to request flexible working with an obligation on employers to treat the request seriously
- Increased provision of childcare
- The childcare element of Working Tax Credit

### **Measures to promote fairness in the workplace**

- A right to no discrimination on grounds of religion or belief, disability or sexual orientation
- Equal treatment for part-time and fixed-term employees compared with their full-time or permanent colleagues
- A right for employees to be informed and consulted by their employer.

We need to ensure that everyone, particularly the disadvantaged, have the help and support they need to get into work. The creation of the New Deals and Jobcentre Plus and innovative reforms like Pathways to Work for people on incapacity benefits, are bringing together tailored support to help people back to work, with personal responsibility for people to help themselves. The New Deals alone have helped 1.5 million people into work. We now have more lone parents in work than ever before and for the first time the numbers on incapacity benefits have started to come down after decades of spiralling growth. But we must go further still. That is why our green paper, **A New deal for welfare: Empowering people to work** published earlier this year, sets out the next stage of our welfare reforms to make a reality of employment opportunity for all.

We also need to ensure that people get the support and help they need to progress once in work through improvements in skills and training. That is why we introduced the **Skills for Life** programme to achieve our basic skills goals. Basic skills are fundamental to getting a job, and to social inclusion, quality of life and improving an individual's position at work. Where skills are not acquired through school, employers have an important role to play, working in partnership with Government to help people achieve qualifications in literacy and numeracy.

Our next task is to ensure that having got more people into jobs and put in place an improved framework of workplace rights, we ensure that the most vulnerable workers get those rights and are not mistreated, but instead get the opportunity to progress.

We have defined a vulnerable worker as someone working in an environment where the risk of being denied employment rights is high and who does not have the capacity or means to protect themselves from that abuse. Both factors need to be present. A worker may be susceptible to vulnerability, but that is only significant if an employer exploits that vulnerability.

A variety of factors determine a high-risk workplace. The sector or industry or industry an employee works in can provide an indication. There are good and poor employers in every sector, but surveys of Employment Tribunal applications and data held by workplace regulators, (such as HM Revenue and Customs for the National Minimum Wage), suggest that problems seem to occur more frequently in some sectors such as retail, hotels, restaurants, care homes, textiles, construction, security and cleaning. Other risk indicators include the absence of an HR department or trade union representation, a history of workplace law infringements and poor record-keeping.

The capacity of individuals to protect themselves depends on a range of factors. These include their financial resources, level of wages and awareness of employment rights. Other factors are skills and employability, including fluency in

English, the support networks available to them and the extent of their wider dependence on an employer – for example for accommodation and loans.

Where vulnerability is exploited by an employer this means in practice the individual being denied their basic employment rights. Real life examples include:

- A worker in the transport or care sector unfairly pressurised into working excessive hours
- A worker in a low-pay sector such as cleaning or security being paid below the National Minimum Wage
- A construction worker denied his entitlement to 20 days' paid leave each year
- A migrant worker lacking control over unfair deduction of pay for housing or transport.

#### **Mistreatment in the workplace**

Gita arrived in Leicester from India with her family in 1966. Since the NMW was introduced Gita has had four different employers, none of which have paid her the correct hourly rate. She currently has complaints against two employers, whilst she still works for one of them.

She was advised to contact the Leicester NMW project by her daughter's friend. She has found the project to be very helpful and thinks very highly of the advisor, not least because she can speak Gujarati.

Gita does not want people within her community to find out that she is involved with the NMW project as this could affect the reputation and image of her family. She doesn't talk to other members of her community about her NMW issues, but she would mention the project on a one-to-one basis if someone told her they had a problem with their wages.

“Basically, amongst our own class group, amongst society, amongst our friends' circle, there'll be an impression forming that these people are always fighting the Government so what we want to do is fight for our rights silently”.

This section looks at what more can be done to stop these abuses in this important area through:

- Ensuring workers are aware of their rights
- Targeting enforcement on unscrupulous employers
- Piloting a new approach to help vulnerable workers.

### Ensuring workers are aware of their rights

Since 1997, we have established a number of ways workers can find out about the rights to which they are entitled. We have, for example, recently launched new employee pages on **www.direct.gov.uk** to provide a central, accessible resource for individuals seeking information about their employment rights and responsibilities. The site includes interactive tools, which provide more tailored help for individual circumstances. Direct.gov also provides advice to disabled people through disability pages on the website.

The Acas helpline<sup>10</sup> is another excellent resource for workers and employers alike, receiving nearly one million calls a year, evenly split between both groups. Calls have increased by 20 per cent over the last two years. It provides free, impartial and practical advice on employment issues and on solving problems. The Disability Rights Commission provides helpline<sup>11</sup> advice to disabled employees or job applicants and also a wide range of printed and online guidance.

There are a number of other helplines offering advice on employment-related issues. We believe the time is right to **review the total current provision of Government-funded helplines** for employees. This will include looking at the variety of providers and brands on offer. We will assess how well this provision meets customer needs, especially the needs of the most vulnerable, and develop options and recommendations for improvement. The first phase of the review will be completed by Summer 2006.

We recognise that some sections of the community can find traditional information and advice services inaccessible. We are looking at how we can best deliver information about employment rights to these communities so that it meets their needs. For example, we are currently testing ideas for an interactive service aimed at young people from ethnic minority communities to inform them of their employment rights and help them resolve workplace problems. And the independent Public Legal Education and Support Taskforce<sup>12</sup> is looking into improving public awareness and understanding of everyone's responsibilities and

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<sup>10</sup> Acas national helpline: 08457 47 47 47

<sup>11</sup> DRC helpline: 08457 622 633

<sup>12</sup> www.pleas.org.uk

rights in general and at what can be done to help people develop the skills and confidence needed to deal with disputes and legal problems.

