Public Bill Committee

DEREGULATION BILL

WRITTEN EVIDENCE

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Written evidence submitted by Andy Howard (DB 01)

SELF CONTAINED MEMORANDUM

1. Evidence from: Andy Howard BSc PG Dip DMS CMCIEH

I write in my capacity of a Chartered Environmental Health Practitioner of 26 years working in Local Government and regulating businesses mainly in health and safety within the Service Sector. I have a special affinity to occupational health and safety, the simplified way in which health and safety law has been drafted and I have a wish to continue to contribute towards making health and safety simple for businesses and the self-employed. I must also add these are my thoughts and not necessarily the opinions of my employer, Preston City Council.

2. Executive Summary

I make a response to the House of Commons Public Bill Committee in relation to the Deregulation Bill 2013–14 in particular Clause 1 which aims to only include self-employed persons "who conducts an undertaking of a prescribed description" in health and safety law. I wish to express my concerns regarding Clause 1 of the Deregulation Bill 2013–14 and the way Parliament are making health and safety laws more complicated. I question the need for Clause 1 and I explain my reasons below.

3. Brief Introduction

In order to explain this I need to set out the main principles of the Health and Safety at Work etc Act 1974 (HSWA) and to take us back to the catalyst of that Act—Lord Robens Report. The framework of the Act, which is 40 years old this year, is based upon the "general duties" of employers and the self-employed. It has stood the test of time and has managed to remain relevant without major amendment by Parliament which is a testament to Lord Roben and the legal team who drafted the Act.

Lord Roben wanted the main thrust of the HSW Act to be self regulatory and to seek to promote occupational health and safety as much as control it. He also wanted to ensure that the law covered all employers and the self employed who created the hazards at work and to protect employees and the general public who may be harmed if risks were not adequately controlled.

Para 176 of his report recognised the wide variety of work the self employed do and how difficult it was to draft specific provisions as a result. He then proposed legislation based upon "objectives" rather than drafting specific provisions and this principle can now be seen in the wording of Section 3(2) of the HSWA. Also worthy of note is that there is already a provision contained in Section 3(3) which allows the Secretary of State to prescribe regulations for the self employed—none have been introduced.

4. Factual Information

Section 3(2) states: It shall be the duty of every self-employed person to conduct his undertaking in such a way, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health and safety.

The Robenesque "objective" of the above paragraph of Section 3 basically says: if you conduct your undertaking and you create risks from operating that undertaking and if those risks may harm "yourself" and "other persons" you need to take "reasonably practicable means" to prevent this. This is quite a simple requirement which states if you create the risk you need to be responsible for it. Logically if a self employed person poses no risk they will comply with Section 3(2) of HSWA 1974 but more of this later.

The argument I put forward is this: How can you exempt a category of worker who will not come within the remit of the law under Section 3(2) if their activities do not pose a risk to anyone?

There may also be a perception, which has developed in the media that there is "over regulation" in this sector. Some further background evidence as to whether there is "over regulation" is an issue, a check of the Health and Safety Executive Public Register of Convictions indicate that there were 40 prosecutions of sole traders from 1/1/03 to 9/6/13. Accidents to the self employed over the last 10 years average around 2000/year. I am not aware of any complaints regarding "over regulation" of the self employed sector—the Health and Safety Executive may be able to assist you further in this matter.

The thrust of Clause 1 in the Deregulation Act is to exempt a category of worker who will not come within the remit of the law providing their activities do not pose a risk to anyone. This is already covered in Section 3(2) of the HSW Act. Again HSWA says if they don't create a risk to other persons they don't come within the remit of the Act. I find it difficult to understand the current governments wish to complicate the present controls on health and safety when their current agenda (red tape challenge etc) seeks to simplify current laws. The wish is to introduce an amendment to the HSWA the phrase: a self-employed person "who conducts an undertaking of a prescribed description". If parliament wants to simplify the law—the worst thing it can do is

to introduce phrases like "prescribed description". How will the regulated and the regulators decide whether they are a prescribed description? What happens on the fringes of "prescribed description"? Will there be any grey areas? Why do the individuals who draft the Deregulatory Bill wish to complicate the simplicity and overall "objective led" HSWA?

It would be easier, to follow the intention/principles of Robens in keeping the HSWA as an overarching piece of legislation based upon "general duties" and "objective" led provisions. Furthermore it is already possible for regulations to be prescribed by the Secretary of State under Section 3(3) of HSWA.

However I believe further regulation is unnecessary as current laws already take into account the self-employed who don't create any risks.

The following health and safety case law is an interesting example which highlights the difficulty in defining "prescribed description". In R v Glen (1994) Mr Glen, a self employed consultant drew up a method statement on behalf of a demolition contractor. Later when one of their supervisors left their employment, Mr Glen took over the daily supervision of the demolition site to which his method statement applied. Subsequently he failed to ensure that his method statement was followed, with the result that workmen carrying out the demolition work were exposed to hazards due to the presence of asbestos and lead. Mr Glen was convicted of an offence under section 3(2) for failing to ensure the health and safety on site and was the first successful prosecution of an independent safety consultant. Again I'm not sure of the full details but this self employed person would probably fall outside of the definition of "prescribed description" as he predominantly worked at home?

I very much like the quote in the Cabinet Office Report "When Laws Become Too Complex" March 2013 where Edward VI is quoted as saying "I wish that the superfluous and tedious statutes were brought into one sum together and made more plain and short"! The HSWA did this and to create amendments and insertions will only aid the generation of more complexity which is bad for the regulated and the regulator.

I understand that Professor Lofstedt's report was the main driver in this proposed amendment. In his report he states that the UK "currently goes beyond EU requirements in including the self-employed in health and safety legislation. I would argue, with respect, that it doesn't. What UK legislation currently does is to set down Lord Roben based "objective" standards within HSWA—unlike EU requirements that are based around specific provisions. In his report Professor Lofstedt admits in Chapter 4 para 17 that the "actual burden that the regulations currently placed upon these self-employed may not be particularly significant due to existing exceptions in some regulations and the limited prospect of these being enforced but it will reduce the perception that health and safety law is inappropriately applied".

5. Recommendations for Action

I ask is it the job of Parliament to change the law on the basis that it will reduce the perception that the law is inappropriately applied? With 20+ years of applying the HSWA, I know, and statistics show, that the HSW Act is not inappropriately applied. I refer back to Lord Roben and the requirement to promote occupational health and safety law as well as to use it to control. Rather than legislate for "perceptions". I would much rather Parliament promote the existing laws with the help of the Health and Safety Executive (HSE). What is needed is to give the self employed confidence by educational programmes that if they don't cause risks they don't breach HSWA. It's simple and uncomplicated—consequently Robens "sacred" general duties shouldn't be tampered with any further but more a reassuring message given to self employed workers by the HSE about the present law.

Finally, health and safety law on this is currently "plain and short" and applies to only self-employed persons who do not control the risks arising out of their undertaking, what can be more simpler than that? Don't make HSWA "superfluous and tedious"

Thank you for the opportunity to raise these points with you and I sincerely hope that Parliament will reconsider their position on this matter.

February 2014

Written evidence submitted by John Trevelyan (DB 02)

THE RIGHTS OF WAY PROVISIONS IN THE DEREGULATION BILL
(CLAUSES 13 TO 19 AND SCHEDULE 6)

Summary

— The provisions are not deregulatory in that most of them increase burdens rather than reduce them.

— The claimed financial savings are not supported by the evidence. Only one provision—scrapping notices in local papers—is certain to save money, but is inconsistent with recent government decisions not to scrap such notices for other purposes.

— The government claims that the provisions will speed up recording of rights of way, but has provided no evidence to support this claim. As the provisions make rights of way legislation more complex, rather than simpler, there is unlikely to be any noticeable change in the speed of recording.

— The government's claim that the provisions will make sure no historic public rights of way are lost is not accepted: the way that it plans to implement the 'cut-off' provisions will put thousands of well-used rights of way at risk of being closed in 2026.

Introduction

1. I have been a rights of way consultant and trainer since 1999. Prior to that I worked for the Ramblers' Association for more than 20 years, leading on its rights of way work. I am submitting this evidence because I consider that the rights of way provisions in the Bill, taken with the yet-to-be-commenced provisions in the 2000 Act that the Bill amends, complicate, rather than simplify, the legislation and procedures, and that there is no overall financial or other benefit to justify their implementation.

2. My experience includes the co-authorship of all four editions of a leading textbook, *Rights of way : a guide to law and practice,* and involvement in the passage through Parliament of both the Wildlife and Countryside Act 1981 ('the 1981 Act'), which made substantial changes to rights of way procedures and publicity for orders, and the Rights of Way Act 1990.

3. As a consultant, my clients have included landowners, local authorities and user groups. I was also employed by the contractors working on the *Discovering Lost Ways* project. I was commissioned by the Rights of Way Law Review to write an article on the proposals of the Stakeholder Working Group set up by Natural England after it scrapped the *Discovering Lost Ways* project, proposals that form the basis of many of the provisions in the Bill.

4. I submitted written comments to the Joint Committee on the Draft Bill and was invited to give oral evidence. This submission is shorter: the comments I made on the detailed drafting of the Draft Bill apply equally to the Bill and remain of concern even though they have not been included here.

Are the provisions deregulatory?

5. I have the following three examples to illustrate the points made above in the summary about the addition of burdens and the increase in complexity that surveying authorities and others will have to contend with.

6. The first is that the cut-off provisions (as proposed to be amended by the Bill) will introduce five new, additional, categories of public rights of way:

— relevant highway—s 54(2) & (3) of the 2000 Act

— retained highway—s 54(4)

— excepted highway—s 53(5)

— protected right of way—s 55A(2) (clause 13 of the Bill)

— designated right of way—s 56A (clause 14 of the Bill)

and new private rights of way (s 56B) (clause 15 of the Bill) which landowners will have to prove (at their own expense) that they are entitled to

7. The second is that there is currently a single procedure for definitive map modification orders and applications for such orders in England—to be found in Schedules 14 and 15 to the 1981 Act. Under the Bill's provisions there will be three additional variations, contained in the provisions for modification consent orders, orders to correct administrative errors and procedure on appeals against refusal to make orders (in paragraphs 3 and 5 of Schedule 6 and in the new Schedules 13A and 14A to the 1981 Act contained in Parts 2 and 3 of Schedule 3). Comparison of the proposed new Schedules 13A and 14A with Schedules 14 and 15, which will still apply in Wales, shows how much more complexity has been added.

8. The third is that if the proposals in the Bill are adopted there will be four different types of Schedule 14 application:

— those already made, or made before the amendments in the Bill are commenced. They have been, or will be, recorded in the register and notified to landowners and occupiers. They will (even if the retrospective provisions in Clause 19(7) of the Bill are applied to them) still be different simply because they were made under different provisions.

— those made after commencement, but which have not been the subject of preliminary assessment. They will not be recorded in the register, nor will they be notified to landowners and occupiers.

— those made after commencement and which have passed the preliminary assessment, but do not qualify to be considered for modification consent orders.

— those made after commencement and which have passed the preliminary assessment, and which do qualify to be considered for modification consent orders.

9. My conclusion is therefore that the provisions are not deregulatory to the extent that they increase the complexity of the provisions. Figures 1 and 2 in the Explanatory Notes to the Bill (pages 66 and 69) demonstrate some of the complexity of what is proposed.

10. The Government considers that the Bill's provisions are justified because they will save money and time in recording rights of way. According to the Ministerial Foreword to the Draft Bill, they "will cut the time for recording a right of way by several years and save almost £20m a year".

11. For the reasons set out below, I consider that those claims were neither supported by any evidence provided in the Draft Bill document or elsewhere nor justified by such evidence as exists.

The alleged financial saving

12. My assessment of the alleged financial saving is based on the Impact Assessment (IA) "Simplifying & streamlining rights of way procedures" published by Defra alongside the Draft Bill, as at the time of writing no further IA has been published in connection with the Bill.

13. In the government's response to the report of the Joint Committee on the Draft Bill (para 75), it reduced drastically the expected saving: "Local authorities are expected to make savings of almost £2 million a year through these measures." This revised figure is in line with the estimates in the IA.

14. The IA contained (Table 3) a central estimate annual saving to local authorities of £1,807,500, made up almost entirely of four elements (references are to proposals of the Stakeholder Working Group):

Proposal 3 (preliminary assessment)	£348,000
Proposal 10 (notices in local papers)	£1,080,000
Proposal 12 (single reference to Sec of State)	£285,000
Proposal 29 (obvious administrative errors)	£85,500

15. For the reasons given in the Appendix to this paper, I consider that more accurate estimates of the savings would be:

Proposal 3 (preliminary assessment)	£15,000
Proposal 10 (notices in local papers)	£200,000
Proposal 12 (single reference to Sec of State)	£NIL
Proposal 29 (obvious administrative errors)	£5.700

16. In other words, the only proposal that produces any certain saving is the proposal to scrap placing notices in local papers. Even then, a saving of £200,000 annually does not go very far among 138 local authorities. The proposal is inconsistent with government decisions not to scrap the notices in local papers for planning applications and traffic regulation orders. In the latter case the saving to local authorities, net of any costs recouped from developers, etc, was estimated by the government in 2011 to have been £7.6 million (Impact Assessment: Traffic Orders—Deregulating Publicity Requirements), yet the government decided in 2013 not to proceed with this change.

17. The consequence, if the proposals in the Bill go ahead, is that a temporary order to close a footpath for a few days will still be advertised in the local paper, but a permanent order to close it for ever will be advertised in the local paper only if it arises out of proposed development affecting the path (or one of the many powers used only infrequently)—otherwise it will be advertised only on the website of the council making the order. How that helps the public is beyond me.

The alleged saving of time

18. Nowhere in the IA or the Draft Bill documents, or the Explanatory Notes to the Bill, is there any quantification of the alleged saving of time. Instead there are various references to proposals being expected to reduce the burden on local authorities.

19. In the absence of any quantification, it is difficult to assess the evidence, but it is important to note that nowhere do the Explanatory Notes recognise that some aspects of the provisions increase the burden on local authorities, by introducing new procedures. Moreover I consider that there will be a more general additional burden on authorities arising from the greater complexity of the procedures as proposed to be amended by the Bill.

20. That additional burden will arise directly through staff having to understand the more complex provisions, but also indirectly as those who are involved with the recording process, whether bodies such as parish councils, path users or landowners struggle to understand them, and in the process create extra work for the local authority staff.

21. I therefore question whether there is any evidence to support the suggestion that the provisions in the Bill will speed up the process. Moreover it will be difficult to assess the impact of the provisions. Defra has

refused to introduce regulations requiring authorities to report on their definitive map work, which perhaps explains the discrepancy shown in Appendix A between the Defra estimate of 1,200 cases being determined each year and the actual figure obtained by the Ramblers following FOI requests of only 300 cases. With no accurate figures prior to the introduction of the provisions, and no plans to monitor what happens, there will be no accurate assessment of the impact of the changes.

WILL HISTORIC RIGHTS OF WAY BE LOST?

22. The government's website contains the following: "To make sure no historic public rights of way are lost, we're simplifying the processes for recording and making changes to public rights of way."

(https://www.gov.uk/government/policies/protecting-and-improving-people-s-enjoyment-of-the-countryside)

23. During the passage of the Countryside and Rights of Way Bill through Parliament in 2000, the then Minister gave commitments both to provide local authorities with the necessary additional resources and to use the regulation-making power [in section 71 of the Act] to require regular progress reports from local authorities.

24. Neither of those promises has been kept. Defra has specifically refused to implement a recommendation of the Stakeholder Working Group to make regulations. The Group also said in its report (paragraph 4.14): "Unlocking the proper resourcing of this function is also a vital issue".

25. If the provisions are commenced in 2015 (assuming passage of an Act in 2014), then there will be little more than 10 years in which applications and the underlying research can be made before the cut-off date, a substantially shorter timescale than was envisaged in 2000 would be required if adequate resources were provided. If applications are not made to the extent envisaged by Defra, and there must be serious doubt about the capacity of user organisations to make an average of 2,000 applications a year, then there is a real risk that public rights of way will be lost.

26. It is my submission to the Committee that it should examine the amendments proposed in clauses 13–15 of the Bill to the cut-off provisions alongside the provisions themselves, and with an alternative approach in mind of repeal of the provisions.

27. I make that submission for the following reasons:

(a) Implementation of the cut-off provisions will be a major project. Defra's estimates (in the Impact Assessment) are that there will be 20,000 additional applications, costing local authorities on average £2,900 to determine. That adds up to £58 million, with extra costs to be added for both central and local government in order-making and dealing with appeals against refused applications and with objections to orders. The total cost to the public purse could easily be £100 million.

(b) Such a major project justifies proper management. But not only are there no plans in place: the provisions in the Bill for the Secretary of State's jurisdiction over applications for directions to be transferred to the courts and the government's refusal to make regulations requiring local authorities to report progress means that keeping track of what is happening and taking action will be much more difficult than would otherwise be the case. In setting up the Major Projects Authority in 2011, the Minister commented : "projects often began with no agreed budget, no business case and unrealistic delivery timetables" (all of which seem to me to apply to this project) but that "This Government will not allow that costly failure to continue." So far as I am aware, this project is not under the supervision of the Major Projects Authority, nor has it been examined by the National Audit Office against the five criteria in the Office's 2011 guide "Initiating successful projects" : purpose; affordability; pre-commitment; project set-up; and delivery and variation management. I consider it is at serious risk of failure.

(c) In the Explanatory Notes (paragraph 74) it is acknowledged that "The investigations of applications based on evidence about the position before 1949 can be very difficult for authorities". That difficulty, which will apply also to applicants, may well lead to applicants erring on the side of caution and submitting applications for routes that would not, in practice, be extinguished at the cut-off date, thereby increasing the number of applications.

(d) The increased complexity of dealing with applications made after the cut-off date—judging whether a right of way existed in 1949 and, if so, whether it was extinguished at the cut-off date or whether an exemption from extinguishment applied—will give rise to increased, continuing, costs for both local and central government.

(e) The Natural Environment and Rural Communities Act 2006 extinguished rights for mechanically-propelled vehicles in certain circumstances, essentially a trial run of similar provisions. It has led to extra work considering whether exemptions apply and several court cases on its interpretation. The greater extent and complexity of the cut-off provisions in the 2000 Act suggests that the extra work involved will be significant.

