Measuring the scale and nature of labour market non-compliance affecting people in precarious work in the UK: Executive summary of first project report

For the Director of Labour Market Enforcement (DLME)

Krisztián Pósch, Ella Cockbain, Jack Beadsworth, Sam Scott, Virginia Mantouvalou and Ben Bradford

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Executive summary

Introduction:

Informed by substantial scoping research and statistical analysis of available data, the Director of Labour Market Enforcement (DLME) commissioned this fully-integrated mixed-methods project to establish the scale and nature of labour market non-compliance affecting precarious workers in the UK. Its cornerstone is a new, large-scale and representative survey of precarious workers, that will inform targeted in-depth interviews and participatory action-oriented focus groups with workers. In this first report, we introduce the overall project, its context, and detail the process, findings and outcomes of the four crucial preparatory stages completed so far.

Context:

Labour market non-compliance covers a broad and varied spectrum of mistreatment of workers, from accidental and relatively minor infringements to deliberate and extreme harms. The DLME is required to report annually on the scale and nature of labour market non-compliance, and to produce a strategy to address it. We will survey precarious workers in such a way as to enable robust inferences and get the best value for money. With precarious work characterised by low pay, insecurity and/or uncertainty, such workers are thought to be at particular risk of labour exploitation and work-based harm.

Measuring precarious work in the UK:

To lay the groundwork for the survey sampling and better understand our target population, we revised and extended our earlier scoping research into precarious work in the UK (Pósch et al. 2020, 2021). We used pragmatic but research-informed criteria, identifying people as precarious workers if they met certain combinations of low income, non-traditional work, a small workplace, and/or immigrant/ethnic minority background. We set the threshold for income at less than 66% of the median income, in line with the OECD definition of relative poverty. Using data from the Understanding Society Survey, we estimated that between 2009 and 2022 some 10-11.7% of the workforce could be classified as precarious workers. Contrary to expectations, our assessment found the proportion of precarious workers to be remarkably stable over the studied time period. Precarious workers are more likely to be female, younger and working class, to work in hospitality, retail or construction, and are half as likely to work in unionised workplaces. Utilising the longitudinal nature of the Understanding Society Survey, we used longitudinal analysis to investigate people's life-trajectories into, through and out of precarious work. We found five distinct groups of workers, differing in their size, proportion of precarious members, and members' traits. The largest group consisted of 'traditional' workers (49.2% of the workers in the sample) who were unlikely to qualify as precarious workers (with, over time, around 1% of them being ever precarious). Around a quarter of the workforce (25.4%) belonged to the 'transitional' category, coming in and out of precarious work (with, on average, around 20% of them being precarious). Two groups, 'early career' (9.8%) and 'non-traditional' (7.6%) workers, started at higher levels of precarity which gradually levelled off over time, with an average share of 7.9% and 30.2% of precarious workers respectively. Finally, workers in the 'increasingly precarious' (8%) group were more and more likely to become precarious over time (on average, 82.9% were precarious). Our results showed, for example, that some groups tend to age into more secure employment, others become increasingly precarious over time, and others dip into and out of precarious work.

Scoping the legal landscape:

It is crucial that a survey of non-compliance accurately reflects the legal landscape, and that measurements map onto underlying potential breaches. Consequently, we conducted a thorough scoping review of the various employment rights, rules and regulations governing work in the UK's four nations (employment law is devolved in Northern Ireland and some aspects of enforcement differ in Scotland, too). Notably, the DLME's remit is relatively narrow compared to the wider regulatory framework and its reach covers three labour inspectorates only. Overall, we catalogued a very broad and complex regulatory framework with considerable room for improvement in comprehensive enforcement coverage and coordination by state bodies. The limited operational capacity of state enforcement bodies, often facing resource challenges, and the difficulties associated with individual complaints-based enforcement, as well as the complexity of employment rights, create risks of under-enforcement. A substantial proportion of labour market regulations fall outside its scope, including dismissal, discrimination, health and safety at work, trade union rights, and much more. As such, labour market enforcement in the UK relies heavily on individual complaints by workers to a court or tribunal. There are numerous barriers to doing so, including limitation periods and limited access to legal advice. In addition, relatively few criminal offences are used to tackle non-compliance in the labour market and most employment rights are not backed by criminal sanctions for serious, widespread, repeated and deliberate breaches. The reliance on civil sanctions risks fines and compensation for workers being simply factored into the 'cost of doing business'. Moreover, it needs to be recognised that access to some employment rights is restricted with their scope narrowed greatly by legal rules on employment status, qualifying periods of employment, and so on.

Survey conceptualisation:

Conceptualisation is the process by which researchers can get a comprehensive understanding of phenomena of research interest. The next phase therefore focused on breaking down and building up the construct of labour market non-compliance, its sub-constructs and their underlying dimensions, so they would not only accurately reflect legal complexities but also be understood by laypeople. We relied on consultation with six expert advisory groups (such as employer and employee representatives, and precarious workers themselves) to create a conceptual map. We structured a series of two-hour focus groups around the latest iteration of the map, using prompts and tasks to guide discussions. We took detailed notes during the sessions, and between groups we revised the conceptual map to accommodate the ideas and issues raised, taking an expanded version into the next group. The conceptual map was therefore developed iteratively through collaborative knowledge generation, which we illustrate through examples of the challenges encountered in conceptualising violations related to annual leave and unfair deductions.

Survey operationalisation:

Our next challenge was to trim down the conceptual map and develop a set of tangible questions and response options. Since the eventual survey instrument cannot exceed 20 minutes of completion time on average, we needed to narrow the focus to priority issues (e.g. those seen to be most severe, common or relevant to the DLME). We also needed to focus on concepts that could be straightforwardly measured.

To minimise subjectivity, we prioritised questions about experience over those about perception. First, we reviewed numerous existing survey instruments to identify tried-and-tested questions we might re-use. Then, we developed new question batteries to address various gaps we had found. Next, we developed our draft questionnaire through a series of focus group consultations with our advisory groups, refining questions and response options from session to session. We encountered various tensions and trade-offs, for example the challenges of measuring diverse leave-related potential violations or unfair deductions which may or may not be legal violations. The full first draft questionnaire was sent to the survey company Verian (formerly Kantar) for further scrutiny and modifications ahead of formal question testing.

Conclusions and next steps:

This project will help disentangle the relationship between precarious work and labour market non-compliance, which is often discussed but rarely investigated at scale. Alongside the many strengths of our approach, we also recognise limitations such as a relatively new methodology (respondent-driven sampling) being deployed on a large scale. In terms of key steps to follow, our survey instrument is undergoing rigorous question testing with Verian, which will be followed by further refining, translation and piloting. The pilot will run from November 2024, with main stage data collection from January 2025. Survey findings will inform qualitative data collection (from May 2025) and surveying of a representative sample of the wider workforce on a selected few question (e.g. about certain potential breaches) via the Public Voice Survey (June 2025). A full timeline can be found at the end of this report.

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