Vulnerable workers also need help and support from people they trust at work. We will work with employers and the workforce to determine how best Government can ensure that, in its contracts for basic services, such as cleaning and security, workers are given **access to basic training and skills, advice and trade unions** should they wish them.

Union representatives provide a well-regarded and trusted source of help and information and it is important that they have a strategy to support the most vulnerable. In many workplaces that are likely to contain mistreated vulnerable workers, there is no union representation. It is increasingly **important that unions extend their reach** into areas at most risk so that they can provide help and support to the most vulnerable.

Unions are already starting this work. The Transport and General Workers' Union recently bid and won funding under the Union Modernisation Fund to set up an innovative pilot to establish a Migrant Workers Support Unit. The pilot project will focus on sectors and locations most affected by the Gangmasters Licensing Act 2004 and offer services such as translation, advice on employment rights and signposting to community support services.

The **New Deal for Skills** is designed to help low-skilled welfare claimants access the training they need to move into work and into more highly-skilled work, helping them to improve their motivation and productivity. Under the New Deal for Skills welfare claimants can, in pilot areas, have access to skills coaching providing intensive, personal guidance on training.

## On site learning – construction workers at Canary Wharf

Building workers at Canary Wharf in London's former Docklands are gaining the skills they need at a learndirect centre run by the Union of Construction and Allied Technical Trades (Ucatt) and supported by the learndirect centre at Lewisham College within the Trade Union Hub. Based in a portakabin at the foot of Canary Wharf Tower, the centre is helping workers from all over the massive 86-acre site get to grips with computers and brush up their health and safety knowledge. It also offers the many migrant workers from Eastern Europe the chance to improve their English - vital in a workplace where clear communication can mean the difference between life and death.

After opening with support from the Government's ULF in September 2002, the project worker and ULRs first tried to stimulate demand by explaining to the employers on the site what learning could offer their workforce, but the offer made little impact. So the project workers and ULRs changed tack and approached the workers direct, organising learndirect taster sessions on laptop computers in the canteens.

Since then, take-up rates have soared. A major factor behind the popularity of the courses has undoubtedly been the new legal requirement on all employees to carry a Construction Skills Certificate Scheme card. The cards, (for trainees, operatives or experienced workers), prove that their holder has both the skills they need for the work they do and up-to-date knowledge of health and safety procedures, assessed by a touch-screen test.

And it was the computer test that was proving difficult for many of the workers on the site. "A lot of guys told us that they knew their job as, say, a plasterer and got miffed when they failed the tests on the computer", explains lead project worker Sean Andrews. "The project is trying to get workers' confidence in IT as high as it is in their own trades."

Many of the firms on the site have been reluctant to acknowledge the learning needs of their employees, according to Sean. "The construction industry at Canary Wharf has all the barriers to learning - a transient workforce; a high level of ethnic minorities with English language needs; lots of support needed for learners; lack of recognition by supervisory staff of the need for their operatives to train; and difficulty in getting paid release to do it", he says.

## Targeted enabling and enforcement action to help low paying sectors

The vast majority of employers give their staff the rights to which they are entitled. A small minority, however, deliberately flout the law. By doing so they drive standards down, effectively putting good employers at a competitive disadvantage or forcing them to cut corners so they do not lose out. Vulnerable workers find themselves sucked into this downward spiral, often feeling they have little choice but to accept the terms on offer. We will target our efforts at those employers who risk breaking the law and consider where we need to step up our education and enforcement efforts.

We have begun to take such steps. **Targeted enforcement of the national minimum wage is being trialled this year in the hairdressing sector**; a sector known to be low paying with disproportionate non-compliance with the minimum wage. The first step was to raise awareness. Publicity and detailed guidance material have been sent to all hairdressing training providers and hairdressing employers, with a shorter guide sent to all hairdressing apprentices<sup>13</sup>. This should encourage employers to comply and workers to come forward and complain if they think they are being underpaid. Awareness-raising is then being followed by an enforcement drive, encouraging workers paid below the minimum wage to come forward, and with Her Majesty's Revenue and Customs (HMRC) minimum wage compliance officers visiting employers where they suspect there may be non-compliance.

Under this approach HMRC plan to pursue around 500 minimum wage hairdressing cases compared with an average of around 200 in previous years. Since the pilot commenced in July 2005, 234 cases have been completed with 53 per cent of employers found not to be complying with the minimum wage. HMRC has identified arrears of almost £250,000 in respect of 258 workers, almost entirely women.

We intend to extend this approach to further low-paying sectors, first discussing concerns with stakeholders and then running a campaign of proactive enforcement. To support this work, from April this year, repeat offenders will be subject to criminal prosecution, moving beyond the current civil powers for enforcement.

Through our migrant worker strategy we have ensured that overseas workers have legitimate opportunities to work in the UK where they can participate in and contribute to our economy with benefits for all. But there are some employers, a small minority, who flout these rules with unacceptable consequences.

Progress by the most vulnerable, many of whom could be migrant workers themselves, is undermined by the use of illegal migrant labour. Employers who look to employ illegal migrant workers do so because they want to avoid

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<sup>13</sup> Apprentices aged 19 and over with one year's service are entitled to the minimum wage

providing minimum standards, such as the National Minimum Wage and paid holidays. And they use the threat of employing illegal migrant workers to intimidate their regular workforce into complying with substandard and often dangerous conditions.

We have a responsibility to ensure that the vulnerable are not put at risk in this way and we have a duty to enforce the law against those who break it. Within Government we are taking steps to ensure that we can better target employers who use illegal migrant labour. This includes the Home Office-led **West Midlands Joint Workplace Enforcement Pilot**.

Building on the findings from the pilot, and alongside our wider compliance and enforcement work, we will:

- Examine practical measures to make existing information-sharing powers work more effectively
- Consider further co-ordinated joint action in 'hot spot' sectors or areas with a high incidence of illegal migrant working including initial campaigns to promote compliance
- Consider whether new powers are needed for enforcement agencies to gather and share information.