(f) The main purpose of the provisions was supposed to be greater certainty. But this must be questionable, as the lack of resources means progress will be slow. Defra is estimating that there will be 20,000 additional applications, which means an average of 2,000 per year. The evidence collected by the Ramblers in 2013 was that authorities are currently determining 300 cases a year, with a backlog of 4,000 cases, or 13 years' worth. With many local authorities making significant cuts in their spending,

there is no prospect that they will be able to cope with a vast increase in the number of applications. If that proves to be the case, many thousands of applications will remain undetermined at the cut-off date, and it will be many years before they are all resolved, with all the associated uncertainty for users and landowners. In the recent Supreme Court case of *Adamson v Paddico,* Lady Hale, with whom the other judges agreed, said that registering land as a village green, a procedure analogous to that of modfying the definitive map, amounted to the determination of an individual's civil rights and obligations under Article 6 of the European Convention on Human Rights. As such the individual is entitled to a hearing "within a reasonable time". I ask the Committee to consider whether the government's approach to the implementation of the cut-off provisions is compliant with its obligations to landowners under the Human Rights Act 1998.

(g) The extinguishment of footpaths and bridleways is likely to have a particular effect in urban areas, where many such ways (mostly footpaths) are often not currently recorded on definitive maps. I live in one such area: the former county borough of Norwich where very few of the hundreds of public rights of way have been so recorded. The Act provides no exemption for ways that are in regular daily use, nor for those that are maintained by the local authority at public expense, so the only certain safeguard will be recording of the way on the definitive map. I consider that there are many thousands of such ways in regular daily use by people going to school, shops, work, etc that will be put at risk by implementation of the cut-off provisions. They range from centuries-old routes in towns and cities to ways on housing estates built in the 1930s. Councils where this is likely to be a real problem are those in metropolitan areas, such as Birmingham and Newcastle; more densely-populated shire unitaries such as Derby and Southampton; and outer London boroughs such as Croydon and Sutton, all of which have small rights of way teams

28. I therefore ask the Committee to consider the provisions as a whole, not just the amendments proposed in the Draft Bill, and to judge whether their implementation would be more in the public interest than their repeal. Repeal would, in my view, be the genuinely deregulatory option, as it saves money, simplifies the legislation and removes burdens from local authorities and others.

29. As an example of the burdens facing other parties, the provision in Clause 15 is intended to provide a safeguard for landowners who might otherwise suffer "real difficulties" (Explanatory Notes paragraph 83) and be prevented from gaining access to their land. But nowhere has the government explained how a landowner in this position would go about proving their rights if there was a dispute; how much that might cost the parties concerned (I would suggest thousands, if not tens of thousands of pounds); and how often this situation is expected to arise.

30. If the Committee concludes that the cut-off provisions should be implemented I ask the Committee to include, as mitigating measures, three further amendments to the 2000 Act. The second and third would implement recommendations of the Stakeholder Working Group, and would be based on similar safeguards contained in section 67 of the Natural Environment and Rural Communities Act 2006.

31. The first amendment would amend the definition of the cut-off date from 1st January 2026 to 1st January 2040, thereby restoring the 25-year timetable foe the project envisaged by Parliament when it passed the 2000 Act. Such a timetable would remove the need for Clause 14 of the Bill.

32. The second measure would protect from extinguishment any ways that were the subject of applications received before the cut-off date, regardless of whether they had been subject to the preliminary assessment test (if that is introduced).

33. The third would protect from extinguishment any way that can be shown to have been maintainable at public expense at the cut-off date. Many of the well-used urban paths referred to above will come into this category.

February 2014

APPENDIX

Examination of alleged financial savings

IA: Impact Assessment (IA) "Simplifying & streamlining rights of way procedures" published by Defra July 2013

General assumptions	*IA estimate*	*My estimate*	*Comments*
Number of cases annually	1200	300	My estimate uses results from Ramblers 2013 FOI survey
Number of opposed cases dealt with by Planning Inspectorate (PINS) annually	500	150	My estimate uses figures from PINS statistical report

Proposal 3 : preliminary assessment	*IA estimate*	*My estimate*	*Comments*
Proportion of cases passing preliminary assessment	90%	90%	IA estimate not based on any evidence, so far as I am aware, but I am prepared to accept it. Estimate needs to allow for resubmission of failed applications
Number of cases passing preliminary assessment annually	1080	270	Calculation based on figures above
Number of cases failing preliminary assessment annually	120	30	Calculation based on figures above
Average cost per application to authorities of undertaking preliminary assessment test	NIL	£150	IA makes no provision for this extra work
Average cost per application to authorities of notifying owners and occupiers of cases that have passed the preliminary assessment test and related correspondence	NIL	£100	IA makes no provision for this extra work, Some owners and occupiers who are informed of the application and that the authority has approved it in a preliminary assessment are likely to enter into correspondence
Total cost of undertaking preliminary assessment and related work (A)	NIL	£72,000	Calculation based on figures above
Estimated cost of determining an application	£2,900	£2,900	
Estimated saving from not determining cases that fail the preliminary assessment (B)	£348,000	£87,000	Calculation based on figures above
Estimated net saving annually (B)-(A)	£348,000	£15,000	

Proposal 10 : advertising in local newspapers	*IA estimate*	*My estimate*	*Comments*
Number of advertisements required each year	2160	450	Defra estimate seems to assume that all applications that pass the preliminary assessment will require two advertisements—for making and confirmation. I assume that of 300 applications, 250 will lead to orders (one advert) of which 200 will be confirmed (another advert).
Average cost per advertisement	£500	£500	SWG report Stepping Forward para 3.15 quotes average cost per advert of £508.
Average cost per notice of additional work placing notice on council website	NIL	£50	IA makes no allowance for this additional work
Saving from no longer placing advertisements in newspapers (C)	£1,080,000	£225,000	
Additional cost of alternative arrangements (D)	NIL	£25,000	
Net saving (C)-(D)	£1,080,000	£200,000	

Proposal 12 : referral to the Secretary of State once	*IA estimate*	*My estimate*	*Comments*
Reduction in number of cases referred to the Secretary of State annually (A)	50	20	The reduction in numbers is of those cases which now succeed on appeal and are then opposed when an order is made. My analysis is that around 25 appeals succeed each year, but not all of those result in opposed orders.
Saving per case : local government (B)	£5,700	£3,000	IA estimate based on cost of dealing with opposed order in writing : appeals involve fewer people so should cost less
Annual saving for cases that will be referred only once : local government (A)*(B)	£287,500	£60,000	
Number of cases annually which are currently referred only once to the Secretary of State (C)	-	20	Not included in IA
Extra cost per case of advertising, more complex procedure for such cases : local government (D)	-	£3,000	Not included in IA. My estimate based on the estimate of saving above
Annual extra cost of additional work : local government (C)*(D)	-	£60,000	
Net annual saving : local government	£287,500	NIL	

Proposal 29 : obvious administrative errors	*IA estimate*	*My estimate*	*Comments*
Reduction in number of cases referred to the Secretary of State annually (A)	15	1	I am not aware of any evidence to support the IA estimate. It should be easy to produce and check—all Planning Inspectorate decisions are made available online. Where is the list of the 60 or so cases there should have been in 2010–2013 if the IAs estimate is accurate? I believe the number of cases is very few: if the error was so obvious, why would anyone have objected?
Saving per case : local government (B)	£5,700	£5,700	
Annual saving : local government (A)*(B)	£85,500	£5,700	

Written evidence submitted by NASUWT (DB 03)

1. The NASUWT welcomes the opportunity to submit written evidence to the Deregulation Bill Committee.

2. This briefing sets out the Union's views on the issues included in the Bill that are of key interest to the NASUWT membership and draws on the experiences and views of the Union's teachers and school leader members.

3. The NASUWT is the largest teachers' union in the UK.

General Comments

4. The NASUWT is concerned about the impact that the Deregulation Bill could have upon the legislative and democratic framework of the United Kingdom. Key clauses have the potential to centralise enormous power into the hands of ministers, with little regard for the checks and balances within the apparatus of the state.

5. The scale of the Bill is enormous and there are considerable risks that less scrutiny may therefore be given to all aspects of the Bill. The NASUWT believes that the Public Bill Committee must be given adequate time to

take written and oral evidence from a wide range of stakeholders and to consider fully and debate each clause of the Bill.

6. The Coalition Government claims that the Deregulation Bill will reduce needless bureaucracy for businesses but, as with much of its so-called reduction of red tape, much is predicated on privileging businesses to the detriment of workers and consumers.

7. The Coalition Government's attempts to reduce the burdens for employers in the instances cited will, in many cases, create further risks and turbulence for employees. Deregulation does not, in and of itself, indicate the reduction or removal of bureaucracy. Bureaucracy is not in itself inherently bad. Unnecessary bureaucracy is the issue to be tackled but this should be premised on the basis that regulation is not intended for its own sake. There is always a reason, and what prompted the regulation should be considered.

8. The Deregulation Bill proposes extensive and far-reaching changes without any evidential basis being provided of the need for such changes or any assessment of the impact of such changes. In many cases, the proposals are in direct conflict with the weight of national and international evidence on good practice. Committee members must question rigorously why these changes are needed in this Bill at this time and assess their impact.

9. The NASUWT believes that provisions of the Bill give rise to human rights and equalities concerns and urges the Committee to insist on a comprehensive and rigorous equality impact assessment of all provisions in the Bill and to ensure that the Coalition Government is able to demonstrate that the Bill provisions are fully compliant with the public sector duty under the Equality Act 2010.

Schedules 13 and 14

10. The particular areas the NASUWT submission focuses on are those on the provision of education in Schedules 13 and 14. These two schedules include a range of measures that it is claimed will reduce burdens on schools. No evidence has been presented to demonstrate that these measures are necessary.

11. Other aspects of the NASUWT's submission focus on those aspects relating to education and schools or general concerns the NASUWT has with aspects of the Bill.

Specific Comments

Clause 3: Apprenticeships: simplification

12. These proposals set out the framework of the new system for apprenticeships based on the Richard Review of Apprenticeships. The NASUWT had concerns about aspects of the Richard Review proposals and, also, concerns about what it is clear is the attempt by the Coalition Government to marketise qualifications.

13. The Union is also concerned about the Coalition's view of vocational qualifications. Vocational education, at which many young people can excel, has been downgraded and rendered second class over the term of this Government as increasingly elitist education policies are pursued.

14. The Union believes that there is insufficient detail in the Bill to assess the potential impact of the proposed changes. No clear rationale has been provided as to why the proposed changes are necessary.

15. The wording as proposed in Clause 3 is unacceptably open-ended and poorly drafted and would provide the Secretary of State for Education with a 'blank cheque' to make any further changes as he sees fit without appropriate reference to Parliament.

16. The Union believes that any reform of qualifications should seem to develop a coherent qualifications offer for all 14–19 year old learners, in which there is parity of esteem between vocational and academic learning pathways and consistency and coherence between the curriculum and qualifications framework. Unfortunately, the Department for Education (DfE) proposals for reform of vocational qualifications for 16–19 year olds would fragment further the qualification system by creating a divide between different forms of vocational qualifications and their relative status in the official tables of school and college performance.

Clause 37: Schools: reduction of burdens

17. Clause 37 removes the requirement of local authorities or governing bodies to set annual targets relating to the educational performance of pupils in schools that are maintained by local authorities.

18. Although this may appear to remove a bureaucratic burden upon schools, the reality is that there is no evidence that this would have any positive impact, as the accountability regime through national performance tables and Ofsted inspections is so high stakes for schools that this measure would have no impact. The Committee should note that the bureaucratic burdens for schools are principally related to the publication of national performance tables and the fallout from Ofsted inspection. Schools focus on creating a paper trail for Ofsted. Until this core issue is addressed these measures will be purely cosmetic.

19. The NASUWT is further concerned that Clause 37 will lead to a further concentration of power into the hands of the Secretary of State, as it will be the DfE which will be able to set such external targets, thus

removing another aspect of local democratic accountability and further eroding the role of local authorities in education.

20. Clause 37 removes a further link between local authorities and the schools that they maintain, whilst leaving local authorities with statutory responsibility for standards. The current arrangements also have the benefit of encouraging dialogue between local authorities and local schools in the interests of securing sustainable school improvement and in assisting schools to meet national accountability priorities. This clause would result in local authorities being expected to secure high standards of education provision in their areas without being given appropriate levers to do so.

Schedule 13: Regulation of qualification requirements for teaching staff and principals

21. This section of the schedule effectively removes the requirement for teachers in further education to have teaching qualifications. This is a further attack on the professionalism of the teaching profession following as it does the removal of the requirement for children and young people in schools to be taught by qualified teachers.

22. The measure that is being removed was introduced to improve the standards of teaching and learning in colleges by setting national standards that all teaching staff had to meet. This measure flies in the face of substantial international evidence that demonstrates the importance of highly qualified teaching staff who understand not only their subjects but how to personalise education to meet an individual's learning style[1] and downgrades the profession in a way that would not be seen as acceptable in any other profession.

23. The NASUWT believes that all young people are entitled to be taught by those who have a nationally recognised qualification.

24. The NASUWT opposes this proposal in the strongest terms.

Schedule 13: Control of governance of designated institutions conducted by companies

25. Schedule 13 appears to suggest that the Secretary of State can no longer direct companies forming articles of association. It is not clear why this is necessary and how, if this is implemented, the Secretary of State will be able to exercise due diligence in relation to the scrutiny of the policies and practices of such companies' policies, including in respect of equality.

Schedule 14: Responsibility for discipline

26. Schedule 14 removes the requirement for governing bodies to provide a statement of written principles for the headteacher to develop a behaviour policy.

27. The Coalition Government has not provided any evidence as to why this change is necessary. The Committee should recognise that the existence of this measure provides the basis for governing bodies to exercise fully their role in relation to securing good behaviour in schools. All governing bodies agree behaviour policies as part of their key strategic role. It would be profoundly unhelpful if that duty on the governing body were to be removed or undermined in any way.

28. Governing bodies are engaged in the development and agreement of school behaviour policies. It is one of the key areas in which there is evidence of positive engagement.

29. This proposed change will give headteachers more powers in relation to discipline and, in particular, remove the right of governors to scrutinise the behaviour policy, despite the fact that governing bodies would be the accountable body if problems arose from the school's behaviour policy. For example, in the case of a behaviour policy which was found to be discriminatory, the governing body would be held responsible, despite having no powers to determine the behaviour policy under question.

30. This proposed change excludes any notion of stakeholder or community engagement. In Sir Alan Steer's report *Learning Behaviours: Lessons Learned*[2] he stated that ensuring that '*staff, pupils and parents are involved in the process [of reviewing behaviour policies] is extremely important and must be observed*'.

31. Sir Alan further states '*Other changes in the 2006 Act included a widening of the duty on school governing bodies to consult on the overall principles of the school behaviour policy including, crucially, a duty to invite views not only from staff and parents but from all pupils. For disciplinary policies to be effective, it is clearly important for them to be properly understood and bought into by pupils. This development in the law consolidated existing good professional practice as well as serving to strengthen the legitimate disciplinary authority of schools.'* Again, this provision undermines what this report saw as crucial to the operation of effective behaviour policies.

32. The NASUWT is concerned about the impact that this could have upon pupils with protected characteristics under the Equalities Act 2010, particularly given the high levels of exclusions of some of those groups. This proposal is a retrograde step and should be removed from the Bill.

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[1] OECD (2012), *Preparing Teachers and Developing School Leaders for the 21st Century: Lessons from Around the World*, Paris, p11.

[2] Sir Alan Steer (2009), *Learning Behaviours: Lessons Learned, DCSF, www.educationengland.org.uk/documents/pdfs/2009-steer-report-lessons-learned.pdf*

Schedule 14: Home-school agreements

33. This section removes the need for schools to produce home-school agreements.

34. Home-school agreements were developed in order to ensure that schools worked closely with parents. In a Department for Children, Schools and Families (DCSF) commissioned report, *Behaviour and the role of home-school agreements*[3], Sir Alan Steer reported that '*Home-school agreements have an important role in ensuring that schools and parents work together to maintain high standards. When operated well, home-school agreements inform, promote pupil-parent-school engagement and bring together other school policies into a coherent whole*.'

35. Whilst there is no evidence that home-school agreements have been a burden to schools, there is evidence that schools do not widely use them. However, the proposed change to remove this provision could send out a signal to schools that the building of positive parental relationships is not important. Any decision to remove this statutory duty should be accompanied by a clear requirement to provide guidance to schools on securing good practice in the area of building relationships with parents and communities.

Schedule 14: Determining school terms

36. Schedule 14 deregulates the decision for determining school terms to individual school governing bodies. The Coalition Government has not presented any evidence for doing this, largely because none is available. There is no evidence that serious consideration has been given to the consequences of such a move on schools, pupils, parents, school staff and local communities.

37. The change appears to have been proposed on the basis that the current provision has simply remained as it is, unquestioned since the pre-industrial era. In actuality, this issue has been the subject of review on numerous occasions.

38. In the early 1980s a national working party considered in detail the various options for change and decided to maintain the status quo.

39. In 2000 the Local Government Association (LGA) established a Commission, mainly consisting of parties supporting change, to report on the issue. A Report was published entitled *The rhythms of schooling—a proposal to integrate the stages of learning, assessment and transfer with terms and holidays*.

40. The NASUWT in its response to the LGA Commission, stated that changing the status quo had no clear educational benefit and there were far more important and pressing issues in education than disrupting the existing academic-year pattern. This agreement remains valid.

41. In June 2004 a decision was reached by local authorities to maintain the status quo and implement a standardised school year that consisted of three terms, encompassing uniform holiday dates consistent across local authorities.

42. The agreement recognised that standardised term dates and school holidays provided consistency and predictability, which benefited pupils, teachers, parents and business.