Action has already been taken to protect misused workers in one specific area. The Gangmasters Licensing Act came into force in 2004 to address particular issues relating to the mistreatment of workers in the agricultural and related food processing and packaging industries, helping to put an end to the abuse of workers and the actions of illegal operators which have been a particular problem in this sector. Building on the Act, the Department of Environment, Food and Rural Affairs (Defra) recently introduced regulations that will bring the Gangmaster Licensing regime into full operation, starting the process of eradicating the illegal activities of these gangmasters. Defra, in conjunction with the Better Regulation Executive and DTI will conduct a post-implementation review a year after the introduction of licensing to ensure that the principles of better regulation are followed.

### **Piloting a new approach to helping vulnerable workers**

Alongside our efforts to improve workers' and business' awareness of their rights and responsibilities, and our efforts to target enforcement at employers who deliberately flout the law, we propose to pilot new **partnership approaches** to help vulnerable workers.

The pilots will bring together the agencies best placed to reach and help the vulnerable, tackling workplace problems in a concerted effort to improve the position of vulnerable workers in specific areas of the labour market. We will invite employers, trade unions, regulators, voluntary and community agencies,

local authorities and Acas regional offices to work together to offer a joined-up package of support that will reach out to vulnerable people. **We will set up a practitioner panel** to help drive forward and implement the pilots. The panel will provide experience and expertise to each pilot in crucial areas including effective multi-agency working, reaching vulnerable workers, confidence building, influencing employers and achieving successful outcomes.

#### **Pilot action to support vulnerable workers**

Working in local partnerships, the pilots will provide opportunities to explore the best ways to:

- **Reach vulnerable workers**, such as low-skilled workers in migrant communities, using existing community networks
- Raise awareness of employment rights and how to benefit from them
- Build workers' confidence in taking action and providing support
- Introduce workers to opportunities for developing new skills
- Understand better when agencies can best step in to remedy problems
- **Work with employers** to raise levels of awareness of and compliance with the law
- Introduce businesses to Acas, BusinessLink.gov.uk and other sources of advice and good practice
- Work closely with businesses in the pilot sectors to overcome specific compliance difficulties
- **Enforce** the law where necessary using the collective resources of the pilot partners

The pilots will also allow the participants to identify gaps in the enforcement framework and suggest possible solutions, and look at the scope for introducing a 'Supercomplaint' type of procedure.

Where partnership pilots come across systematic abuse of workers by employers who flout the law we will ensure that the pilot partners have direct access to and support from the relevant enforcement agencies. The pilots would allow enforcement agencies themselves to test out innovative joined-up approaches to acting upon cases referred by the pilot partners. Nonetheless, all enforcement

action will be risk-based meaning that businesses which comply with the law will not face additional burdens.

Where difficult cases cannot be resolved through joined-up action in this way, we will assess whether there are gaps in our enforcement capability which need to be addressed. We will work with Professor Macrory's Penalties Review and consider whether there are appropriate enforcement measures which would plug the gaps such as administrative penalties or 'Stop Now' orders. We are currently assessing the areas or sectors where these pilots could operate. We hope to begin later this year.

### **The Leicester (formerly Highfields) Minimum Wage Project**

This project began as a partnership project funded by the DTI through HMRC, involving Leicester City Council, who manage the project, and the Community trade union. The project, the trade union Community and the local National Minimum Wage Enforcement and Compliance team undertook a leafleting campaign in the community to raise awareness of the minimum wage increase in October. As a result of the leafleting campaign, problems with the pay structure of a very large employer were revealed.

The pay structure included payment of an attendance bonus, which took workers' hourly rate of pay to the minimum wage when there was full attendance, but which dropped to below the minimum wage where workers were absent for any reason. Community continued the campaign by leafleting near the workplace, recruited members and represented them in negotiations whereby the attendance bonus was dropped and the hourly rate of pay was increased to at least the minimum wage, and other health & safety issues were addressed. More than 300 workers benefited, and over £40,000 was paid in minimum wage arrears.

### **Work-related violence**

We are committed to reducing work-related violence. The 2004/05 British Crime Survey shows there were around 650,000 incidents of assaults or threats at work. There has been a downward trend in work-related violence from a peak of over 1.3 million incidents in 1995. A range of projects has contributed to this progress, including the Health and Safety Executive awareness-raising programmes and targeted enforcement work with primary healthcare trusts.

At a local level, Crime and Disorder Reduction Partnerships, involving local authorities, employers, emergency services and unions are helping tackle violent crime including work-related violence. Key initiatives include holistic action to curb alcohol-related violence in the night-time economies of cities such as Cardiff and Manchester, helping improve the safety of frontline transport and health

workers. Partnership working is helping improve our response to violence against frontline staff and informing the development of best practice.

## FACILITATING CHANGE

Over the last eight years British business and its employees have experienced profound change, from the internet revolution, to the rapid economic growth of China and India. We have adapted well so far.

- Britain's economy has been growing faster and for longer than any of the G7 with the longest period of economic growth since records began
- Employment is close to record levels and redundancies remain at a historic low
- We now have 300,000 more businesses than in 1997. And 1,000 new companies are starting up every day
- We have a strong science base: with one per cent of the world's population we fund nearly 5 per cent of the world's science, have eight of the world's top 50 universities, produce 11 per cent of the world's scientific papers and get 12 per cent of scientific citations
- We have developed the second largest pharmaceutical industry in the world and the second largest bio-science industry
- Our creative industries have grown and produce a higher proportion of our GDP than anywhere else in the world
- The UK attracted £122 billion in foreign direct investment last year, the highest figure ever for a European country and twice the level invested in the US<sup>14</sup>.

The challenges we face in the future will be just as big. Globalisation brings with it far-reaching changes in technology, production and trading patterns. This economic change plays a significant part in increasing our affluence, can encourage innovation and the pursuit of new techniques for raising quality and increasing productivity. New markets are increasing trade but also increasing competition.