43. The following prerequisites were established in setting a uniform national pattern:

— start the school year on a September date as near as possible to 1 September;

— equalise teaching and learning blocks (roughly 2x7 and 4x6 weeks);

— establish a two-week Spring break in early April, irrespective of the incidence of the Easter bank holiday (where the break does not coincide with the bank holiday, a nationally agreed date should be implemented in order to be consistent across local authorities);

— maintain a Summer holiday of at least six weeks, except where local authorities have historically had fewer than six but more than five weeks; and

— identify and agree annually designed holiday periods, including the Summer holiday.

44. These factors continue to be the basis for determining school-year team dates in the vast majority of schools, including in voluntary-aided schools which have always had the freedom to vary the term dates but have chosen to adopt the standardised pattern.

45. It is clear from the basis of this evidence that the proposed change would create a potential free for all for 23,000 schools, thus creating additional problems for businesses, parents and communities.

46. The NASUWT is very concerned that the impact of this change will be felt most keenly by working mothers and that this could have a consequential impact upon their ability to stay in work or upon child-care costs. It is clear that there has not been an Equality Impact Assessment to examine this possibility.

47. The DfE appears to believe that when making changes to term dates, schools will consult widely and will ensure that such changes take account of local needs. There is no evidence in support of the DfE's assumption

[3] Sir Alan Steer (2010), '*Behaviour and the role of home-school agreements*, DCSF, http://www.educationengland.org.uk/documents/pdfs/2010-steer-behaviour-home-school.pdf.

and no guarantee that consultation would take place on a meaningful basis. It is also clear that the need to consult would increase the bureaucratic burdens on individual schools.

48. To make this change without a full consideration of the consequences, in the absence of evidence of educational benefit, is reckless and does not seem, judging from the reaction of stakeholder groups of teachers, parents, governors and councillors, to be something that any of the groups believe was warranted. Some 77% of 1,190 parents questioned by parenting website Netmums feared planning childcare and activities would be harder if school holidays varied.

49. The DfE has attempted to suggest that a rationale for such a change is the need to observe religious holidays. This suggestion fails to recognise that there is already flexibility for schools within the system for these and schools already make use of it.

50. The NASUWT is also concerned about the economic effects of such a change, given the impact that this could have on the ability of businesses to plan effectively and the impact that this could have upon local infrastructure, such as public transport and policing.

51. The NASUWT strongly opposes this proposal and asks Committee members to reject this provision in the Bill.

Schedule 14: Staffing matters

52. Schedule 14 amends the requirement that schools must have regard to statutory guidance issued by the Secretary of State relating to the appointment, discipline, suspension and dismissal of staff.

53. Whilst this approach may be consistent with the Government's aims of giving schools greater autonomy, the Union considers that the provision of such guidance is both necessary and effective as a protection not only for the workforce but also for schools.

54. Statutory guidance provided by the Secretary of State provides an authoritative framework to secure best and consistent practices.

55. The NASUWT considers that the provision of statutory guidance is essential. No evidence has been produced to demonstrate that statutory guidance is an unnecessary burden or unnecessarily restrictive. The burden increases in schools as they are required to develop their own guidance. Cost to the public purse increase as each school seeks its own legal advice on which to basis its guidance.

56. These changes do not better serve the needs of schools; they will do nothing to support increased autonomy and do not empower governing bodies and headteachers. Rather they will leave schools without the clear guidance that they require thus spending unnecessary time and money on creating their own procedures and policies from scratch.

57. The failure by a governing body to properly take into account such guidance or advice could result in policies and procedures which are not fit for purpose and could then result in schools, academies and governing bodies facing employment tribunals with all the associated time and costs for not correctly adhering to the procedures set out in the Regulations.

58. The NASUWT notes that the DfE has only recently published guidance for managing staff employment in schools on 22 August 2013. The Union also notes that this is prefaced by the title 'The essentials'. It states '*This section brings together all statutory guidance and key advice for schools. The statutory guidance reflects the current legal position and will be updated to reflect changes to legislation and government policy*'[4].

59. The guidance itself states: '*The purpose of this document is to provide statutory guidance to maintained schools and local authorities on the School Staffing (England) Regulations 2009 ("the 2009 Regulations"). The document is designed to help schools ensure they have a clear understanding of their statutory responsibilities regarding staff employment matters. Where appropriate, it also gives some advice on, or pointers to, other acts and regulations relevant to the employment of staff in schools*'[5].

60. The NASUWT believes that this is necessary and helpful to schools and does not restrict them in any way and does not therefore see the need for such a change.

61. The NASUWT also notes that all witnesses at the education session of the Joint Committee on the Draft Deregulation Bill disagreed with the Coalition Government's view that the current guidance was merely a duplication of the School Staffing Regulations and that the guidance had no value to schools.

Schedule 14: Publication of reports

62. Schedule 14 removes the requirement for governing bodies to make available to the public copies on request and ensure that parents receive copies of section 5 inspection reports, section 48 religious inspection reports, interim assessment reports and copies of reports relating to investigation of complaints about schools to the Chief Inspector.

[4] Department for Education, 2013, http://www.education.gov.uk/schools/guidanceandadvice?page=1

[5] Department for Education, 2013, http://www.education.gov.uk/schools/guidanceandadvice/g00213619/managing-staff-employment-schools

63. Instead the schedule proposes that parents will receive notification of the overall outcome of section 5 and section 48 reports and will be able to request schools to provide a hard copy if they have no internet access.

64. The Union understands that this new duty secures that every parent of a registered pupil at the school is informed of the overall assessment contained in the report of the quality of education provided in the school.

65. The Union questions whether this proposal is necessary, how it will reduce burdens on schools and whether it will enhance communications and relationships between schools and parents.

Clause 2: Removal of employment tribunals' power to make wider recommendations

66. Clause 2 repeals section 124 of the Equality Act 2010. The NASUWT believes that this is an extremely concerning development.

67. Section 124 of the Equality Act 2010 gives employment tribunals the power to make an *'appropriate recommendation'* where there has been a contravention of the Act. *'Appropriate recommendation'* is defined at s124(3) as *'a recommendation that within a specified period the respondent takes specified steps for the purpose of obviating or reducing the adverse effect of any matter to which the proceedings relate on the complainant [or] on any other person'*.

68. Under equality legislation, prior to the Equality Act, a tribunal could only make recommendations to the respondent that reduced the adverse effect of the discrimination on the claimant his or herself. The change was brought in because in 2008 when a consultation carried out by the Government of the time highlighted the fact that 70% of employees who were involved in discrimination claims chose to leave the respondent employer. This limited the tribunal's power to make recommendations to try and ensure the same discrimination did not arise again.

69. It was for this reason that s124(3) was included in the Act; it meant that recommendations could be made for the benefit of the wider workforce. The types of recommendations that a tribunal can make include ensuring the respondent introduces an equal opportunities policy, re-trains staff and makes public its selection criteria used for staff transfer or promotion.

70. An example of when the tribunal used this new power was the case of Stone v Ramsay Healthcare UK Operations Ltd ET/1400762/11. Here, the claimant resigned from her job after she had been the victim of pregnancy/maternity-related discrimination. Despite the claimant no longer working for the respondent, the tribunal ordered the employer to hire external consultants in order to implement a training programme on maternity for its managers and HR team, and to redraft its equal opportunities policy.

71. In this instance, the consequences of removing these powers from the tribunal would potentially be that all of the employees at the respondent company would continue to have managers who had not had appropriate training and an equal opportunities policy that was not fit for purpose.

72. Without the tribunal having the ability to make these recommendations for such changes, the status quo could have led to further incidents of discrimination towards members of staff. This would have resulted in more resignations and tribunal claims which would have had a negative impact on both the employees and the employer. It is for this reason that tribunal recommendations should not be seen as a punishment for employers but a way of improving their business.

73. The NASUWT further notes that the TUC has reported that it knows of only four cases where such recommendations have been made by tribunals, thus clearly not creating a regulatory burden.

74. The NASUWT opposes this proposal not only because it removes a power without evidence that it is a burden and because the power currently sends a strong signal to employers and the wider legal and human resources community, advising business that discrimination is unacceptable, and ensuring, as in the example quoted, that discriminatory practice can be corrected.

Clause 60: Legislation no Longer of Practical Use

75. The NASUWT is extremely concerned about how the power to disapply legislation that is no longer considered of use may be used in the future. This is a sweeping and worrying provision removing as it does necessary checks and balances provided by the Parliamentary process.

76. Parliament should make decisions about which legislation does not apply and/or which appropriate processes should operate through the courts. Ministers or civil servants should not have the power to determine this unilaterally.

Clause 61: Exercise of regulatory functions

77. Clause 61 proposes that regulators would have a duty to promote economic growth. The NASUWT concurs fully with the view of the TUC that *'these clauses are not only unnecessary but also potentially damaging and in some cases likely to compromise the independence of some regulatory bodies, for example,*

the HSE and the EHRC, both of which are required under EU legislation to operate at arm's length from Government in the exercise of some of their statutory functions'.[6]

78. The NASUWT believes that the Coalition Government should remove these clauses and consider other ways of encouraging regulators to exercise their statutory functions.

February 2014

Written evidence submitted from The National Union of Rail, Maritime and Transport Workers (RMT) (DB 04)

1. The National Union of Rail, Maritime and Transport Workers (RMT) welcome the opportunity to submit written evidence to the Public Bill Committee scrutinising the Deregulation Bill. RMT is the largest of the rail unions and organises 80,000 members working in the rail, maritime, bus, road transport and offshore energy industries. We negotiate on behalf of our members with some 150 different employers.

2. RMT raise the following concerns over the Deregulation Bill as currently drafted which we urge the Public Bill Committee to consider as part of its role in scrutinising, line by line, Government legislation.

3. **26—Removal of duty to order re-hearing of marine accident investigations** The Merchant Shipping Act 1995 (section 269) contains a duty on the Secretary of State for Transport to re-open marine accident investigations in light of new evidence. Clause 26 of the Deregulation Bill seeks to abolish this. This power was exercised by the Labour Government in 1998 to re-open the investigation into the MV Derbyshire tragedy in 1980 in which 42 UK seafarers and 2 passengers lost their lives in Typhoon Orchid off the south Japanese coast. It took years of campaigning by families and trade unions, NUS, RMT, Nautilus and the International Transport Workers Federation (ITF) which included funding the search that discovered the wreckage of the MV Derbyshire in 1994.

4. The abolition of this Duty was raised by MPs in the Second Reading debate of the Bill on 3rd February[7] and RMT strongly believe that the Committee should require further clarification from the Government on how the removal of this Duty would affect the Secretary of State's use of the power to re-open a marine accident investigation.

> The Government amendment removes the 1995 Act's reference at 269 (1) (a) to the Secretary of State's duty to re-open such an investigation:
>
> > *"(a) if new and important evidence which could not be produced at the investigation has been discovered;"*
>
> The Secretary of State's power in the 1995 Act (269 (1) (b)) to re-open an accident investigation if he/she suspects that a miscarriage of justice may have occurred is retained but we are concerned that this places the bar too high in such instances and will further deter trade unions, NGOs and others from conducting the sort of campaign that led to the re-opening of the MV Derbyshire investigation and eventually secured justice for the families of those who died at sea working on a UK flagged vessel. We are clear that a duty to re-open an investigation in the circumstances set out here is far safer than the power to re-open on the grounds of a miscarriage of justice.

We are hopeful that the Public Bill Committee's deliberations on clause 26 will provide further insight into the consequences of the Government's proposal.

5. **59—Ambulatory references to international shipping instruments** The Bill amends Section 360 of the Merchant Shipping Act 1995 to enable Government to update international shipping conventions without having to go through the secondary legislative process. This bypasses the parliamentary process for the convenience of the shipping industry. In written evidence to the Joint Committee, both Chamber of Shipping and Nautilus supported this clause with the Committee report stating: "Only a small number of witnesses commented on this provision. Nautilus International said that it was 'entirely sensible', and the UK Chamber of Shipping were supportive. RMT (the National Union of Rail, Maritime and Transport Workers), on the other hand, expressed concern: the provision "risks bad legislation and unintended consequences due to lack of scrutiny by Parliament and outside bodies such as trade unions'".[8]

6. The Transport Committee also had reservations over the loss of parliamentary scrutiny that attends Clause 59 and the Joint Committee recommended: "*a level of Parliamentary scrutiny*." The Government response to the Joint Committee states (page 6-7) that they reject this recommendation and intend to remove sub sections 5-8 of Clause 59. This makes the effect of the ambulatory more extreme, as it removes a requirement for a mechanism to prevent or try to prevent unwanted consequences of these significant powers.

7. Despite this, the Government claims, in response to Transcom's reservations, that the secondary regulatory process guarantees sufficient levels of parliamentary scrutiny through the affirmative or negative procedure.

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[6] TUC (2013), *Draft Deregulation Bill—TUC Response.*
[7] *Hansard* Col. & Col. 72
[8]

RMT does not regard this as sufficient parliamentary scrutiny, not least when maritime legislation, inherently international can take sudden and significant turns.

8. The International Maritime Organisation Convention for the Prevention of Pollution from Ships (MARPOL) is just one example, with significant changes to the sulphur emissions regime in Europe, covering the North Sea and Channel, due to come into effect in the UK on 1st January 2015. The Government has not stated its position on this and whilst RMT share industry's opposition to the timing of these changes, they must be subject to parliamentary scrutiny.

9. **61-64—Exercise of regulatory functions: economic growth** RMT is opposed to the creation of a duty to require non-economic regulators (including the ORR, HSE, MCA, HMRC National Minimum Wage Enforcement Team and Traffic Commissioners) to "...consider the importance of ensuring that any regulatory action they take is necessary and proportionate." This duty is partly the result of a recommendation from the Heseltine Review that the government should impose an obligation on regulators to take account of the economic consequences of their actions. Gives Ministers the power (Clause 63) to issue guidance on the definition of economic growth; how regulatory functions can be exercised so as to promote economic growth; and how regulators can demonstrate compliance with the duty.

10. The Office of Rail Regulation was not included on the original list of bodies that the economic duty would apply to. Government has since announced that it is consulting in the summer to include the ORR. It will then require secondary legislation which could take up to April 2015 (one month before the general election) to make it through Parliament.

11. The duty will only apply to the safety role of the ORR, and places an additional burden on that role.

12. There is the possibility that where an internal conflict arises within the ORR, between the decisions of the economic side and the safety side, this duty will tip the scales in favour of the economic side thereby compromising safety.

13. In its response to the Joint Committee, the Government commented on how it's eventual guidance to regulators on how they should implement the economic duty. It states that the guidance "....will illustrate potential ways in which regulators may have regard to the growth duty."[9] The subsequent list is of major concern, particularly the final point on 'Understanding the business environment':

14. *This means tailoring regulatory activities according to an understanding of the business environment and stages in the business lifecycle, and applying this understanding when dealing with businesses on the ground*.[10]

15. RMT believe that this would be an expensive and potentially dangerous distraction to the regulators of the industries where our members work, namely the Office for Rail Regulation, Maritime and Coastguard Agency and the Traffic Commissioners.

16. TUC are also opposed to these clauses and the Joint Committee recommended that the powers to issue guidance at Clause 63 should be on the face of the Bill. Consultation on the list of regulators will be undertaken in the near future.

17. In their response to the Joint Committee's recommendation, the Government declined to put the powers to issue guidance on the face of the Bill but the guidance to regulators on implementing the economic duty will be subject to the affirmative procedure in both Houses at a later date.

18. **23—Removal of restrictions on provision of passenger rail services** Amends the Transport Act 1968 to permit Passenger Transport Executives (PTEs) to carry rail passengers. This is a major step toward devolving regional rail franchises.

19. However, we are unclear over the potential consequences of Clause 23 for the role of the PTE and whether they will simply act as a local economic regulator or if they will be equipped with the necessary public funding required to provide rail passenger services.

20. Furthermore, clarity is also sought from the Government on whether Clause 23 will allow open access operators to run devolved regional rail services on behalf of a PTE. Open access passenger train operators operate services purely on a commercial basis, i.e. without the minimum service specification typically contained in a franchise agreement. The consequential amendments in Schedule 7, Sub schedule 2 (4) of the Bill amends the Transport Act 1968 to give PTEs the power to lease locomotives and rolling stock to persons who is not a franchisee or a franchise operator.

21. Under this provision, the PTE would not offer a franchise for passenger rail services. This would be similar to the concession used on Merseyrail at present, although they are sole operators on the line.

22. RMT would be concerned if the effect of this Clause were to encourage open access operators to run devolved rail passenger services. This would be problematic for passengers and rail workers, not to mention

[9] Pg 16, para 89 *Government Response to the Report of the Joint Committee on the Draft Deregulation Bill* Jan 2014.
[10] Ibid

Network Rail and the ORR, particularly in the case of Northern Rail which includes large sections of track to which multiple operators require access.

23. Open access operators are also subject to less regulation than those operating a franchised contract. As such, protections for workers are inferior and can often lead to the operator walking away from a contract at very short notice, to the detriment of passengers, workers and the taxpayer, as happened on the Wrexham-Shropshire line in 2011.

24. These concerns were raised in the Second Reading debate on 3rd February[11] but the Government did not reply to them. We are hopeful that the Public Bill Committee will revisit these concerns in its deliberations.

February 2014

Written evidence submitted from Peter McKay (DB 05)

1. I am a member of the public who has studied matters relating to our highway records for many years, and wish to submit my view on matters contained in the Bill relating to public rights of way, which I the main I support as they are needed, however :

2. Natural England's Stakeholder Working Group has raised its report without an Evidence Base, and consequently has failed to identify that our local Surveying Authorities have not yet completed our highway records and published them online as 'strongly recommended' by Department for transport in its 2012 Code of Practice. A task that many Surveying Authorities have not yet undertaken due to lack of authoritative guidance has to how best to go about this is to register our estimated 40,000 unadopted roads, as per 2010 House of Commons Standard Library Report in-conformance with Regulations raised in 2007, plus the need for adequate time for the Surveying Authorities themselves to make use of the improved procedures to remedy identified local issues not hitherto addressed due to the present procedural problems, and even a problem with BS7666 that attempts to change the legislation. Our Local Access Forums will need to monitor progress of work undertaken by our local Surveying Authorities to complete the highway records, and will almost certainly need to raise formal advice informing the Minister of delays with this, requesting that the cut-off date be postponed, being aware that they will need to take care that they do not ultimately get blamed for unrecorded lost ways through failing to provide appropriate formal advice on these matters, and it being illogical to commence cut-off procedures before our highway records have been completed to a satisfactory standard, in full conformance with the legislation, and published online.

3. Consequently I consider that flexibility in the cut-off date needs to be incorporated into the bill enabling the Minister to respond to such Local Access Forum advice.

4. These matters are set out in further detail in following Appendix.

APPENDIX

5. Encouraging parishes, the public and other user groups to make representations regarding errors and omissions in the highway records, prior to these being completed and published to a satisfactory standard in full compliance with existing legislation, would place an unacceptable burden on all. There would be much duplication of effort, submission of DMMO claims to satisfy personal interests rather than correct highway status, etc., etc. This would result in a chaotic situation, with a significant risk of legal action against non- compliant highway authorities at a later date. Local Access Forums, being the Governments advisory body, have an important role to play in monitoring the efficient, effective and most economical way of completing our highway records.

6. **The first logical** requirement will be to make the highway records viewable online enabling parishes, the public and other user groups to inspect them—as "strongly recommended" by the Department for Transport in its 2012 Code of Practice. The only highway record that shows all publicly maintained roads, unadopted roads, byways, cycleways, bridleways and footpaths, is the Street Register—and this is the highway record referred to by the Department for Transport. This is also known as the Local Street Gazetteer, with the 2007 Regulations requiring a date of 1st April 2009 for its completion, and with the proposed new procedures applying to paths on the Definitive Map and not roads on the Street Register the proposed new procedures have nothing to do with this, i.e., the Deregulation Bill makes no changes to this process.

7. Local Access Forums have an important role to play, by ensuring they are satisfied that the local Register has been completed in full compliance with the legislation and has been made available for online viewing. Should this not be the case their duty would be to inform the Secretary of State, advising him of this, with the logical conclusion being that the 2026 cut-off date be postponed whilst that Surveying Authority completes and publishes this statutory highway record to a satisfactory standard.

8. **The second logical** requirement is for Surveying Authorities to be allowed adequate time to make use of the proposed improved procedures, to make any corrections to the highway records that they are aware of as identified in a highway record Evidence Base and/or addressed in the RoWIP, to bring the highway records up to an acceptable and legally compliant standard. This had been so costly and time consuming under the old

[11] *Hansard* Col. 72 & Col. 83.

procedures that hitherto, this has not been undertaken, and ought be completed before encouraging parishes, the public and user groups to inspect them and make representations regarding errors and omissions.

9. Local Access Forums have an important role to play, by checking that an Evidence Base / RoWIP setting out how the highway records have been raised has identified issues requiring attention and validating that the time required by their Surveying Authority to meet their statutory duty would not reduce the time left, to an unacceptable period for making representations regarding errors and omissions before the intended 2026 "cut-off". Should it be established that insufficient time would be left, or the records are not legally compliant, their duty would be to inform the Secretary of State—advising him of this fact—with the logical request that the 2026 cut-off date be postponed until the Surveying Authority meets its statutory duty to publish fully compliant records.

10. **The third logical** step is to encourage parishes, the public and other user groups to inspect the highway records and to make representations regarding errors and omissions.

11. As it is the intention of Government to extinguish unrecorded highway rights on 1st January 2026, Local Access Forums are the advisory body that should keep these matters under review. So, they should consider formally approaching the Secretary of State requesting that he provides an assurance and commitment, that no public user rights will be extinguished in authority areas who are failing in these matters—with the logical expectation being that the 2026 cut-off date should be postponed for an appropriate period of time. The Secretary of State will be aware that the CROW Act 2000 specifically prohibits the "cut-off" being postponed beyond 2031, so he is likely to encourage failing Surveying Authorities to make progress—to mitigate the primary legislation being returned to Parliament to to extend cut-off beyond 2031.

12. **The legal situation** would appear to be that any user or group of users, who could demonstrate disadvantage due to an inability to check or having inadequate time to check that all rights are entered on a Local Street Gazetteer (which is fully compliant with the legislation and regulations) could argue that that any loss of rights in such circumstances is "maladministration causing injustice". This would expose non-compliant authorities to substantial compensation claims and Local Access Forums should ensure that they have played their part to ensure this situation does not arise.

13. **Local Access Forums should take care that they do not ultimately get blamed for lost ways through failing to provide appropriate formal advice on these matters.**

Notes:

14. **Unadopted Roads:** The Street Register is the first document requiring that these be registered, routes that were regarded as being "county roads" not legally eligible for registration on the Definitive Map under the 1949 survey of public paths, with the 2010 House of Commons Library Standard Note titled Roads- Unadopted, reference number SN/BT/402, advising that there are an estimated 40,000 of these. The 2007 Regulations require every unadopted road the Surveying Authority is aware of to be registered, but some Surveying Authorities appear reluctant to fulfil that duty and register them. No authoritative guidance has been found setting out just what 'aware of' means, even though Surveying Authorities are undoubtedly aware of unregistered 'white roads'.

15. **Corrections to the highway records that Surveying Authorities are aware of:** This will vary from authority to authority and raising an Evidence Base for the authorities highway records with the RoWIP addressing identified issues would spell out and explain the situation in a manner that parishes, the public and user groups would understand—and the corrective action that could be expected. This would also identify and recognise that some counties have unresolved CRF/CRB issues, having shown them as footpaths & bridleways on the definitive map of Rights of Ways without prejudice to higher rights—rather than 'roads used as public paths'. Reclassification of these incorrectly recorded routes is long overdue. Recognition of this fact, along with guidance, has been requested both by raising this with MP's and through the Byways and Bridleways Trust, by requesting guidance be raised by RoWRC. A further issue in some areas are cross-boundary routes at different status being one of the main causes of anomalies on the Definitive Map, which may come about where neighbouring highway authorities have incompatible records due to one (or both) being non-compliant, and Local Access Forums could usefully check that a highway record Evidence Base / RoWIP recognises this issue and considers how best to address this situation.

16. **BS7666:** The Local Street Gazetteers are required to conform with BS7666, but whilst the legislation limits the scope to streets that are highways BS7666 is in conflict with the legislation in it that it requires streets to more than one property be registered, (providing information for emergency services for example) but without distinguishing whether or not they are highways, bringing into question whether or not any registered street is a highway. Geoplace LLP are thought to have steps in hand to correct this.

February 2014

Written evidence submitted from Ragnar Lofstedt PhD (DB 06)

The Löfstedt Report: Health and Safety Law and the Self-Employed

My November 2011 Report 'Reclaiming health and safety for all: an independent review of health and safety legislation' recommended:

> 'Exempting from health and safety law those self-employed whose work activities pose no potential risk of harm to others'.

The Government, in its response to my Report, accepted my recommendation, which it now intends to implement through a clause in the Deregulation Bill. I am writing to the Bill Committee to clarify the intention behind my recommendation.

Currently, Section 3(2) of the Health and Safety at Work etc. Act (HSWA) 1974 imposes a general duty on all self employed persons to conduct their work in such a way that—so far as is reasonably practicable—they, and others affected by their activities, are not exposed to risks to their health and safety.

My Report noted that this approach differs from European legislation, which does not generally apply to the self-employed, except in certain prescribed activities (eg on temporary or mobile construction sites). Individual European states vary in their approach to the application of health and safety law: in Sweden, only those self-employed whose activities are considered particularly hazardous or risky to others are covered by the law; in Germany, the law only applies to those whose activities may affect the health and safety of others.

In his 2006 report, Lord Davidson identified the inclusion of the self-employed in HSWA as gold-plating, but noted that some self-employed occupations (eg agriculture and construction) pose a significant risk of harm to others and suggested that the inclusion of the self-employed in any future legislation should be considered on a case-by-case basis.

While I recognised in my Report that, in practice, there was little prospect of those self-employed persons in low risk activities facing inspection, but there was a perception that health and safety law was inappropriately and disproportionately applied to these individuals. This was the basis of my recommendation that those self-employed whose work activities pose no potential risk of harm to others.

Although I did not give examples in my Report of what, in this context, might be considered as low or high risk activities, at subsequent speaking events I have given suggested that clerical type work eg a software developer or writer, would be considered as posing low risk to others, while construction work would be considered as high risk. I was clear in my report that such high risk occupations should not be exempt from HSWA. I was also clear that any exemption to the law should not affect the duties that others have towards the self-employed.

I hope this clarifies the intention behind my recommendation.

I would also like to flag that, in its response to my Report, which was published on the same day, the Government said:

The Government will ask HSE to take urgent action to draw up proposals for changing the law to remove health and safety burdens from the self employed in low-risk occupations, whose activities represent no risk to other people. This will bring Britain in line with other European countries, who have taken a more proportionate approach when applying health and safety law to the self- employed…'

and

'…It is clear that the fear of inspection and possible transgression for minor transgressions of the law is a cause of unnecessary concern for the self-employed and –where the individual is carrying out low risk activity such as office-type work—delivers no real benefit to the wider population. Where the activities of self-employed people could pose a risk to themselves or others, for example in the building trades, the law will continue to apply'.

I believe this position was consistent with the spirit of my recommendation.

February 2014

Written evidence submitted from The Equality and Diversity Forum (DB 07)

Introduction

The Equality and Diversity Forum (EDF) is a network of national organisations committed to equal opportunities, social justice, good community relations, respect for human rights and an end to discrimination based on age, disability, gender and gender identity, race, religion or belief, and sexual orientation. Further information about our work is available at www.edf.org.uk and a list of our members is attached.

Our member organisations represent people who have any or all of the characteristics protected in the 2010 Equality Act and one of our key concerns is that each should have access to the same rights to access to justice

regardless of their age, disability, gender and gender identity, race, religion or belief, and sexual orientation (unless there is a good reason why this is not appropriate).

Executive Summary

1. The EDF considers that it is important that regulations should serve a useful purpose and be both proportionate and effective. We can therefore see the value of considering whether there are any regulations that do not meet these standards.
2. The EDF is opposed to the inclusion of Clause 2 (which deals with Employment Tribunals power to make recommendations (Equality Act 2010, section 124)) which would remove a useful power that is not burdensome and has the potential to help employers to be more effective.
3. The EDF is concerned about Clauses 61–64 which introduces a new duty for regulators to have regard to promoting economic growth when they reach decisions that would itself create further burdens for some regulators.

Clause 2—Employment Tribunal's power to make recommendations

We are strongly opposed to this clause: even the Government appears to have acknowledged that there is no evidence that this tribunal power is a burden. Rather, it is a power that can only be exercised in relation to an employer who has breached the law and is intended to help prevent future breaches.

The power enabling Employment Tribunals to make 'an appropriate recommendation' to an employer as a possible remedy when the Employment Tribunal has made a finding of unlawful discrimination is a relatively new power. It applies to cases where the action complained of occurred after October 1st 2010. A consideration of the use and efficacy of this new provision ought to take into account the fact that it has only been available for use during significantly less than three years and so there has been little time in which it could even be deployed and only limited information about its impact.

It is striking that the Government said in its May 2012 consultation document, 'Equality Act 2010 Consultation on reform of two enforcement provisions for discrimination cases', that '*we are unaware of any such recommendations have been made since the commencement of the Equality Act 2010*'[12] and yet propose to remove it. The recommendation to remove this power appears to have been made even though the Government has no evidence that it is a burden to anyone. Instead, they have argued that there '*is no evidence, so far, to show that the extended power is necessary or that it is an appropriate or effective remedy*'.[13] It is certainly rather early to evaluate the impact of the power but we think what evidence there is suggests it will help to improve employment practice and reduce the incidence of discrimination.

There is no evidence that the power is burdensome

We would draw your attention particularly to the following points:

— this provision is a discretionary provision—there is no obligation on any Employment Tribunal to use it' and

— It is intended to prevent further occurrences of discrimination within an employer's workforce.

The consultation impact analysis appears to suggest that this provision when operating as expected will affect 0–3% of employment tribunal cases, which they suggest is likely to be 17 cases a year and that these recommendations leading to changes in employer practices and policies may help to prevent further discrimination cases being brought.[14] If this estimate is correct, it is difficult to argue that the power will generate burdens. On the contrary, improving employer practices is likely to generate a net benefit by preventing further employment tribunal cases, even if there is a small outlay in training for managers etc.

Many tribunal cases result from poor human resource management practice so there is a public interest in improving human resource management particularly in the equality field. An employment case raising equality issues will be heard either by a panel of three (one of whom will be an employer's representative) who will have huge experience of human resource practice or by a single very experienced judge. It is in the public interest that their insight into the shortcomings (if there be any) in the human resource management of an organisation is put to good use through a general recommendation where they judge this to be appropriate.

We note that the Government observed, '*employers often make changes to their policies and practices, anyway, as a result of a tribunal finding, without the need for a recommendation*'.[15] We cannot see that this is a good reason for depriving Tribunals of this useful tool designed to assist employers and trade unions to remove the continuing effects of structural and systemic discrimination in the workplace. The purpose of this power is to deal with those that don't improve their practices in response to tribunal cases and to help focus those that would benefit from expert assistance.

[12] Consultation on reform of two enforcement provisions for discrimination cases, 2012, p51.
[13] Consultation on reform of two enforcement provisions for discrimination cases, 2012, p50.
[14] Consultation on reform of two enforcement provisions for discrimination cases, 2012, p48.
[15] Consultation on reform of two enforcement provisions for discrimination cases, 2012, para. 3.2.

The tribunal system is supported out of public funds. If a tribunal considers that systematic shortcomings in an employer's practice have come to light it makes every sense that they should be able to make recommendations as to how they are put right. It may be said that to prohibit them from using their discretion in this way, as the government proposes to do, would be a waste of public resources.

Evidence of the value of the power

Contrary to the Government's assertion that there is no evidence that this is an effective power there are already some cases where this power has been used. For example in 2011 it was used in:

— *Crisp v Iceland Foods—ET/1604478/11 & ET/1600000/12*—the employment tribunal upheld a claim of direct disability discrimination and made a recommendation that the HR managers should receive training 'relating specifically to the issue of mental health disability'.

— *Stone v Ramsay Health Care UK Operations Ltd*—ET/1400762/11—a pregnancy discrimination case in which the employment tribunal recommended that the employer provide training for its managers and HR team on maternity rights.

In 2012 it was used more frequently: an Equal Opportunities Review survey records 19 occasions when tribunals used their power to make wider recommendations. These recommendations mainly concerned provision for training for managers, improvement of internal processes and record keeping. For example:

— *Ncheke v Her Majesties Courts & Tribunals Service*—ET/1201468/11—a disability case where a disabled woman was denied a reasonable adjustment that should have been made for her. The ET ordered that within six months 'line managers and human resources are to receive adequate training on understanding and implementing the Respondent's disability leave policy and to ensure that the policy is properly communicated to employees as is appropriate in the circumstances'.

— *Tantum v Travers Smith Braithwaite Services*—ET/2203585/12—a trainee solicitor was discriminated against in the selection procedure for a permanent post because she was pregnant. The ET recommended that:

  i. Members of the senior staff should participate in discrimination training;

  ii. Discrimination training should be monitored;

  iii. There should be formal documentation so that there is a transparent process in deciding which trainees get positions, with feedback to trainees who are unsuccessful; and

  iv. There should be a defined procedure for dealing with investigation of discrimination grievances.

When a recommendation is made it is to be expected that it will lead to better employment practice and prevent further cases of discrimination, with their associated costs. There is no evidence that it has been abused or in any other way misused.

Employment Tribunals are obliged to send copies of all discrimination cases to the Equality and Human Rights Commission (EHRC). They will then look at the cases where recommendations have been made and decide whether it is appropriate and proportionate to contact the employer and offer further assistance.

The EDF strongly urges the committee to remove clause 2.

Clauses 61–64—new duty for regulators to have regard to promoting economic growth when they reach decisions

The Government is ostensibly keen to reduce regulatory burdens so it is difficult to understand why a new duty on regulators is being proposed. Regulators are already subject to the Hampton Principles which have been in place since 2005 were introduced as a result of a report on 'Reducing administrative burdens: effective inspection and enforcement'.[16] These principles considered how to reduce unnecessary administration for businesses, without compromising the UK's regulatory regime and they are recognised as the standard with which regulators should comply. These provide that:

> *'Regulators should recognize that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection'.*

We would therefore question why any further provisions are needed.

We note that the Joint Committee on the Draft Deregulation Bill concluded at paras 104–5 that –

> *…an economic growth duty on regulators is welcome provided that safeguards are in place to ensure that the growth duty does not take precedence over regulation and that the overriding and principal objective of regulators remains the protection of the public interest…The Government should consider making this clear on the face of the Bill.*[17]

Although minor amendments were subsequently made to the wording of these clauses none of them has addressed this problem.

[16] http://www.bis.gov.uk/brdo/resources/knowledge/better-regulation-principles
[17] http://www.publications.parliament.uk/pa/jt201314/jtselect/jtdraftdereg/101/101.pdf

We remain concerned that the promoting economic growth duty will compromise the independence of regulators. In the case of the EHRC, it could jeopardise the Commission's UN accreditation as an A rated national human rights institution. We are also concerned about the position of other non-economic regulators whose remit encompasses equality or human rights, such as the Children's Commissioners and the Information Commissioner.

Whilst we welcome the draft Guidance which says at section 2(2) –

The duty requires that economic growth is a factor to be taken into account alongside regulators' other statutory duties.

- *The duty does not set out how economic growth ranks against existing duties as this is a judgment only a regulator can and should make.*
- *The duty does not oblige the regulator to place a particular weight on growth*.[18]

Nevertheless we consider that if this is the Government's interpretation of this duty then it should be made clear on the face of the Bill.

Taken as a whole, clauses 61–64 would give Ministers considerable powers to interfere in how regulators created by Parliament do their jobs, with very limited parliamentary scrutiny of how Ministers would use these new powers. Some of the regulators likely to be affected by these clauses have functions of constitutional significance, such as protecting vulnerable individuals against abuse or intrusive uses of state power.

We note that other Parliaments have addressed this in a more balanced way. The Regulatory Reform (Scotland) Bill, section 4 is significantly different:

Regulators' duty in respect of sustainable economic growth

(1) In exercising its regulatory functions, each regulator must contribute to achieving sustainable economic growth, *except to the extent that it would be inconsistent with the exercise of those functions to do so* (our italics).