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<sup>14</sup> Preliminary figures from the United Nations Conference on Trade and Development

To retain our place as world leader we need to continue to adapt by increasing the value we add to what we produce. This section sets out how we can open up opportunity for business and ensure fairness for individuals in a world of business change:

- Promoting enterprise and innovation
- Providing a stable and clear regulatory framework
- Helping good businesses to comply with their obligations
- Managing change.

### Promoting enterprise and innovation

In an increasingly open, competitive, global economy, a vibrant and thriving environment for entrepreneurial activity is critical in ensuring that the UK can respond flexibly to new challenges. Total early stage entrepreneurial activity in the UK is the third highest rate of the G7 economies behind the US and Canada. **Productivity in the UK 6: Progress and new evidence**<sup>15</sup> sets out the latest evidence on the contribution of enterprise to productivity growth. The Government is committed to improving the UK business environment and tackling barriers to business growth to allow the UK to enhance its competitive position in the global economy.

Enterprise and innovation have a pivotal role in advancing the UK's long-term competitiveness in an increasingly knowledge-driven global economy. The nations that can thrive in highly competitive global markets will be those that can compete on high technology and intellectual strength. The UK has a long-standing strength in its science base, which is one of the most productive in the world. Our ability to invent, design and manufacture the goods and services that people want is vital to our continued prosperity. Our best companies also demonstrate how good management practices aid innovation.

Eighty per cent of research and development in the UK is done through manufacturers so we must do more to encourage **modern manufacturing strength** through investment in technologies of the future. We are providing help through the Manufacturing Strategy to enable more and more companies to move to high value production to meet the challenge of globalisation. The Manufacturing Forum, set up to monitor implementation of the Manufacturing Strategy, is focusing on three initial priority areas: skills, the image of manufacturing and public procurement. On the last, the Forum has initiated a project to examine the potential benefits of social clauses in public procurement contracts to improve the performance of UK manufacturing.

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<sup>15</sup> Published alongside the Budget

In the Budget, the Government published **Science and Innovation Investment Framework 2004-14: Next Steps**. This builds on the ten-year framework to ensure that the UK has the right 'ecosystem' for science and innovation. The paper presents next steps on five key policy areas: maximising the impact of public investment in science on the economy through increasing innovation; increasing Research Councils' effectiveness; supporting excellence in University research; supporting world-class health research; and increasing the supply of science, technology, engineering and mathematics (STEM) skills.

In an increasingly knowledge-driven global economy, the effective transfer of technologies from laboratories to industry and a steady supply of the right skills at all levels are crucial. We need the ideas generated through our science base to be developed into the products and services of tomorrow. Both at home and in Europe we are striving to strengthen the links between universities, research institutions and business. Boosting regional centres of world-class scientific excellence and creating closer regional links between industry and the public research base are key to our long-term ambitions for science and innovation. To support enterprise and innovation we are working at different stages from skill-generation to business support.

### **Developing entrepreneurship in students**

New focus on enterprise education backed by £60 million a year from DfES

One thousand enterprise advisors now work in schools in the most deprived areas

£110 million per year invested through the Higher Education Innovation Fund by 2007/8, to promote knowledge transfer and increased business interaction between Higher Education Institutions and business

Investing £1.8 billion over 5 years from 2002 through the Science Research Investment Fund to refurbish the UK university science estate, providing new science equipment and laboratories and communications networks

Funding enterprise programmes to link universities with local businesses

Working across Europe to implement the European Entrepreneurship Action Plan

### **Support for R&D and business enterprise**

£3 billion annual investment into the research base, including over £100 million into university links with business

£320 million invested in our technology strategy

R&D tax credits for small and large companies worth £600 million a year, with 2.5 per cent of annual R&D spend being allocated to small high-tech companies

There are now 270 business incubators, ten times as many as in 1997, giving new high-tech businesses the support they need in the early days

The small firms loan guarantee is helping a record number of businesses to access capital

Investing £260 million every week to improve our transport infrastructure

UK Trade and Investment helps over 4,000 companies a year into markets new to them; and over 1,500 companies to take their first steps in international business.

## Providing a stable and clear regulatory framework

Enterprise is essential to a dynamic, modern and growing economy, helping to boost productivity, create employment and prosperity and revitalise communities. Effective and focused regulation can play a vital role in correcting market failures, promoting fairness and increasing competition. However, we recognise that inefficient regulation can impose a significant cost on business without improving regulatory outcomes.

We have pursued a programme of reform to deliver better regulation, announcing extensive reforms in the Budget 2005 to the way in which regulations are made and enforced. Maintaining regulatory standards while lowering regulatory burdens means more successful businesses and more content employees. DTI is a leader on this agenda. It is:

- A member of the Prime Minister's Panel for Regulatory Accountability, which is able to reject proposed regulations unless the scope for off-setting simplifications has been addressed
- Preparing a Simplification Plan of measures to show how it will deliver a 25 per cent reduction in the DTI's administrative burden. It has already published a draft of the Plan and set out how it will deliver £1 billion in savings over five years
- Engaging with the Davidson Review of the implementation of EU legislation to identify examples of over-implementation, failure to remove existing laws when new EU rules come in or over-enforcement beyond the stated rules by UK enforcers and agencies
- Using a newly established Advisory Forum involving the social partners to provide expert independent advice and scrutiny on the evidence base for employment relations policy
- Committed to a high quality Regulatory Impact Assessment process and it believes that all major proposals should include details of offsetting simplification measures
- Publishing an annual plan to identify what steps will be taken to monitor and evaluate employment regulations post-implementation
- Developing an index of Labour Market Adaptability to monitor progress in maintaining and improving a flexible labour market in the UK.