If these clauses are retained in the Deregulation Bill we would suggest that a similar qualification would be both appropriate and necessary.

February 2014

Annex 1

Equality and Diversity Forum members

Action on Hearing Loss

Age UK

British Humanist Association

British Institute of Human Rights

Children's Rights Alliance for England (CRAE)

Citizens Advice

Disability Rights UK

Discrimination Law Association

End Violence Against Women

Equality Challenge Unit

EREN—The English Regions Equality and Human Rights Network

Fawcett Society

Friends, Families and Travellers

Gender Identity Research and Education Society (GIRES)

JUSTICE

Law Centres Network

Mind

National AIDS Trust

Press for Change

Race on the Agenda (ROTA)

[18] https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274552/14-554-growth-duty-draft-guidance.pdf

Refugee Council

RNIB

Runnymede Trust

Scope

Stonewall

The Age and Employment Network (TAEN)

Trades Union Congress (TUC)

UKREN (UK Race in Europe Network)

UNISON

Women's Budget Group

Women's Resource Centre

Other signatories/observer members

Inclusion London

Written evidence submitted by R3 (DB 08)

Committee request: Cost of Joint Insolvency Examination Board exams

Thank you very much again for inviting R3 (the leading trade body for the UK's insolvency profession) to give evidence to the Public Bill Committee on Clause 10 and Clause 12. During the evidence session the Minister (Mr Oliver Heald MP QC) asked a question regarding the typical training costs charged by the main education providers for each of the three Joint Insolvency Examination Board insolvency papers. As I was unable to provide these details during the Committee session, I am pleased to provide this information below.

Under the current licence Insolvency Practitioners (IPs) must sit three exams:

- Liquidations
- Administrations, Company Voluntary Arrangements (CVAs) and Receiverships
- Personal Insolvency

Most students study these exams through BPP, which until recently was the dominant training provider of JIEB courses. The costs for 2014 as set out by BPP are as follows:

- £2,892 plus VAT for each exam
- £8,676 plus VAT for all three exams
- Exam fee payable to the student's professional body:
  - £310 for one paper (2013)
  - £620 for two or more papers (2013)

The total cost for all three exams and exam fees for two or more papers (plus VAT) is therefore approximately £9,296.

Clause 10 proposes that an IP can train in either corporate or personal insolvency. We believe this will require sitting one paper, and so therefore the costs of that exam should be reduced. However, we are concerned that the government has not asked the training providers for evidence to that effect, or what the new papers should look like. They have however told us that the new personal paper will need to include elements of corporate insolvency and vice-versa, and given the extra regulatory costs of two new licences, any costs savings are therefore illusory.

Furthermore, as I informed the committee last week, more than 90% of smaller insolvency practices claim they will not train an IP in a partial licence because they believe IPs should be fully trained in both disciplines to understand the UK's insolvency regime—which is currently the 7th most competitive in the world (according to the World Bank). We believe partial licences will undermine this rating.

Partial licences will inevitably harm and confuse businesses and individuals seeking financial advice; they will delay the time that it takes to provide businesses and individuals with an insolvency solution which gives them debt relief, and delay the time it takes for returns made to creditors.

March 2014

Written evidence submitted by Unite the Union (DB 09)

Introduction

Further to our giving oral evidence at the committee on 25 February, as previously indicated Unite is submitting this additional written evidence.

Summary

We are particularly concerned about:

— Clause 1—Removal of health and safety duties from self-employed people

— Clause 2—Removal of an employment tribunal's power to make wider recommendations

— Clauses 61-65—Exercise of regulatory functions: economic growth

Unite also believes that attempting to include such a wide range of issues in one piece of legislation is poorly thought out and confusing. In Unite's view, pursuing the Bill in this way, and at speed, will undoubtedly lead to bad legislation and will result in detriment and increased cost to workers, their families, communities and to society as a whole.

Clause 1 Removal of health and safety duties from self-employed persons

1. **Clause 1 should be removed from the Bill.**

Unite is not opposing Clause 1 simply because it is deregulatory: it is a retrograde step which will severely weaken protection for all workers and seriously compromise public safety. It is in the public interest to maintain health and safety duties for all self-employed people, including, for example, those working in public places, where the public are also at risk.

2. **The changes proposed are completely unnecessary** as the only time the Health and Safety at Work Act can be used is in circumstances when the person does put another person at risk. If they injure another person through their work the Health and Safety at Work Act will apply. This seems a very clear position to us.

3. If the self-employed do not have duties under health and safety legislation **they cannot be prosecuted for breaches of health and safety law**. HSE and international research (eg in the USA) has shown that enforcement by the regulator (including prosecution under criminal law) is a strong driver for health and safety compliance.

4. **Clause 1 will send a message that health and safety is not important** and should just be ignored. It will encourage bad practice and reduce reporting of injuries, ill-health and near misses.

5. **Clause 1 will create enormous confusion** about who has health and safety duties under criminal legislation. This will impact directly on the workers who work alongside self-employed people in the workplace who must report concerns in accordance with their own duties as employees under the HSWA. The duty will not be mutual as it will not apply to the self-employed workers with whom they are working.

6. **Bogus self-employment will increase** across all sectors if Clause 1 becomes law.[19] More unscrupulous employers will impose self-employed status on workers to try to get out of their own responsibilities. The number of precarious workers, for example, those on zero hours contracts, in bogus self- employment, and agency workers will increase, with negative effects on society, family life and the economy as well as health, safety and welfare.

7. **There is no safety reason for this change.**

(1) No evidence has been produced in support of the change other than the recommendation by Professor Lofstedt in his 2011 review of health and safety regulation *Reclaiming Health and Safety for All* (Cm8219 November 2011) that some self-employed workers should be exempt. Prof. Lofstedt did not himself provide any substantive evidence for this recommendation.

(2) It is also important to correct any misunderstanding that Clause 1 follows Professor Lofstedt's recommendations in *Reclaiming Health and Safety for All*.

Clause 1 is not consistent with his actual recommendation which is (at para 17 on page 39)—we have underlined the phrase which is not taken into account in the Deregulation Bill:

> **"I therefore recommend exempting from health and safety law those self-employed <u>whose work activities pose no potential risk of harm to others</u>".**

(3) Unite does not support this situation either as this will create huge confusion about who does or does not have duties. We believe that if this recommendation were implemented in full every self-employed person would have to carry out a risk assessment first to find out if their work activities are potentially harmful—even more reason to maintain the clarity of the status quo.

[19] In effect this would act contrary to the Government's proposals to prevent bogus self-employment depriving the Treasury (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264649/Onshore_employment_intermediaries_-_false_self_employment.pdf)

8. **"Prescribed undertakings"**

(1) Clause 1 removes the duty from all self-employed people except those working in "prescribed undertakings". There is no information in the Bill or the explanatory notes to the Bill about the undertakings it is intended to prescribe and more health and safety regulations would have to be made to define these if Clause 1 becomes law.

(2) Those voting on the Bill will still not have a clear idea what they will be voting on with regard to "prescribed" undertakings or indeed whether such regulations will ever be enacted.

(3) Unite was sent a list of proposed prescribed undertakings late on 24 February 2014. The proposed list is inadequate and unclear—it does not cover **food manufacturing or indeed any other type of manufacturing), for example**. Each year over 5000 injuries in food and drink manufacturing industries are reported to HSE. This represents about a quarter of all manufacturing injuries reported. The overall injury rate in food manufacture is higher than the average for manufacturing industries generally. **Transport**, apart from transporting dangerous goods, is not included, and nor is **electricity generation**, to give just two examples, and the definitions are vague, e.g. **construction** merely talks about those who have duties under the Construction (Design and Management) Regulations 2007 and does not mention specific trades, e.g. carpenters, plumbers, etc.

9. **Health and safety laws do not impose a significant financial burden on self-employed people now**. The ministers promoting the Bill stated in 2013 they were "scrapping health & safety rules for self-employed workers in low risk occupations, formally exempting 800,000 people from health & safety regulation and saving business an estimated £300,000 a year". If these figures are to be believed this amounts to about 37 pence per self-employed person. There are an estimated 4,368,000 self-employed people (Labour Force Survey Oct-Dec 2013) and rising. ONS Statistics (2010) suggest that approximately 3 million of these do not employ anyone.

10. **The work activities of self-employed may pose a risk to employees they are working alongside, or to the public.**

11. Many self-employed people work in situations **where they can't control their working environment**—this applies not just to more hazardous industries such as transport, but to office workers too, e.g. in the finance sector, or the police service where self-employed contractors often work alongside employees who are responsible for safety-critical work.

12. **There is a high rate of fatality amongst self-employed people**. According to Government statistics the self-employed are more than twice as likely to be killed as employees. There is a fatality rate of 1.2 per 100,000 for the self-employed compared to 0.5 per 100,000 for employees. Between April 2013 and January 2014 out of a total of 114 fatalities reported to the HSE (including 30 members of the public) 31 were self-employed mostly working in agriculture and construction but also in services, manufacturing, waste and recycling and retail.

13. **False self-employment**. Many employees who have been designated as self-employed are not at all, as employers try to avoid employment rights, paying tax and national insurance. Widespread bogus self-employment in the construction industry is one example. Unite is concerned that this practice is spreading to other industries. The use of false self-employment sees workers lose out in respect of contributory benefits including statutory sick pay, statutory maternity pay and paternity pay.

Concerns raised by Unite members include

1. Road Transport, logistics, retail distribution sector.

Unite is aware that many agency drivers and workers in the retail distribution sector may have "self-employed" status.

Whether this is "bogus" or not is another question but the effect on occupational health and safety and on public safety is potentially lethal and will be more so if health and safety duties are removed from self-employed people.

Unite professional drivers report the following:

There are many owner-drivers of vehicles of all sizes ranging from those who carry large containers to small vans. They may work dangerously long hours which can potentially put others at risk on the highway.

Agency drivers are often less well trained compared to permanent staff. One retail distribution company found that a larger proportion of their delivery lorries were being damaged by agency drivers. In one case a tailboard had caught on a post and was hanging off the vehicle and could have killed someone—it is a public safety issue too. Though this matter was reported, other instances of damage to vehicles had not been reported, eg defective steps on to the vehicle which led to an employee falling off them. The company has reduced the number of agency workers as a result.

An agency worker reversed into a recently opened branch of a fast food chain, causing damage.

Temporary workers are often wary of reporting problems which may in fact affect others' health and safety for fear of being seen as troublemakers and not being offered work the next day. This also provides disincentives

to report near misses. We have received reports that such workers have been victimised and spied upon if they do report concerns.

Temporary or agency workers are often on less favourable conditions. Examples include having to start earlier without pay, being given much faster picking rates in warehouses which lead them to have to hurry and potentially put others at risk, not being permitted toilet breaks except in official breaks (this could lead to loss of concentration as well as health problems); and because they are not trained to use equipment which is supplied to avoid manual handling, they are exposed to greater risks.

Workers whose first language may not be English may have difficulty in understanding what is required of them—including their so called "self-employed" status. They may also be bullied for these reasons.

Self-employed drivers visiting sites (for example to make a delivery) may not comply with site health and safety arrangements, e.g. keeping to speed limits or wearing PPE. If they are an employee then their employer can be contacted about their non-compliance, but not so if they are self-employed. This will be even worse if they have no health and safety responsibilities.

Self-employed workers would not be allowed to get involved with accident investigations and this will also result in lessons not being learned.

2. Agriculture

This is another industry which is highly dangerous. Just over one in a hundred workers (employees and the self-employed) work in agriculture, but it accounts for about one in five fatal injuries to workers.

In 2012-13 41% of the workers who were fatally injured were farmers; another 17% were farm workers.

The high level of deaths amongst the self-employed in this sector is illustrated by the running list of fatalities for 2013-14 (April 2013 to January 2014) on the HSE website. Out of 31 self-employed people killed so far, 12 were working in the agricultural sector.

3. Construction Sector

Unite is deeply concerned about the continuing prevalence of bogus self-employment in the construction sector. Clause 1 will significantly increase the risks in an already highly dangerous industry.

Unite believes that a large number of workers in the industry are often given little or no choice as to how they are engaged. This not only severely impacts on health and safety on sites but also has serious implications for training and skills, tax evasion and national insurance contributions.

Unite is also gravely concerned that Clause 1 will give the green light to rogue traders and operatives. It should be noted that there is currently no UK equivalent to a 'licence to practise'.

There are some trades where work activities may pose risks to others and where self-employed people are very common in the industry, for example, anyone can operate as a self-employed joiner or plumber without any qualifications.

Clause 2: Removal of Employment Tribunals' power to make wider recommendations

Unite is opposed to Clause 2 of the Bill which would remove the power of Employment Tribunals to issue wider recommendations to employers found to have unlawfully discriminated and agrees with the TUC's position on this.

The Government argues that it wants to remove this provision because of employer fears about inappropriate or excessive recommendations, but provides no proper evidence to substantiate this.

According to a recent study in the Equality Opportunities Review, in 2012 there were just 19 cases where Tribunals issued wider recommendations. In 15 of those cases the recommendation was for training on equality and diversity and in seven cases respondents were asked to address equality issues generally or to review policies.

Employment Tribunal recommendations are made by a Tribunal judge and two lay members, including one representing business, following a full hearing considering all evidence. This enables recommendations and suggestions to address serious cases of discrimination to be considered as appropriate.

Indeed, such recommendations are well regarded and often promoted as good practice by business, government and other organisations. In the absence of such recommendations, many bad employers will fail to deal with the causes of discrimination.

The TUC's submission to the pre-legislative scrutiny committee pointed out three major flaws in the Government's Impact Assessment (IA) of August 2012.

1. The IA fails to adequately capture the broader benefits to the workplace and employment practices of employers implementing recommendations.
2. The equality impact of repealing this provision has not been properly considered.

3. The IA is out of date. There are now significantly more cases (at least 28 according to Equality Opportunities Review) which should be included in any credible and improved impact assessment.

Clauses 61-64: Exercise of regulatory functions and economic growth

These clauses impose a new duty on bodies that perform particular regulatory functions to have regard in the exercise of those functions to the desirability of promoting economic growth.

Unite is concerned that this is not only potentially damaging in a number of ways, but that it may also compromise the independence of certain regulatory bodies such as the Health and Safety Executive (HSE) and the Equalities and Human Rights Commission (EHRC), which are required under EU legislation to operate at arm's length from government in respect of some of their statutory functions.

The wording in these clauses—what is meant by economic growth, for example—is far from clear and likely to lead to confusion.

Whilst it is important to support economic growth, it is also important not to impede regulators' ability to perform their statutory duties. Providing a statutory duty obliging regulators to have regard to economic growth, with considerable uncertainty about how this might work, presents such a risk.

Nor is there any clarity concerning the enforcement of fulfilling the new duty or assessing whether it conflicts with an existing duty. There is also a risk that parties subject to regulation will attempt to use the new duty as a 'get out clause'. For example, an employer may argue that following a particular procedure that makes for a healthier and safer working environment impedes their ability to make a profit and contribute to economic growth.

Unite opposes these clauses. No evidence is given to support their introduction, they are poorly worded and risk damaging the health, safety and welfare of workers and citizens.

March 2014

Written evidence submitted by the Law Society (DB 10)

Deregulation Bill, Clauses 61-64

The Law Society of England and Wales is the independent professional body, established for solicitors in 1825, that works globally to support and represent its 166,000 members, promoting the highest professional standards and the rule of law.

The evidence contained in this briefing has been agreed by several of the Society's Specialist Committees, which are made up of senior and specialist lawyers whose practice is relevant in this field.

Clauses 61-64: Exercise of regulatory functions

1. The Society is concerned that the new duty to have regard to economic growth is likely to be applied to the Solicitors Regulation Authority (SRA) which is the independent regulatory arm of the approved regulator, the Law Society.

2. The Legal Services Act 2007 transformed the regulation of legal services by:

— setting up an oversight regulator, the Legal Services Board;

— requiring the independence of frontline regulators from representative bodies and;

— placing eight regulatory objectives on the LSB and the approved regulators it oversees.

3. As the regulatory arm of the Law Society, the SRA is already subject to those eight regulatory objectives. Some of these are directly relevant to growth, including the duties to support the rule of law, to promote competition in the provision of legal services and to encourage an independent, strong, diverse and effective legal profession. The Society believes that balancing the existing eight objectives, many of which create a tension with other objectives and are not prioritised within the Act, is already difficulty for the legal sector regulators.

4. While the Society supports the need to promote economic growth, it doubts that the imposition of this objective will make any significant difference to the work of legal regulators, and that it is likely to be lost in the discussion of other eight objectives. Indeed, the additional objective may be self-defeating by adding to the debate and delaying reform.

5. The existence of an independent legal profession, and public confidence in it, is fundamental to freedom under the law. The Legal Services Act 2007 was designed to ensure that the independence of the approved regulators, such as the Law Society, was maintained while providing oversight in the form of the Legal Services Board.

6. The Law Society believes the Government should not seek to by-pass this by, in effect, monitoring regulators and, inevitably, seeking to second-guess what may be finely-balanced decisions. It is inappropriate

for the Government to have this power in respect of the legal profession to directly impose an additional objective.

7. **The Law Society's recommendation:** Applying the economic growth duty to legal regulators is inappropriate and duplicates regulatory objectives already in existence. If a duty to promote economic growth is to be applied, it should be to the Law Society (as the corporate body and the approved regulator under the Legal Services Act1997) rather than the SRA.

March 2014

Written evidence submitted by the National Housing Federation (DB 11)

1. The National Housing Federation

1.1 The National Housing Federation is the voice of affordable housing in England. We believe that everyone should have the home they need at a price they can afford. That's why we represent the work of housing associations and campaign for better housing. Our members provide two and a half million homes for more than five million people. Each year they invest in a diverse range of neighbourhood projects that help create strong, vibrant communities. We welcome the opportunity to submit our evidence to the Public Bill Committee on the Deregulation Bill.

2. Executive summary

2.1 The Deregulation Bill is designed to reduce the burden of legislation for businesses and individuals. The Bill as currently drafted would reduce the eligibility period for the Right to Buy from five years to three years. The Right to Buy gives local authority tenants and some housing association tenants the opportunity to buy their home at a discounted price.

2.2 While we agree with the principle of Right to Buy, this change—along with numerous other changes made to the policy since 2012—could have a serious impact on housing associations' ability to provide new affordable housing. The Bill must be amended to ensure that the supply of affordable housing in England keeps pace with demand.

2.3 The Bill needs to be changed to make sure that effective systems are in place to:

- Replace affordable homes lost through the Preserved Right to Buy.
- Review the impact of current and proposed changes to the Preserved Right to Buy on the supply of affordable housing and on housing associations' businesses.
- Put in place an effective system to monitor the impact of Preserved Right to Buy on the supply of affordable homes.

3. How the Preserved Right to Buy (PRtB) works

3.1 Right to Buy legislation provides local authority tenants and some housing association tenants (approx. 620,000) with the right to buy their home at a discounted price. In April 2012, the discount was increased to £75,000 or 70% for a flat (60% for a house) depending on which is lower. In March 2012, the discount in London was raised to £100,000. The higher discounts mean the receipt will often not be enough to finance a replacement home and in some cases will not cover the debt secured against the property.

3.2 A housing association tenant will have the PRtB if they were a local authority tenant when their home was transferred into housing association ownership. The PRtB gives tenants the same rights and discounts to buy their homes as local authority tenants. Yet, there are some key differences in how sales receipts are handled:

3.3 **The receipt is shared according to the terms of the transfer agreement.** When social housing is transferred from a local authority into a housing association, a transfer agreement is drawn up. Each agreement sets out how any sales receipts will be split. In many cases, the agreement allocates the majority share of the receipt to the local authority with the housing association receiving a smaller share to cover their foregone rental income.

3.4 **PRtB sales receipts are unprotected.** Once the local authority receives its share, they are under no legal obligation to spend the receipts on funding new homes. Government does not monitor the spending of these sales receipts.

4. Key issues with the changes to the Right to Buy proposed in the Bill

4.1 **Changing the qualifying period will make it more difficult for housing associations to do business.** The Prime Minister has stated that the Deregulation Bill will make it easier for businesses to "grow, to create jobs and to help give this country the long-term security we are working towards."[20] The changes to PRtB will have the opposite effect on housing associations, by reducing the number of homes they own (their asset base)

[20] David Cameron's speech to the Federation of Small Businesses, 27 January 2014. Link: https://www.gov.uk/government/news/supporting-business-david-cameron-announces-new-plans

and failing to return the full value of the property to them, making it harder for them to grow their business and deliver the new homes this country desperately needs.

4.2 **The Government is not meeting its commitment to replace the homes sold through the Preserved Right to Buy.** There is no plan to replace affordable homes lost through PRtB. Nor is the policy's impact on affordable housing supply being monitored. The Government's failure to fulfil its commitment to one-to-one replacement of homes sold through the PRtB means those in most need of a home to rent have to wait longer for one to become available and there are fewer homes for new tenants to access.

4.3 **The Government has failed to consult or consider the impact of these changes.** Despite the Government's ambition to deliver 165,000 affordable homes over this Parliament, they have failed to carry out any impact assessment of the consequences of any of the changes they have made to the PRtB policy, including reducing the qualifying period. Though the Government claims it wants to "boost support" for small and medium business, they have also not consulted with housing associations on the impact this change will have on their businesses.

5. Impact of past changes to the PRtB on housing associations

5.1 To give the full picture, the changes to the Right to Buy set out in the Bill need to be looked at in the context of other changes to the policy which have been made since the Right to Buy was 'reinvigorated' in 2012.

5.2 The National Housing Federation has carried out two surveys of housing associations to understand the impact that higher discounts have on the sector and the supply of affordable homes. These were the key findings:

— **Increased sales of affordable/social housing:** the 2012 Right to Buy Impact Assessment estimated that sales would increase by 150% in three years. Surveyed housing associations believe that sales would far exceed this estimate. Since the national discount was raised in April 2012, sales of homes through the Right to Buy and the Preserved Right to Buy have doubled.

— **Less money back to the housing association:** the vast majority of housing associations entered into agreements whereby they retain a small portion of the receipt to cover foregone rental income. The lion's share goes to the local authority.

— **Inability to replace homes sold:** 92% of respondents declared that they would not be able to replace any homes sold via the PRtB.

— **Reduced development capacity:** 60% of housing associations declared that an increase in discounts would affect their long-term financing arrangements and ultimately build fewer affordable homes.

6. CASE STUDY: Phoenix Housing Association, Lewisham, London

6.1 This case study of Phoenix housing association in Lewisham demonstrates the negative impact that recent changes to the PRtB are having on their business. Recent changes have increased demand to buy Phoenix's homes which reduces their asset base and, subsequently, their capacity to build new homes for people who need them.

6.2 *Background*

Phoenix Housing Association is a medium-sized resident-led housing association. They currently own and manage 5,488 general needs homes and 825 leasehold homes. It has a very strong community focus, with all of its stock located in the London Borough of Lewisham.

Phoenix is a stock transfer housing association. As the transfer agreement was drawn up in 2007, when the right to buy discounts and sales were significantly lower, the agreement allocates the lion's share of money received from any sales to the local authority. Furthermore, as they are a recent stock transfer, nearly 4,000 out of around 5,500 tenants still have the PRtB.

6.3 *Demand to buy through the PRtB is increasing*

Since the discount has been increased, Phoenix has seen a growing level of applications and right to buy sales:

— **Completed sales:** In 2011/12, there were four right to buy completions, which rose to nine in 2012/13. Phoenix expects 33 sales during 2013/14.

— **Applications** have risen from less than 20 in 2011/12 to 75 in 2012/13. During 2013/14, Phoenix already have 71 live applications with over half the financial year still remaining.

6.4 It's difficult for Phoenix to replace the homes sold through the PRtB

Although it wants to develop more of the affordable and social homes London desperately needs, the PRtB is using up Phoenix's capacity to do this.

For example, a Phoenix tenant could buy a one bed flat with a market value of £120,000 for £36,000 under the PRtB. This money would then be split between Lewisham council, who'd receive £20,241 from the sale, and Phoenix who'd receive the rest—£15,759.

This £15,759 will only cover the rental income that Phoenix has lost– it may not even be enough to cover the debt secured against the property. It certainly doesn't provide Phoenix with any money to build a new social or affordable home to replace the one sold through the PRtB.

Likewise, Lewisham Council, under the terms of the transfer and HRA regulations, must use the £20,241 they received from the sale to pay off historic debt rather than invest in new homes.

6.5 *PRtB is having a negative impact on Phoenix's business over the long-term*

The PRtB is having a huge impact on Phoenix's asset base, which impacts on the amount of money they can borrow to maintain their existing stock and invest in both building new homes and growing their business.

Over the course of 2013/14, Phoenix expect 33 of their tenants to buy their own home through the PRtB. In this scenario, Phoenix would lose around £5.25m in the value of their asset base in a single year of operation. Moreover, Phoenix will only retain around £750,000 in sales receipts.

If they continue to lose their assets at this pace, their asset base will be significantly eroded within a few years, making it harder for them to re-finance existing debts and take on additional borrowing. If that becomes a reality, they could be forced stop developing new homes as their viability will be put at stake.

7. Conclusion

7.1 The Deregulation Bill as currently drafted would reduce the eligibility period for the PRtB from five years to three years. This change to the policy, as one in a long line of changes, would have a negative impact on housing associations' businesses and would reduce their ability to build new homes.

7.2 The Government will fall short of its ambition to deliver 165,000 affordable homes over this Parliament if housing associations are not given the support they need to manage the risks posed by the policy.

7.3 We recommend that the Bill is changed to make sure that effective systems are in place to:

— Replace affordable homes lost through the Preserved Right to Buy.
— Review the impact to date of the Right to Buy policy and the changes proposed in the Bill on the supply of affordable housing and on housing associations' businesses.
— Put in place an effective system to monitor the impact of Preserved Right to Buy on the supply of affordable housing and on housing associations' businesses.

7.4 Thank you for taking the time to read our evidence. Please do contact the Federation if you wish to understand more about our concerns.

March 2014

Written evidence submitted by David Rice (DB 12)

My authority:

I do not represent a recognised user group—other than the general public whom this matter most affects. I do, however, have a comprehensive understanding of rights of way law and wide experience of applying for definitive map modification Orders. I therefore provide the following input based on experience and extensive research across many authority areas.

Input:

While some aspect of the Draft Deregulation Bill can be applauded, it is an inescapable fact that the primary reason for rights of way records being incomplete is because responsible authorities have failed to comply with existing and historic legislation. Since the intended 2026 "cut-off" was announced, by the CROW Act 2000, most authorities have responded to the impending deadline by significantly reducing staff levels and funding for functions related to modifying their definitive maps of rights of way.

Backlogs of work now span decades in many cases—and while some changes to procedures would undoubtedly be helpful this is only a small part of the issue. It is my strongly held belief that Parliament has not been advised of the following key information, upon which to assess the impact of the Draft Deregulation Bill:

— Exactly how many undetermined applications already exist nationally, to modify definitive maps of rights of way?
— What proportion of these fall into various age categories since submission?
— How many determined applications exist, but for which legal Orders have either not been published or remain unconfirmed?

— What is the projected timeframe to clear the current backlog (before factoring in any new applications submitted) if the Draft Deregulation Bill was not approved?

— What is the revised forecast if the Draft Deregulation Bill is approved?

Note: Current backlogs should be accessible by interrogating statutory Registers, which authorities have been required to maintain since the end of 2005.

The Draft Deregulation Bill is intended to address obstacles in current rights of way recording processes, to ensure that definitive maps can be "closed" by 2026 and regarded as "complete" by then. This would provide "certainty" about rights of way for both landowners and users which is to be commended. However, the size of task to be addressed in that timescale is an impossible one—hindered by a widespread lack of local authority compliance with the law.

The below is an extract from a letter which I recently sent to a local authority, who is failing to comply with the law in many aspects related to rights of way matters. This is not an isolated case, is nationally widespread and an illustration of the core problem in bringing definitive maps and highway records up to date by the prescribed deadline.

As there are no laid down sanctions against authorities who act in breach of the law in such matters, which Defra and the Planning Inspectorate (who act on behalf of Secretary of State in these matters) are very well aware of, there needs to be a solution. I strongly believe that to apply the proposed 2026 "cut-off", in authority areas who fail to comply with the law, would be a fatal error. I would therefore strongly commend one further inclusion in the Draft Deregulation Bill to address this. User rights, over unrecorded rights of way, should not be extinguished in authority areas who:

— Have failed to put into place a legally compliant Street Works Register/Gazetteer (which the law required to be in place by April 2009). Note; very few authorities have complied with this, if any.

— Fail to now address this non-compliance by December 31st 2015 (leaving ten years for investigation and determining the user status of entered routes which do not currently appear on either the statutory road records or statutory rights of way records).

The above is a totally reasonable and rational approach—thereby ensuring that all interest groups are given sufficient time to investigate, compare records and make applications for unrecorded routes to be entered in the statutory records.

Extract of letter text, evidencing the core problem:

1. It is the Governments intention to extinguish public user rights, over unrecorded pre 1949 rights of way, which are not correctly recorded by 31st December 2025. This intention was announced thirteen years ago. It is probable that Regulations will be made exempting routes from the loss of rights, if they are shown on a statutory Street Works Register or Street Gazetteer, irrespective of whether they are recorded elsewhere or not. The law required all authorities to have legally compliant registers in place by April 2009—but my enquiries have shown that Council has failed to meet that legal obligation.

2. I thought it would be useful to verify whether all rights of way admitted by landowners (on section 31(6) Highways Act deposits) are shown on the statutory register of rights of way. This would enable unrecorded rights to be identified and applications for definitive map modification Orders to be submitted where necessary. Again, my enquiries have revealed that the Council does not have a legally compliant Register to enable this verification to be conducted.

3. In 2006, the Natural Environment and Rural Communities Act extinguished rights with mechanically propelled vehicles (with some exceptions) over routes not recorded as Byways Open to All Traffic on a statutory definitive map of rights of way. Exemptions to extinguishment include minor highways shown on a statutory list of streets, which are not "dual recorded" as footpaths, bridleways or restricted byways on the definitive map of rights of way. In order to identify "protected" routes I asked for a list of unsurfaced unclassified roads, to ensure that a public record of these could be held. Again, my enquiries have shown that the Council is not even able to accurately provide a list of these. In fact, it has "defended" a list provided and asserted it to be an accurate record of these when patently it is neither accurate nor complete.

4. Council is required to keep a Register of applications to modify its definitive map of rights of way. This is most revealing because it requires the Register to be elaborated and contain information laid down by statutory Regulations. While the Register is not being fully updated in accord with the law it is good enough to extract key statistics. Since the intention to extinguish unrecorded rights of way was announced, by the CROW Act (2000), Council has received 77 applications to modify its definitive map. Additionally to this, Council has a number of undetermined and unresolved applications which pre-date 2000, some of which go back more than 23 years. So far as the last thirteen years of applications are concerned, only 2 of these have been resolved and 3 investigated. Now, the law requires applications to be determined and resolved "as soon as reasonably practicable" with an expectation that all applications are at least determined within 12 months of receipt. For at least the last thirteen years, the Council has patently failed in those respects.

So, the conclusion I am reaching is that Council is breaching the law in many ways related to minor highways. In the process it is obstructing and frustrating the accurate identification of unrecorded public ways that need to

be recorded for their protection. While I sympathise with the legal complexity that the Council faces in dealing with rights of way matters, that does not change its legal obligations.

I understand the constraints imposed by economic "austerity measures" but that is no mitigation for acting in breach of the law. It could be argued that the Council has "priorities" and that it cannot comply with all of its statutory duties. Fair enough Anthony but, that argument is only valid if the Council can demonstrate that it is meeting all of its its statutory duties before exercising powers. It is not—in the case of rights of way matters it is processing path diversion Orders (for which it has powers) before processing definitive map modification Orders (for which it has a legal duty). If you look at the Planning Portal, for cases has submitted to the Secretary of State for confirmation in the last five years, you will see my point. There are many other examples of where it is exercising powers before fulfilling statutory duties.

The Government is currently debating a Draft Bill, which has implications for the 2026 "cut off" of public rights of way. Its intention is "deregulation" prior to the 2026 deadline—but in fact it appears to potentially introduce further complications in many ways and indicates fiscal savings that are not evidence based to support its intentions. I will be submitting input to the debate—because it is now clear to me that the core issue related to lack of progress in getting the records up to date is the lack of authority compliance with existing (and historic) laws.

I feel that it is also now time to elevate this matter to relevant senior management and Councillors. I await your response to my information request, concerning the Council protocol and procedure, for Officers to escalate matters and secure sanction for non-compliance with the law—and specifically how this has been followed in respect of the issues identified in this case.

March 2014

Written evidence submitted by the Local Government Association (LGA) (DB 13)

About the Local Government Association

1. The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

2. We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

3. The LGA covers every part of England and Wales, supporting local government as the most efficient and accountable part of the public sector.

4. This submission will cover the areas of interest that the LGA is taking forward on behalf of councils on this Bill, and why we believe that the Government needs to go much further in terms of its proposals.

LGA's Approach on the Deregulation Bill

5. The LGA welcomes the move by the Government to use this Bill to reduce the legislative burden on business, civil society, individuals and public sector bodies.

6. The burden of "red tape" and legislation is an important issue to all of local government. Councils have over 1200 statutory duties they must fulfil even if this Bill passes. Regulation and bureaucracy are often cited by our members as barriers to growth and the locally based decision making that would better serve our residents and communities.

7. The LGA has been campaigning to reduce red tape through its "Rewiring Public Services" campaign. We are calling for more localised decision making in order to drive growth and reshape public services around the individual and place by allowing councils greater flexibilities and freedoms from central government control and regulation.

8. The Bill contains many Clauses that we support and have argued for, especially on licensing; removing needless duties; street work permits; and rights of way.

9. Whilst we welcome the overall direction of the Bill, we think that there is an opportunity to widen it out to include further reductions in "red tape" including licensing burdens, and the removal of the duty on local authorities to publish statutory notices in local newspapers.

Right to Buy (Clause 21)

10. The current inflexibility of the Right to Buy, as this Bill does, system has a number of consequences which undermine the ability of local authorities to replace housing sold under the scheme. Local authorities must have a greater say over the Right to Buy to reflect local priorities and their local housing market.

11. Relaxing the eligibility criteria for the Right to Buy makes it more important than ever that the system delivers replacement homes for those sold. A blanket discount cap, as is currently in place, ignores the large

differences in property values up and down the country, and in some areas will not provide a discount sufficient to generate sales and vice versa. Greater flexibility should be provided to enable councils to set the Right to Buy discount locally, to reflect local housing markets and stimulate sales.

12. Under the current system, the amount of receipts kept by the Treasury is based on the predicted amount of Right to Buy sales in each authority. This means that only when the Treasury has received the predicted amount does money become available to be retained locally. The restrictive criteria which accompany Homes and Communities Agency agreements to retain receipts locally also restricts the ability of local authorities to invest in housing. For example, the agreements limit councils to funding only 30 per cent of new build costs from Right to Buy receipts, as well as limiting the use of other housing revenue account receipts as funding. The Deregulation Bill should allow for full retention of receipts and greater flexibility over how they are used. This would incentivise councils to use their assets, such as land, for replacement housing and could allow councils to bring development sites forward that may not be attractive or viable to other providers.

13. **The Government should bring forward amendments to the Bill which would allow for direct and full retention of receipts and greater flexibility over how they are used and ensure the discount could be set locally.** This would incentivise councils to use their assets, such as land, for replacement housing and could allow councils to bring development sites forward that may not be attractive or viable to other providers.

14. **The Bill represents an opportunity to alter the current arrangements to enable additional reinvestment in new affordable housing.** The changes set out above would enable councils to reinvest significantly in new homes.

Household waste: de-criminalisation (Clause 29)

15. The Deregulation Bill amends the Environmental Protection Act (EPA) 1990, Section 46. The EPA allows councils to prescribe how residents must put out their waste and recycling for collection. It also creates an offence, punishable by a £1,000 fine, of not complying with the prescribed arrangements after receiving a written warning.