In some areas, employers and employees have said that employment law is complex and hard to understand. By simplifying the law and improving the advice and guidance available to employers, they will find it easier to comply. It is our intention to:

- **Review the scope to reduce the numbers of cases going to Employment Tribunal**, seeking to resolve more disputes in the workplace thus keeping more workers in their jobs. This will include a full review of the Dispute Resolution Regulations with a view to publishing a formal consultation document in the Autumn
- **Simplify where possible the law on employment particulars** – the statement all new employees have to be given – and make it easier for employers to comply when there is a change to employment regulations which might mean revised employment particulars have to be provided
- Consult on **replacing the right to time off for certain public duties with a right to have requests for such time off seriously considered**. This will build on the success of the right to request for parents of young children now being extended to carers.

**A new project** will be undertaken with the Small Business Service and other organisations by April 2007 **to increase UK employers' confidence in employing people**, helping them to grow. We will consult employers, trades unions, lawyers and HR experts, to review requirements that are difficult to understand or cause confusion; and rationalise regulation, improve guidance, publicise existing free advice and reduce administrative burdens.

We remain **open to other suggestions from businesses, employees and their representatives** about what else we might do to simplify the employment law framework without reducing individuals' rights, to minimise administrative burdens or rationalise the law<sup>16</sup>.

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<sup>16</sup> The Cabinet Office's better regulation portal [www.betterregulation.gov.uk](http://www.betterregulation.gov.uk) is one such avenue for businesses, employees and their representatives to offer suggestions.

## Employment Law Simplification Review

The aim of this work is to make progress on the areas of employment law set out below and to identify any other areas, which are difficult to understand or administer, or cause confusion. We want to help both employees and employers get on with the business of doing business. To inform our thinking, we will look at ways in which other countries deliver clarity for employees and employers, and how they deliver information and advice. We will also rationalise guidance, publicise sources of advice and reduce administrative burdens. We will do this without in any way diluting employee and trade union rights and protection. The bulk of the costs of employment law are the costs of providing the necessary minimum protection to workers and trade unions. We make no apologies for these. We are committed to making sure that the law has the effect we intended while ensuring compliance with it is as clear and easy as possible.

With the aid of stakeholders we have already identified a substantial number of **specific areas of employment law** to review. In addition over the coming year we will, with stakeholders and a panel of practitioners, seek to **identify and bring forward proposals** on any other areas of employment law where simplification and clarification can be achieved. Our ultimate goal is to reduce the compliance costs and complexity for business while continuing to deliver excellent regulatory outcomes.

### Already identified areas for review

We will:

- Review the scope to reduce the number of cases going to Employment Tribunal including the full review of the Dispute Resolution Regulations (page 39)
- Develop proposals for a new employment standard that would help firms understand and meet their minimum employment law responsibilities including looking at its value as a way of disputes going to tribunal (page 43)
- Simplify the guidance on maternity leave and pay. Once the measures in the Work and Families Bill have been introduced, we will consider the case for further simplification of the way in which employers administer Statutory Maternity Pay (page 15)
- Simplify the law on employment particulars and make it easier for employers to comply when the law changes (page 39)

- Simplify the statutory redundancy scheme and its guidance (page 44)
- Consult on replacing the current right to time off for public duties with a right to have such requests seriously considered (page 39)

Separately we are also reviewing all areas of **discrimination law**, both in the workplace and wider, to increase its clarity and effectiveness, improve guidance and make it easier for employers to understand and comply with discrimination law (page 12).

### Helping good businesses to comply with their obligations

Most businesses want to comply with the law and treat their workers fairly. Good employment relations deliver real business benefits. Workplaces with good employment relations suffer less from absenteeism and disputes, have lower staff turnover, so leading to higher productivity. And good workplace practices contribute to the health and wellbeing of workers.

We will continue to develop and improve the information and tools available to help employers to understand and fulfil their responsibilities, and to encourage them to adopt best practice where possible.

The award winning website [www.businesslink.gov.uk](http://www.businesslink.gov.uk) provides comprehensive advice for employers, including a section on 'Employing People' which is consistently among the top three most popular areas of the website attracting about 140,000 unique visitors every month. It includes **practical guides and tools**, for example to help employers create a written statement of employment tailored for individual employees, to help them to follow the correct disciplinary procedures and to identify the most appropriate flexible working schemes for their business. The site also allows users to sign up for e.mail alerts.

The screenshot shows the Business Link website interface. At the top left is the Business Link logo. To its right are links for 'Local Business Link | Site map | Help' and a search bar with a 'Go' button. The main header is 'Practical advice for business' with sub-navigation tabs: 'Register/login', 'What's new?', 'Do it online', and 'What applies to me?'. Below the header is a breadcrumb trail: 'Home > Employing people > Paperwork > Create a written statement of employment'. A left-hand navigation menu lists various business topics, with 'Employing people' and 'Create a written statement of employment' highlighted. The main content area is titled 'Create a written statement of employment' and contains text explaining the tool's purpose, a link to 'What's the difference between a contract and a written statement of employment?', and a 'Next' button. At the bottom of the page are links for 'Feedback | Copyright | Terms & conditions | Privacy policy | Accessibility | Help with PDF files'.

Easy to follow information and guidance, about the key regulations which apply when a business starts employing people, and clear signposting to sources of further help are also included in the popular **No-Nonsense Guide to Government rules and regulations for setting up your business**. Available as a hard copy as well as online from businesslink.gov, more than 350,000 copies have now been made available.

Through its free and confidential helpline, **Acas** provides readily accessible advice on the full range of employment relations issues. Acas also provides wide-ranging practical guidance, including online learning packages on discipline and grievance and redundancy handling, and codes of practice, available from the Acas website ([www.acas.org.uk](http://www.acas.org.uk)). It provides advisory and training services and seminars for business on handling workplace issues through mediation and use of best practice. It is now planning to pilot a dedicated **subscription service for small and medium sized enterprises (SMEs)** that might include tailored information for SMEs provided by a dedicated helpline, e.mail updates on relevant employment relations developments and incentives to take advantage of its advisory and training services.