16. The purpose of this is to allow councils, as a last resort, to enforce standardised collection arrangements. Standardised arrangements save money and improve recycling rates. The enforcement powers, to date, have been used extremely sparingly.

17. The Deregulation Bill converts the £1,000 fine into a £60 civil penalty, enforceable as an ordinary debt. But it also removes the power to prescribe collection arrangements. The new trigger for a penalty is that the resident's behaviour is "detrimental to amenities of the locality". This is a novel test with no legal precedents to define it. It almost certainly would not allow a council to enforce, for example, the recycling arrangements which may be needed to get best value for money from a waste collection contact.

18. The key issue for councils is their ability to operate standard collection arrangements to help them increase recycling levels and meet EU targets. Working towards the common aim of reducing landfill and general waste pollution councils and residents have transformed recycling and waste services levels in the last decade. Since 2000, the proportion of household waste recycled has increased from 11 per cent to 43 per cent. At the same time resident satisfaction levels for council waste collection services have risen and are now at 86 per cent nationally.

19. Councils encourage recycling through raising awareness and providing information to residents about waste services and how waste and recycling should be presented. However in a small minority of cases, there are households who consistently fail to comply with arrangements and cause a nuisance to neighbours by continually leaving rubbish out in the street or failing to separate waste for recycling. It is important that councils are able to tackle these problems since the waste from such residents can contaminate much larger quantities, making it unsuitable for recycling and significantly increasing the costs of disposal. The cost of this contamination is shared by all tax payers, the majority of whom have taken care to separate waste for recycling.

20. In such instances, councils use a number of interventions including notices on bins, letters to householders and visits to the property to discuss how bins are used. The limited powers that councils have to issue fixed penalty notices in the case of serious and persistent misuse are only ever used as a last resort and after other means have been exhausted.

21. The most recent data from Defra demonstrates that councils are using these powers proportionately. In 2008/9 a total of 876 fixed penalties were issued and pursued for payment, of which only 100 latterly involved criminal prosecutions due to non-payment. On average this is just over two penalties issued per council area each year or one for every 26,000 households. The powers to issue penalties and the ultimate sanction of prosecution serve as a backstop in extreme cases and a deterrent to wider misuse of waste and recycling facilities.

22. This Clause will put future recycling rates in jeopardy. This Clause will significantly undermine councils' efforts to work with their communities to increase recycling rates and reduce use of landfill sites and pollution. The changes will also mean councils no longer have any enforcement powers in circumstances where residents persistently fail to comply with arrangements for separation of waste for recycling. **There is no evidence that these powers are being used disproportionately and the LGA does not therefore see an**

evidence-based reason to change the system. The LGA opposes this Clause in the Bill and would encourage the committee to delete it.

Further deregulatory measures this Bill must bring forward

Licensing Review

23. **The LGA would like the Government to introduce a Clause, committing it to undertake a review of all local authority licensing regulations and how they could be simplified.**

24. There are well over 150 licences, permits, consents and registrations issued by councils, and many more issued by Government and its agencies. A business establishing even a standard business model can be required by law to submit numerous licence applications, relating to the same premise and containing overlapping information, to different parts of the relevant council. For example, a small restaurant could be required to apply for up to 8 or 9 different licences or registrations.

25. This is because some legislation, most notably the Licensing Act, requires that councils must use the application forms set out in regulations. This means they are unable to combine forms so that a business can provide basic information, such as name and address, only once. Instead, applicants must complete this for each and every form required. Councils would like the freedom to remove this burden by combining and simplifying forms. Ending proscribed forms in legislation would enable this to happen without needing parliamentary time.

26. We already know that some large businesses have to employ a dedicated person to keep track of the different renewal dates that their licences require. This is costly and burdensome, and detracts from their core focus of growing their business and serving their customers.

27. Individually, licensing regimes make sense and mostly continue to provide valuable safeguards. Typically, they have been brought in to tackle specific problems as they occur, as we have seen with the recent Scrap Metal Dealers Act, and this has been taking place for hundreds of years. However, tackling problems on an individual basis requires a time-consuming process that can last years.

28. Moreover, collectively, licensing regimes are a complex mess of conflicting and irrational rules. The Licensing Act 2003 made an initial attempt to bring together multiple licences in one form—alcohol, entertainment and late-night refreshment. We want to take this approach further by rationalising and updating the legislation across at least 5 departments. A review of all local authority licensing legislation is a necessary first step to achieving this.

Removing the duty on local authorities to publish statutory notices in their local newspapers

29. **The LGA would like a new Clause introduced, removing the duty on local authorities to advertise statutory notices in local newspapers.**

30. It is a legal requirement for local authorities to pay to advertise public or statutory notices in local newspapers, covering a range of subjects such as informing residents about planned road closures, certain types of planning and licensing applications, road traffic orders and changes to local education provision.

31. The requirement dates back to 1972, a time when local and weekly newspapers and radio were popular sources of information. The last 41 years has seen vast changes in technology and shifts in consumer preferences. **This requirement remains in force despite evidence that the way people access news and information has changed significantly and the circulation of local newspapers is falling.**

32. The legal duty to publish statutory notices in local newspapers should be removed. **This reform would not remove the duty on councils to inform their residents about statutory notices or any other area of council policy, it would simply allow them to decide whether or not the local newspaper was the best place to do this.** For instance, licensing applications are also advertised through notices placed on the building, and the majority of representations are triggered by seeing these notices, rather than those in the paper.

33. Statutory notices are an expensive and ineffective way of communicating with residents. Councils spend £26 million a year on public notices; 84 per cent of councils say there are more cost-effective ways to publish public notices, such as on websites and direct emails; 42 per cent of councils are charged more by local newspapers to publish public notices than for other general advertising and the costs are continuing to rise. Businesses also incur significant costs through this archaic requirement and the British Beer and Pub Association has recently joined the LGA in calling for their scrapping. These are substantial costs at a time when local government is facing the dual challenge of ensuring financial stability and sustainability. Statutory notices are also out of date when evaluated in the context of recent technological advances in online communications (websites, Facebook, Twitter and e-mail being some of the most popular digital platforms).

34. **We urge the Government to remove the duty to publish statutory notices in local newspapers.**

Removing the Housing Borrowing Cap

35. **The LGA would like to see the Bill used as a legislative vehicle for removing the housing borrowing cap.**

36. Meeting housing need and demand locally will not be achieved through the current operating model. The private sector cannot and will not deliver on the scale required. It has averaged 130,000 completions a year over the last 40 years. Housing Associations are also capacity constrained. Building over 200,000 units per annum is achievable only if councils play a full part in delivery including building on their own account.

37. In the 2013 Autumn Statement, the Government announced that borrowing limits for the Housing Revenue Account will be raised by £150 million per year in 2015/16 and 2016/17. **The LGA has welcomed the announcement as recognition by the Treasury that the current model to cap local authority borrowing is not fit for purpose.** We see this as an important first step to support local authorities to increase supply of affordable housing.

38. Removing the housing borrowing cap would align council borrowing for housing with the wider approach to local government borrowing. This approach means that local government can only borrow what it can afford to pay back, a principle which is enshrined in the Prudential Code. We estimate that **the total level of borrowing that would occur, if the cap was removed, would be insignificant when compared to national debt.**

39. Research by Capital Economics, of economists, fund managers and credit ratings analysts indicates that **there would not be a significant reaction from the markets** to the likely increase in borrowing (£7bn over five years) that would result from lifting the borrowing cap. This is mainly due to the relatively small size of the figure, which is far smaller than the statistical error for public borrowing. **The LGA will shortly publish research findings demonstrating the potential of councils to increase their house building rates directly if the cap was removed. This information can be shared with the Committee.**

40. **The LGA's call for removal of the cap is supported by a large number of housing stakeholders including:** Shelter; the CLG Select Committee; Home Builders Federation; Federation of Master Builders; Chartered Institute of Housing; National Housing Federation; London Councils; National Federation of Builders; National Federation of Arms-Length Management Organisations; and Association of Retained Council Housing.

March 2014

Supplementary written evidence from the Local Government Association (DB 14)

Deregulation Bill

I am writing to you following my evidence to the Public Bill Committee on 25 February 2014.

I offered to write to the Committee with additional evidence in relation to two points on a) what assessment the Local Government Association (LGA) has made of the cost to the public purse of increasing numbers of householders in receipt of benefits renting in the private sector rather than being able to access social and affordable housing; and b) what discussions the LGA has had at meetings on Right To Buy (RTB).

Private Rented Sector—Cost to the Public Purse

The English Housing Survey[21] provides some useful figures which provide an insight into the additional costs incurred to the public purse where households in receipt of benefits rent in the private rented sector rather than in social or affordable housing. The survey found that average weekly rents in the private rented sector were £163 per week in 2012/13. This represents a difference of £74 a week when compared with the average social sector rent of £89 in 2012/13.

The same survey also found that a quarter of private rented sector households were in receipt of housing benefit, up from 19% in 2008/9[22], as those on low incomes were increasingly reliant upon housing benefit to meet part or all of their housing costs. It is obviously not possible to predict the exact impact of the change in the qualifying period upon aggregate housing benefit expenditure, and such a shift would happen over time. By means of an illustration, based on these rent levels, if an additional 2,000 households had to access a privately rented rather than social tenancy on full housing benefit, the annual additional cost in housing benefit would be £74 x 52 x 2000 = £7.696 million.

Meetings on Right To Buy (RTB)

I would like to clarify, following the point about attendance at a meeting of officials raised by Mr Heald, that the LGA has taken all opportunities to raise awareness of its concerns with RTB previously with regards to this Bill. The LGA's comments on Clause 21 were raised formally in our written evidence to the Joint Committee on the Draft Deregulation Bill and our oral evidence to that Committee on 4 November 2013.[23]

[21] Department for Communities and Local Government: English Housing Survey 2012-13 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284648/English_Housing_Survey_Headline_Report_2012-13.pdf
[22] https://www.gov.uk/government/publications/english-housing-survey-2012-to-2013-headline-report
[23] http://www.parliament.uk/documents/joint-committees/draft-deregulation-bill/JCDDBVolume2Evidence.pdf

The LGA has also taken the opportunity to raise with Government Ministers, the CLG Select Committee and in correspondence and meetings our issues with RTB since the major reforms in 2012. As you have noted, I took the opportunity to put on record our concerns with the system and our proposals for change which would support greater reinvestment in replacement homes again at the oral evidence session on 25 February 2014.

I hope this additional information is helpful to the committee on the questions raised.

Cllr Ed Turner—Member, Environment and Housing Board, Local Government Association

March 2014

Written evidence submitted by the Advertising Association (DB 15)

1. Introduction & context

1.1. The Advertising Association (AA) is the single voice in the UK for all sides of the advertising and promotions industry worth £17bn in 2012—advertisers, agencies, and media. A list of AA members can be found here: http://www.adassoc.org.uk/Members.

1.2. We welcome the opportunity to provide written evidence on the Deregulation Bill. We support the intentions of the Bill to reduce regulatory burden and remove requirements that no longer have practical use. It is within this context that we submit our views regarding the burden of lengthy and complicated mandatory information on financial services advertising. Such information is not effective in protecting or informing consumers and costs the media and advertisers considerable sums.

1.3. The creative industries, and marketing and advertising within that, are a key UK sector. The January 2014 statistical report by the Department of Culture Media and Sport[24] found that 1 in 12 jobs in the UK is in the Creative Economy. 'Advertising and marketing' remains the second highest employer within this sector, making up 18% of the Creative Economy. In 2012, employment growth in the Creative Industries (8.6%) was 12 times that of the wider economy (0.7%). The rate of export growth for the Creative Industries, from 2009-2011, increased by 16.1% compared to 11.5% for total UK exports.

1.4. As was found by research carried out by the think-tank Credos: "The advertising industry is central to the creative industries. It provides a third of all TV revenues and two-thirds of newspaper revenues; it supports sectors from photography to film production. We estimate that over 550,000 people work in jobs that are funded by advertising revenues, or involved in the commissioning, creation and production of advertising across the relevant supply chains."[25] The UK advertising industry is recognised across Europe for its leadership in adspend, creativity, and effective system of self-regulation.

2. Lengthy Terms & Conditions in Advertising

2.1. Lengthy and complex terms and conditions in financial services advertising are ineffective. Caveats or risk warnings in advertising of financial products are necessary to protect consumers. However, they are often too long and complex to be understood and absorbed. Consequently, they tend to be ignored and so fail in their objective. This affects all media to a greater or lesser extent and, within this, radio in particular.

2.2. Lengthy mandatory information scripts are ineffective because:

> 2.2.1. Advertising is an important early-stage communication with potential customers, but this stage is not the right moment in the purchasing decision process for the consumer to be expected to take in detailed, mandatory terms. Consumers do not want advertising to provide the minutiae of a product's terms and conditions or risks—they would rather be directed to other reference sources (e.g. websites) for more information[26] which they can review at their convenience. They also consider these conditions to be more about the business protecting itself rather than the consumer.[27]
>
> 2.2.2. Consumers do not pay attention to "legals"; this is especially true for radio where attention levels for a radio ad with a complex, worked, credit example can fall away by as much as 50%.[28] Indeed, APR—as an example—is not always a useful piece of information—research conducted by the Government shows that it is not understood by consumers and, particularly where short-term credit is concerned, consumers are more interested in the total cost than the APR .[29]

[24] Creative Industries Economic Estimates: January 2014 Statistical Release. DCMS. Available here
[25] Advertising Pays: How advertising fuels the UK economy. Deloitte. 2012. Available here.
[26] Ipsos-MORI: Making Consumer Markets Fairer: Payday lending advertising research conducted for BIS. October 2013. Available here.
[27] Navigator: Radio Commercials and Wealth Warnings, research report prepared for The Radio Advertising Bureau February 2004. Available here.
[28] The Effect of Lengthy Terms and Conditions on Consumer Attention and Perceptions. Radio Advertising Bureau. 2013. Available here.
[29] Regulating Consumer Credit (Technical Paper). National Audit Office. December 2012. Available here.

2.2.3. Easy-to-remember catchphrases work: the Dutch risk warning "Borrowing money costs money" has over 85% recall.[30] Less is more: radio ads focusing only on critical information increase spontaneous recall by over 38%.[31] People do not remember the most important figures if they are lost (hidden) in complex mandatory wording (below 4% for a radio ad with a worked credit example).[32]

2.3. Current requirements for such information is creating substantial unnecessary burden and costs to industry:

2.3.1. For radio alone the estimates of the costs add up to £136.1m for the 12 months to December 2013, broken down as follows:

Cost impact of terms and conditions	Estimates 13 March 2014
Type of cost	Estimated annual value (£million)
Current airtime cost of terms and conditions	36.7
Lost revenue to advertisers (ROI) due to lower listener engagement and attention for campaigns affected[33]	49.4
Potential incremental revenue to radio of reduction in Ts and Cs[34]	50.0

Source: RAB

2.3.2. In other media, while the effect of the impact on audience engagement may differ, there may be additional costs in production and space/time purchasing.

2.4. We support the approach taken by the FCA in its recent consultation on the Consumer Credit regime for a short and simple risk warning in relation to high cost short term credit and signposting to the Government's Money Advice Service. We would like to see this approach adopted on other products in order to increase the effectiveness of important messages for the consumer together with efficiency for advertisers and media. As noted above, lengthy, mandatory terms provide no discernable benefit to consumers and are a considerable burden for advertisers and the media.

Conclusion & recommendations

2.5. While we recognise that many of the requirements for information in advertisements comes from the EU, we would support the inclusion of wording in the Deregulation Bill to:

2.5.1. Reflect the need to have appropriate information and advice in financial services advertising in the interests of clarity and consumer understanding;

2.5.2. Encourage regulators to give equal prominence within their regulatory code to the importance of ensuring advertisers do not include irrelevant or excessive additional warnings (over-compliance) which serve no purpose other than to make the advertisements unclear and confusing to consumers;

2.5.3. Avoid gold-plating of EU rules beyond their minimum requirements;

2.5.4. Reduce the burden of existing EU rules for example excessive requirements for legal terms and conditions imposed by the Consumer Credit (Advertisements) Regulations 2010, with particular reference to the worked credit example; and,

2.5.5. Reduce the potential burden of legal terms and conditions imposed by Article 11 of the European Directive on Credit Agreements relating to residential immovable property.

2.6. We thank you for the opportunity to submit our views to the Committee and are available for further information.

March 2014

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[30] GFK Panel Services Research on behalf of AFM (Authority for Financial Markets in Holland) 2009

[31] Improving the effectiveness (consumer attention and understanding) of legal caveats and risk warning in radio advertising. Radio Advertising Bureau. 2013. Available here.

[32] Idem.

[33] Motors, telecoms, retail and finance.

[34] I.e. the opportunity cost currently incurred by radio of lengthy terms and conditions which discourage advertisers from using the medium.

Written evidence submitted by the Newspaper Society (DB 16)

1. The Newspaper Society represents the regional media industry. Its members publish around 1,100 local and regional newspaper titles, read by 30 million people a week (BRMB/ TGI2013 and 1,700 associated websites, attracting 79 million unique users a month. Local newspapers are more than twice as trusted as any other media channel (IPA Touchpoints 2012) http://www.newspapersoc.org.uk/top-ten-facts-about-local-media

CLAUSE 47—SAFEGUARDS POLICE ACCESS TO JOURNALISTIC MATERIAL

2 The Newspaper Society welcomes the constructive discussions with the Government and the Criminal Rules Procedure Committee on the need for amendment of Clause 47, in order to retain unaltered, in primary legislation, the PACE safeguards of notice and inter parties hearings of police applications for access to journalistic material. The Written Ministerial Statement of 17 March by Oliver Letwin, Minister for Government Policy reflects our understanding of the current position insofar as the Minister has 'met with representatives of both print and broadcast media groups, including lawyers and union representatives…At that meeting we agreed that our objectives were in fact the same and that we would work together to find a mutually agreeable amendment to the Bill. Some additional consultation is currently underway, I hope to be able to table such an amendment at Report Stage.'

3. The Newspaper Society and other media organisations have stressed the importance of appropriate amendment to the Bill, in order to maintain the full protection of PACE.