In addition, the **Health and Safety Commission** has set out its strategy<sup>17</sup> to promote health and safety and take action commensurate with risk. They have launched a new advisory service for small businesses in England and Wales, Workplace Health Connect. This is for employers and workers who want their workplaces to be healthy, pleasant places to work, but need advice on putting this into practice.

We are currently developing proposals for a new **employment standard** that would help firms to understand and meet their employment law responsibilities. The proposals will be for a standard aimed at those SMEs who do not have professional HR departments, but it could be a useful tool for any employers who are unsure of what they need to do. We will develop ideas in consultation with experts and will take account of existing standards, guidance and tools to ensure that any standard meets a genuine employer need, including looking at its value as a way of avoiding disputes going to tribunal.

### Managing Change

In some sectors businesses are already struggling to find people with the skills they need. Alongside our efforts to increase participation, we must look outwards at the potential offered by migrant workers. Building on the **Highly Skilled Migrants Programme**, which has been successful in attracting significant numbers of much needed entrants into the UK economy, a proposed new points based system would replace the existing routes to migration. We would allocate and weight points according to evidence as to which factors are most closely related to economic success.

The flexibility presented by the arrival of skilled migrants to meet business needs is of great benefit to Britain, helping to make it a more dynamic and vibrant economy, boosting levels of innovation and encouraging business start-ups. Migrant workers also contribute to meeting the UK's demographic challenge. We are working to ensure that any new immigration systems continue to be sufficiently flexible in enabling migrant workers to take up jobs where there are shortages.

Firms need to innovate and adapt so that they survive in the competitive global economy. Business needs the freedom to invest in new technology and processes, anticipate trends and innovation and, where necessary, restructure their workforce. At the heart of the UK's success so far is the creation of a flexible labour market that allows companies and individuals to adjust their employment quickly and flexibly, while ensuring workers are fairly treated through decent minimum standards. We have avoided regulations that protect those with jobs at the expense of those who seek jobs. It is no good avoiding redundancies in the short-term, only to see a company collapse and its entire workforce lose

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<sup>17</sup> A Strategy for Workplace Health and Safety in Great Britain to 2010 and beyond

their jobs in the long-term, or for employers who are taking advantage of new opportunities to be constrained in their ability to recruit new workers.

Some claim that it is easier, quicker and cheaper to make workers redundant in the UK than in most other EU Member States. This is said to encourage firms with employees across Member States to make their British workers redundant, even where the business case might be stronger for taking action in other countries. If this were true, the UK would expect to have high levels of unemployment and poor job retention in comparison with its EU counterparts. The figures do not support this. At around 75 per cent, the UK's employment rate puts it in the top three countries in the EU and well above the EU 15 average. Unemployment is below the EU average and redundancies are at low levels.

We have set in place a framework to clarify the rights of an employee when a transfer takes place and a new employer becomes responsible for contracts of employment. This will remove uncertainty and give extra flexibility for a transfer to take place where the old employer is insolvent: this should therefore help preserve jobs and strengthen the chances of companies and their employees being rescued.

Importantly, these revised TUPE Regulations<sup>18</sup>, to come into force in April, also extend protections to employees whose employer performs such labour intensive services as cleaning or catering for clients on a long-term basis. Often these are vulnerable groups of employees and the revisions will maintain their continuity of employment when a client changes service-provider. The new legal framework will therefore provide extra protection for these employees.

When redundancies do occur, we have ensured that there is a framework of support for those affected. The Statutory Redundancy Payments Scheme allows businesses to make necessary structural changes to their organisations, while helping those affected by the loss of their employment.

Over the course of this Parliament, the **weekly limit on statutory redundancy payments will be increased**. The current limit is £290. This is less in real terms than it was when Statutory Redundancy Pay was introduced in 1965. We are taking powers to make a one-off increase in the limit and will examine how this might be done as part of the Comprehensive Spending Review.

It is important that businesses and individuals can understand their responsibilities and entitlements if redundancies occur. Business groups and unions have expressed concerns that elements of the statutory redundancy scheme are confusing. We will consider how we can **simplify the scheme** in ways which do not reduce overall worker entitlements or increase business costs and look to produce sharpened guidance which focuses on the majority of cases facing business and workers. It is important that businesses and individuals can

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<sup>18</sup> The Transfer of Undertakings (Protection of Employment) Regulations 2006

understand their responsibilities and entitlements if redundancies occur. Employee groups have expressed concern that a few unscrupulous employers seek to deny workers their entitlements, for example, by the **premature removal of plant**. As part of the review we will continue work with stakeholders to identify possible solutions to such practices that do not place additional burdens on law-abiding businesses. Work on the review will begin shortly.

## GOOD WORKPLACES

Good, productive workplaces are found across all sectors, in manufacturing and services and in businesses both small and large. There are benefits for all: the economy, businesses and individuals – both at work and as consumers. Increased individual satisfaction, better work-life balance, higher levels of service and greater international competitiveness can all be achieved in the best workplaces. There is a growing body of evidence on the make up of high performing workplaces and the positive impact on performance that they provide. The names and descriptions may vary, the stimulus for improvement frequently varies – anything from a crisis to a desire to be ‘best in class’ – but the results are consistent.

There is no magic ingredient that goes to make a successful workplace. But it is clear that companies where people feel valued and involved, are offered opportunities to learn and develop, and where leaders impart a vision and passion for the business are well placed to prosper in global markets. This is vividly demonstrated by the stock market performance of companies in the **Sunday Times 100 Best Companies to Work For**, with investment returns more than 10 per cent higher between 2000 and 2005 than those for the FTSE 100 as a whole<sup>19</sup>. Many in the public and private sectors recognise this and are implementing such policies with enthusiasm.

We are also determined to bring about a real and sustained improvement in the health and wellbeing of the working age population. We want to prevent ill health and address its root causes. Work related ill health costs £10 billion per year, up to 10 per cent of a company’s turnover and causes huge suffering for individuals. In October in a groundbreaking partnership, the Department of Health, the Department for Work and Pensions and the Health and Safety Executive came together to address these issues. This Spring a major summit will be held to address how we can **work in partnership to tackle workplace health**, with employers, unions and health professionals signing a new Charter of Action. Since 97 per cent of companies have no access to comprehensive advice on workplace health issues, we have just launched for smaller companies a new free practical advice service, Workplace Health Connect, which already covers 40 per cent of the country. We intend to accelerate rollout to reach two-thirds by

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<sup>19</sup> Source - Russell Investment Group

next Spring. We are also determined that the public sector should be an exemplar in the way it treats its workforce.

### Improving performance – the evidence

Recent research by the Work Foundation<sup>20</sup> has shown how a range of strategic management issues relates to business performance. It found that a clear and aligned people strategy had a significant **positive impact on innovation, recruitment** of skilled employees, employee **commitment** and **sales** growth. The correlation with superior performance was particularly marked when coupled with a consistent and complementary innovation strategy. These findings accord with the views of CBI members – in a recent survey<sup>21</sup> the greatest proportion, 41 per cent, cited people management as the most important factor in gaining a competitive advantage, with R&D second.

The Work Foundation research identified several specific examples of what high-performing businesses tended to do and what low-performing businesses did not. Common factors of high performers included:

- Broad systems of employee reward
- Encouragement of innovation, networking and flexibility
- Positive understanding and shared sense of purpose amongst stakeholders.
- Strong external focus and employee awareness of their role in fulfilling customers' needs

Low performers, on the other hand, had employees with little concept of how their work fitted with that of the business as a whole and who were not rewarded for individual performance. Relationships with stakeholders were purely transactional and HR and staff development were very low priorities. Poor performance in these areas has a real impact on productivity: if just 10 per cent of the lowest performing firms raised their performance to the levels of the top third, Britain's productivity growth rate would increase by 0.25 per cent per annum.

Innovative businesses and employers are at the cutting-edge, and cannot be created by regulation. Fundamentally, it is the talent, vision and creativity of British leaders, managers and workers that is key to realising good workplaces and higher productivity.

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<sup>20</sup> People, Strategy and Performance: Results from the Second Work and Enterprise Business Survey

<sup>21</sup> Employment Trends Survey 2005 – People Driving Performance

## WHM Engineering

WHM provides design, fabrication and installation of high quality feature staircases, spiral stairways and associated metalworks. The company has won awards for Most Promising Business (Renfrewshire Chamber ROCCO Awards 2002) and the Rolls Royce award for excellence in manufacturing in 2004. The business is set to achieve £2 million turnover this year and is now seeking to purpose-build new premises to accommodate its growth. It has a culture of openness and flexibility.

- Workers have freedom to choose their own hours of attendance provided they get the job done efficiently with no diminution in quality
- The company supports all types of training requested by employees in the belief that learning is intrinsically beneficial both to the individuals and to the contributions they make when at work
- Senior management make it a policy to share as much information as possible with the workforce in regard to costs, gross and net profit, order books, customer feedback, competition, marketplace etc.

Now the company has reached a stage where all employees recognise the contribution they each can make to the success and sustainability of the business. The workforce collaborates effectively with management in securing performance targets and enjoys the benefits that accrue. For example, having recently achieved a targeted 3 per cent improvement in gross profit (GP) the workforce now finishes the working week at lunchtime on a Friday. The workforce completely understands that efficiency and GP increases mean less work for the same net outcome.

The Chartered Institute of Personnel and Development (CIPD) in its analysis of the components of high performance working<sup>22</sup> found similar issues of vision, leadership, decentralised decision-making, development of people capacities and supportive systems and culture. Professional people managers – led by the CIPD – argue from research evidence that people management holds the key to higher productivity.

A survey by Industrial Relations Services<sup>23</sup> found that some six in ten of 43 organisations that had adopted partnership arrangements identified bottom line benefits that they attributed specifically to their employee relations policies. Over half identified the benefits in financial terms; others said that they believed that

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<sup>22</sup> [www.cipd.co.uk/subjects/corpstrtg/general/highperfwk.htm](http://www.cipd.co.uk/subjects/corpstrtg/general/highperfwk.htm), July 2001, revised April 2005.

<sup>23</sup> Industrial Relations Services, "Partnership at Work: a survey", IRS Employment Trends 645, 1997.

there were such benefits but that they could not yet be quantified. Similar results have been seen in the US.

As we have shown, there is growing evidence of the benefits of good workplaces. The best employers will continue to innovate and embrace change. Looking forward, it seems likely that more businesses will:

- Make the most of internal talent by empowering staff and devolving responsibility
- Go beyond regulatory requirements to promote intelligent flexibility, to the benefit of employees, consumers and companies
- Develop new management methods focussed on learning, improvement and value-added rather than crude output measures<sup>24</sup>.

These trends would tend to drive the benefits of good workplaces further and faster, helping Britain meet the global challenge

The role of business is key. Government's role is more limited, but nevertheless important. We have put in place decent minimum standards, facilitated partnership working and supported the investment in skills and R&D which help underpin productivity gains. We have helped people control their work-life balance through family friendly and flexible working policies. These policies are all supportive of good workplaces.

Acas is providing a practical contribution to the development of effective workplaces through its Model Workplace launched in October 2005. It draws fully on its range of experience of what works and what does not. The Model focuses on good people management practices and provides guidance on a range of factors which can help make businesses more successful. These include having the right systems in place, developing effective workplace relationships and improving employee involvement. The Model can also be used as a yardstick against which organisations can measure the effectiveness of their employment relationships and identify areas for improvement.

## Trade Unions

Trade Unions are a key resource offering help and support to individuals in workplaces across the country. We continue to **value strongly modern, growing trade unions** as an important part of our society and our economy. Unions provide a voice for people at work and contribute to the success of companies and public services.

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<sup>24</sup> Working in the 21<sup>st</sup> Century

We have **already done much to assist unions** in their role in the workplace and society:

- Restored trade union rights to GCHQ within 13 days of coming to power
- A right to trade union recognition for collective bargaining in specified circumstances
- A right for a union official to accompany a worker to a disciplinary or grievance hearing
- Enhanced protections against unfair dismissal for employees taking part in lawfully organised industrial action, including the 12 week period of automatic protection against dismissal
- Greater freedom for unions to tackle racist infiltration
- Improved rights to belong to trade unions, including rights to use the services of the union
- Statutory rights to time off with pay for Union Learning Representatives

In a world that is changing so rapidly, the Union movement, founded in response to change, will need to continue to develop to face the challenges posed by globalisation and help people to adapt and prosper. It is a welcome development that for the first time the majority of union members are women and it is important that the union movement adapts to reflect the issues and concerns of that changing membership – from skills and training to work-life balance.

Unions also need to **extend their reach into new sectors** and industries and, most importantly, to the most vulnerable employees so that they can work with business and government to ensure rights are properly enforced and mistreatment is tackled.

Unions, like many small businesses, have a limited capacity to invest for the longer term, to adapt to the challenge of a fast changing work environment and to take the financial risks associated with workplace innovation. To assist we have established the Union Modernisation Fund and recently announced the first 33 projects with support of around £3 million. **A second round will take place in 2006.**

Most union work is undertaken by the estimated 230,000 lay representatives operating at workplace level. Alongside the traditional roles of shop steward, branch secretary or health and safety representative, new roles are rapidly developing. There are now over 12,000 ULRs and a growing number of equality representatives. Non-union representatives are less common, but they too represent a significant resource in the workplace. Many are active in the

consultative arrangements characteristic of modern, participative management styles.

Together, these workplace representatives constitute an important resource at the disposal of workers. They are also a rich fund of energy, experience and knowledge, which can be tapped by employers to improve workplace performance.

We have undertaken some initial consultations with stakeholders on the role of representatives and the challenges they can face in the modern workplace. It is clear from these consultations that it is in the interests of all, that representatives are able to carry out their role efficiently and effectively. We will therefore **carry out a review**, reporting within a year, to examine ways in which their role should be adapted to the modern workplace and their contribution maximised. It will also seek to simplify the current law and improve guidance.

### **Employee involvement and partnership**

Building on this foundation, there are two areas where we are taking further measures to support good workplaces:

- Promoting employee involvement and consultation in the workplace
- Facilitating partnership working where there are clear benefits

Effective dialogue between managers and staff is of paramount importance. The single most important factor in a company featuring highly in The 100 Best Companies To Work For<sup>25</sup> is whether employees feel they are listened to. It is a key component of job satisfaction. The most successful companies ensure that their staff understand the business so that the rationale for change is understood and accepted.

Genuine consultation means employers providing real opportunities for employees to express their views. To help employers build on their current practices, and highlight the long-term advantages of transforming work cultures, we have launched a **campaign to raise awareness of the positive effects associated with an open approach to communication and consultation in the workplace**. The campaign offers participating employers a range of practical tools to help them re-assess their current practices toward information sharing and two-way communication. We know that most employers regularly share information with their employees and use other methods to engage their workforce. Our aim is to encourage employers to build on this and create an

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<sup>25</sup> Sunday Times 100 Best Companies to Work For, March 2005

pen culture where employees are actively encouraged to make an input into the running and safety<sup>26</sup> of their workplaces.

The current campaign is directed at organisations with 150 or more employees, that is, businesses currently covered by the Information and Consultation of Employees Regulations. We will use the experience gained from this campaign to inform future work to raise the profile of employee involvement amongst organisations with 100 or more employees from April 2007 and 50 or more from April 2008.

Partnership is not just important within an individual workplace. Innovative ideas or ways of tackling common issues can be tried out between companies or across sectors. We will continue to promote the benefits of partnership.

### Learning and skills takes centre stage in new BPIF–Amicus national partnership agreement

In a major exercise starting in November 2003, the employers' organisation for the UK printing industry (BPIF) and the trade union representing print workers (Amicus) embarked on a root-and-branch review of their existing national agreement and bargaining framework.

In an industry facing significant skills shortages and gaps, the issue of learning and skills was high on the agenda for both parties. The BPIF was concerned that the competitiveness of the industry was being held back for want of sufficient people with the right skills, whilst the union was in turn worried about the employment prospects of their members against a background of under-investment in employee training. A new clause was therefore inserted in the national agreement committing member companies to allocate a minimum of 0.5 per cent of their payroll cost to training and development activities.

Both parties are now fully committed to making the new clause work. The wording agreed also provides for company training plans to be developed, in consultation with the union and its members, and commits the union's members to giving full support and cooperation to training activities - both their own skills development and the training of other employees.

### Sector forums

We are **open to innovative and imaginative plans** to raise productivity through forums covering industry sectors. Such forums could, for example, make proposals in the area of **skills, health & safety or in developing practical local**

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<sup>26</sup> HSE is publishing in early April a consultation document on how to improve worker involvement in health and safety

**enforcement networks.** They could also identify areas where legislation is causing specific problems within a sector. To be successful, all parties would need to find such an approach of benefit without cutting across the roles and responsibilities of other sectoral organisations. We welcome views on how these forums and those involved could draw on the expertise of appropriate external bodies.

## **NEXT STEPS**

We will progress the work identified in this document in close consultation with stakeholders, expert groups and colleagues across government to the timescales we have identified in this paper.