4. There are other provisions within the Deregulation Bill which would affect the local press, its investment in local journalism, covering courts, schools and other issues of importance to the local community. These include proposals to remove statutory requirements for local newspaper publication of certain public notices, statutory provisions removing requirements for pleas and evidence to be made public by being read out in open court in criminal proceedings and some access to information matters.

1. *Removal of mandatory newspaper publication of certain public notices*

5. The Newspaper Society repeats its previous objections to the Bill's proposed amendments to Schedule 15 to the Wildlife and Countryside Act 1981 and Schedule 6 to the Highways Act 1980 to end mandatory newspaper publication of certain public notices in England, in favour of local authority websites. The statutory requirement for newspaper publication ensures that such notices are independently publicised in the most effective way to draw them to the attention of those who may be affected by the changes to be effected by the orders.

6. Past explanatory notes simply asserted that there will be a cost saving to the local authority, without any financial analysis in support of that assertion. Such assertions take no account of the impact upon the public through the ineffectiveness of local authority websites for publicising such information, the lack of internet access by significant sections of the population, the impact upon the local communities in general or particular interest groups potentially affected by such orders, or the financial impact upon local newspapers.

7. We would also draw the Committee's attention to the two replies of the Parliamentary Under-Secretary for Culture Media and Sport which he made to the two questions to him last week, concerning the closure of local newspapers and what plans the Government had for their support. He gave a helpful re-iteration of the Government's support for the local press, which specifically included the continued publication of public notices. On 13 March, the Parliamentary Under-Secretary of State for Culture, Media and Sport Ed Vaizey replied to the first question that '*The Department does not hold that information, but our local press plays an incredibly valuable role in local communities, and we appreciate the challenges facing the sector. We have a number of policies to support local newspapers…The Government have restricted the amount of local papers that councils can put out, relaxed media ownership rules, and continued to have statutory notices in local papers, so we do want to support local papers where we can*.'

8. The Minister responded to the second in similar terms:

> '*Our local press plays a valuable role in local communities and we appreciate the challenges facing the sector. We have removed cross-media ownership rules, to allow the development of new business models, and in addition, the Local Audit and Accountability Bill will prevent unfair competition from council newspapers*.'

9. Research has shown the effectiveness of local newspaper publication of notices. The previous Administration, the present government and the Welsh Assembly all decided to retain mandatory publication of statutory notices in newspapers for planning, Road Traffic Orders and alcohol licensing. This was endorsed in Parliament in both Houses. Baroness Hanham, the then Parliamentary Under Secretary of State at the Department for Communities and Local Government on 17 July 2013 stated at the Report Stage of the Local Audit and Accountability Bill in the House of Lords, when rejecting a proposal for ending local newspaper advertising of statutory notices:

> '*The purpose of a statutory notice, as everybody clearly knows, is to inform the public about decisions that affect their lives, their property and their amenity. That is especially the case where the public have a limited period in which to respond*.

The Committee was in broad agreement that notices should be easily available for local people and that they are vital for local transparency and accountability. The noble Lord has highlighted the cost of statutory notices and suggested that local newspapers are on of the least effective ways to convey information to people. We do not agree. Research by GfK for the Newspaper Society found that the reach of local newspapers was much greater that council websites;67% of respondents to that survey had read or looked at their local newspaper for at least a couple of minutes within the past seven days, compared with 9% who had viewed their council website. Some 34% of adults questioned had into accessed the internet at all in the last 12 months.

The most recent intern access quarterly update from the Office of National Statistics published in May, shows that 7.1 million adults in the United Kingdom—14% of the population have never used the internet. Two thirds of over—75s, a third of 65 to 74 year olds and 32% of disabled people, as defined by the Disability Discrimination act, have never used the internet. There are quite a lot of people therefore, who do not, would not and could not use the internet for these notices.

The GfK research for the Newspaper Society showed that local papers are spontaneously cited as the way in which most people—that is 39%—expect to be informed about traffic changes, for example. My noble friend Lord Shipley will be interested to know that the next placed source of information is street signs, at 26%—they come immediately to notice. When prompted, 79% of all adults responding said that they expect to be made aware of traffic changes in their printed local paper, second only to street signs and ahead of any other communication channels…

…the last Administration consulted in 2009 on removing the statutory requirements to publish planning notices in newspapers and found that was not well received, … Some 40% of respondents to that survey were against the proposals, with a further 20% giving only qualified support…the Party opposite concluded that some members of the public and community groups relied on statutory notices in newspapers, and was not convinced that good alternative arrangements could readily be rolled out. A recent debate on alcohol licensing notices showed the strength of cross- party feeling against repealing the requirement to publish the notices in newspapers.' [The Government subsequently announced that it would not abolish this statutory requirement].

2. *Deregulation Bill's reduction of public access to information rights*

10. We are also concerned by other examples of the Bill's presentation of measures as 'deregulatory' benefits lightening the burden of the public sector, when its provisions are in fact abolishing the public's rights to information about public services, such as the work of the schools and criminal courts. Statutory guarantees of public oversight and the mechanics of public accountability ought not to be lightly dismissed and discarded as unnecessary inconveniences to the public services scrutinised.

11. For example, given the relevance of information about schools' performance to a wider section of the local community as well as pupils' parents, there appears little justification for Schedule 14: 'Schools: Reduction of Burdens' paragraph 6 (1)-(4) 'Publication of Reports' which amend the Education Act 2005 to remove the specific duties upon governing bodies to make all inspection reports and any report on outcomes from a religious inspection available for public inspection and on request to anyone.

3. *Open Justice: removal and reduction of statutory public rights to hear evidence and access court documentation*

12. The Deregulation Bill also creates new inroads into open justice through Clause 45 Criminal Procedure: written witness statements and Clause 46 Criminal Procedure: written guilty pleas.

13. Local newspapers continue to attend and report the work of the local criminal courts, facilitating public oversight and helping to inform the public about their work. Reporting will be affected by the proposed amendment of the Criminal Justice Act 1967 section 9, which would remove statutory provisions requiring written statements to be read aloud or an oral account to be given in court. It will also be affected by the Bill's amendment of Magistrates Court Act 1980 section 12 allowing the Criminal Procedure Rules to dispense with the Act's statutory requirements for matters to be read aloud in court before the court may accept the guilty plea. These clauses would remove the open justice safeguards in primary legislation which assist public scrutiny and understanding of the courts, since the current Acts enable the substance of the case or evidence which forms part of it to be heard in open court, so that the proceedings can be properly understood by anyone attending.

14. If pertinent evidence no longer has to be read out in open court, the media's ability to report it is affected, because it impedes the dissemination of contemporaneous, fair and accurate reports of court proceedings. It makes cases more difficult to follow for reporters and members of the public attending the proceedings. It also means that their published reports cannot benefit from the statutory defences against claims of defamation and contempt given to such reports of evidence read out in open court.

15. Consideration should be given to whether such streamlining of court procedures also requires any necessary adaption and extension of statutory defences for reports of such material. The statutory rights of public and media inspection of court documentation, with or without leave of the court, and corresponding

legal defences also become even more important. Publication of court results and protocols on supply of registers of court judgements, proper identification of defendants by name, address and age (to avoid confusion with others in the locality sharing the same name) remain important to the local press, to ensure continuation of local court coverage and accurate reporting. We have appreciated the consultation of media organisations on access to court documentation by the Criminal Procedure Rules Committee and the Justice Secretary's recent affirmation of the application of the HMCTS/ Newspaper Society/Society of Editors Protocol on supply of court lists and registers of judgements to local newspapers. It is important that open justice is not inadvertently and incrementally sacrificed in the pursuit of court efficiency. Both primary and secondary legislation effecting procedural changes that could affect public oversight and media reporting do need to be scrutinised carefully and measures taken wherever necessary to avoid any adverse effect, which may be a combination of legislation, Practice Direction, protocol or operational practice.

March 2014

Written evidence submitted by the Sikh Council UK (DB 18)

AMENDMENT NC18

1. Summary

1.1 The Sikh Council UK (SCUK) is the largest representative body of Sikhs in the UK. We are recognised as the national advocate for British Sikhs in the United Kingdom and the European Union.

1.2 The SCUK has campaigned to remove the anomaly which currently exists in the law which provides turban wearing Sikhs with an exemption from having to wear safety helmets on construction sites but not in other workplaces.

1.3 The anomaly is largely historical and exists due to the exemption given to turban wearing Sikhs on construction sites not keeping up with the growth of health and safety law in industries less hazardous than construction sites resulting in Sikhs facing dismissal and disciplinary procedures and lost employment opportunities.

1.4 We welcome the Government's Notice of Amendments NC18 to the Deregulation Bill which proposes to extend the exemption for Sikhs from the requirement to wear safety helmets across workplaces in Great Britain as a big step forward for Sikhs in Great Britain.

1.5 However we have some concerns around the definition of workplace and that the draft amendment contains exclusions for the emergency and armed forces which will become permanently established in the legislation upon enactment.

1.6 We recommend the following changes to the draft amendment NC18–

- — removing the word workplace so as to remove the difficulties of definition
- — removing the exclusions for the emergency services and armed forces or as a minimum to qualify such exclusions so as to make the wearing of safety helmets a last resort in those services determined on a case by case basis and to set out any exclusions by way of statutory instrument rather than in the primary legislation
- — widening if necessary the applicability of the legislation to all territories of the United Kingdom from the existing coverage of Great Britain
- — amending the legislation to address concerns in respect of previous equivalence amendments made by the Equality Act 2010

1.7 This briefing should be read in conjunction with our response to the Government's consultation exercise dated 7 February 2014. (available on request)

2. Background

2.1 We welcome the proposal to extend the exemption across workplaces in Great Britain. The keeping of uncut hair and the wearing of a turban are an integral and mandatory part of the Sikh faith. Both male and female Sikhs wear turbans. The turban is an integral part of the body to devout Sikhs who will not wear anything in place of, under or over it such as a hat or cap.

2.2 The compulsory wearing of turbans for Sikhs is a unique aspect of not only their faith but also of their racial and cultural identity and so the wearing of a turban by a Sikh cannot be compared with other requirements in other faiths or cultures.

2.3 Sikhs are currently exempt from the requirement to wear safety helmets on construction sites but not on other less hazardous places. The anomaly is largely historical and exists due to the exemption on construction sites not keeping up with the growth of health and safety law in industries less hazardous than the construction industry.

2.4 Currently Sikhs face dismissal and disciplinary procedures and/or being denied opportunities to work in industries where the wearing of safety helmets is otherwise required. There is anecdotal evidence to indicate Sikhs have themselves chosen to leave industries where the wearing of a turban will come into conflict with requirements to wear safety helmets. Case studies of recent cases reported to SCUK are referred to in our consultation response of 7 February 2014.

2.5 The extension of the exemption across workplaces will remove the anomaly that currently exists in the law, provide a right for Sikhs to wear their turbans in their places of work, offer new employment opportunities for Sikhs hitherto not available, create certainty for employers and free them from costly and time consuming assessment of risks, dismissal and disciplinary procedures and litigation risk.

3. NC18 subsection 5: services exclusions

3.1 We are concerned that the draft amendment to the Deregulation Bill NC18, subsection 5 proposes to enshrine particular exclusions as primary legislation for Sikhs working or training to work in the police, fire and analogous emergency response services as well as the armed forces.

3.2 The exclusion from the exemption within these services will have a negative impact for Sikhs working in such jobs or roles as it will likely lead to blanket requirements for Sikhs to remove their turbans to obtain or retain employment in such fields. The exclusion will have a detrimental effect on Sikhs who have a proud tradition in the services in particular in the armed forces and it will be a retrograde step at a time when the Government seeks to widen the ethnic diversity across the services.

3.3 Technology advances over time and what is not technologically possible at present may change in the future. It would therefore be prudent and would future-proof the legislation to not permanently set out exclusions in the body of the legislation.

3.4 All exclusions from the exemption for Sikhs from having to wear safety helmets should be approached on a case by case basis and as a last resort when the risk to health and safety cannot be alleviated by other means instead of any blanket requirement mandating the wearing of safety helmets in all circumstances.

3.5 We are disappointed that the draft amendment NC18 has been tabled without consultation regarding the wording of and the reasons for the services' exclusions with us or any other Sikh community group as far as we are aware which we had previously requested. We do however appreciate that the Government's decision to table an amendment to the Deregulation Bill already before Parliament so as to enact this piece of legislation without undue delay has not provided a longer period for consultation.

3.6 We are not aware of the representations if any made by the police, fire or other emergency services and/or the armed forces in respect of the draft amendment and/or the reasoning behind the proposal for particular roles or jobs in these services being excluded from the provisions of the draft amendment. We are not therefore convinced of the need for the proposed exclusions and recommend their removal by way of deleting NC18 subsection 5.

3.7 Despite our reservations about the exclusions, if it is the Government's position that the exclusions be enacted notwithstanding our concerns, we would request as a minimum the following two changes to subsection 5 of NC18 and/or any other legislation as necessary:-

(1) The services exclusions are specifically qualified by way of a "last resort" test analogous to that currently set out in the PPE Regulations 1992. This will provide that any requirement to wear safety helmets in the excluded services will be a last resort when the risk to health and safety cannot be alleviated by other means and as such that a requirement to wear safety helmets in those services will be subject to a health and safety assessment on a case by case basis rather than any blanket policy being established

(2) The services exclusions are set out in a statutory instrument made under delegated ministerial power rather than set out in the body of the legislation itself. This will prevent the exclusions from being permanently established on the statute book and permit an easier mechanism and process for amendment in light of developments in technology and health and safety over time.

3.8 We would wish for any enabling clause in the legislation (which would provide the relevant minister with the power to make statutory instruments) to make clear that any statutory instruments made or amended shall be subject to the relevant minister consulting with the SCUK and/or its successor or equivalent representative Sikh organisations.

3.9 We would also wish for the enabling clause within the legislation to establish a periodic mechanism of formal review under which the relevant minister would respond to any representations from the SCUK and/or its successor or equivalent representative Sikh organisations relating to jobs or roles excluded from the exemption.

4. NC18 subsection 7: defining workplace

4.1 We are concerned that that the term "workplace" may create uncertainty. Is a worker at his workplace whilst being on call, whilst travelling between jobs, whilst being on his employer's client's site, whilst being

on his employer's contractor's site, whilst being a visitor, whilst being a service user and so on? There is an inherent risk of litigation on using a term such as workplace.

4.2 We recommend the removal of the words "construction site" without replacing them with any additional words throughout the draft provisions of NC18. This will remove the difficulties of definition.

5. NC18 subsection 8: Great Britain

5.1 To the extent that sections 11 and 12 of the Employment Act 1989 do not apply to Northern Ireland and/or other United Kingdom territories outside Great Britain we would recommend the draft legislation and/or other legislation made under regional delegated powers as appropriate is amended accordingly so that Sikhs in those regions can benefit from the legislation like their counterparts in Great Britain.

6. NC18 subsection 11 to 13: amendments to section 12 of the Employment Act 1989

6.1 We are concerned that section 12 of the Employment Act 1989 as amended by Schedule 26 of the Equality Act 2010 has created ambiguity regarding the meaning and effect of that section.

6.2 Prior to the amendments section 12(1) stated:

> *12 Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.*
>
> *(1) Where -*
>
> *(a) any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site, and*
>
> *(b) at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site, then, for the purpose of determining whether the application of the requirement or condition to the Sikh constitutes an act of discrimination falling within section 1(1)(b) of the Race Relations Act 1976 (indirect racial discrimination), the requirement or condition shall be taken to be one which cannot be shown to be justifiable as mentioned in sub-paragraph (ii) of that provision. (our underline emphasis)*

6.3 Following the amendment to section 12 in 2010, section 12(1) states

> *12 Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.*
>
> *(1) Where –*
>
> *(a) any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site, and*
>
> *(b) at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site,*
>
> *then, for the purpose of determining whether the application of the provision, criterion or practice to the Sikh constitutes an act of discrimination falling within section 19 of the Equality Act 2010 (indirect racial discrimination), the provision, criterion or practice shall be taken to be one which the condition in subsection 2(d) of that section (proportionate means of achieving a legitimate aim) is satisfied. (our underline emphasis)*

6.4 There is nothing in the Explanatory Notes to the Equality Act to indicate that the changes to section 12 of the Employment Act 1989 were anything other than an updating exercise to remove references to the Race Relations Act and replace them with the Equality Act.

6.5 An interpretation of section 12 as it now stands, that it does in fact permit an employer to avail himself of the defense of having a legitimate aim in requiring a Sikh to wear a safety helmet, would clearly defeat the whole object of the exemption granted in section 11 and we do not envisage this was the intent of Parliament in 2010.

6.6 For the avoidance of doubt and for comfort we propose that the opportunity presented by the proposal to amend the Employment Act 1989 is used to amend section 12(1) to revert back in part to the original wording of that section by the incorporation of the following words inserted to section 12 (1) below emphasised by underline –

> *12 Protection of Sikhs from racial discrimination in connection with requirements as to wearing of safety helmets.*
>
> *(1) Where -*
>
> *(a) any person applies to a Sikh any requirement or condition relating to the wearing by him of a safety helmet while he is on a construction site, and*

(b) at the time when he so applies the requirement or condition that person has no reasonable grounds for believing that the Sikh would not wear a turban at all times when on such a site,

then, for the purpose of determining whether the application of the provision, criterion or practice to the Sikh constitutes an act of discrimination falling within section 19 of the Equality Act 2010 (indirect racial discrimination), the provision, criterion or practice shall be taken to be one which cannot be shown to be a proportionate means of achieving a legitimate aim and for which the condition in subsection 2(d) of that section (proportionate means of achieving a legitimate aim) is satisfied.

7. Code of Practice

7.1 The draft amendments of the Deregulation Bill whilst very welcome are without prejudice to and compliment rather than replace the longstanding aspiration of the Sikh community in the United Kingdom for a statutory code of practice or other relevant guidance relating to Sikh articles of faith. We invite the Government to establish a comprehensive review of all legislation affecting Sikh articles of faith in which the SCUK would be willing to participate.

March 2014

Written evidence submitted by Ismail Abdulhai Bhamjee (DB 19)

Dear Committee Members House of Commons,

1. There is the Deregulation and Contracting Out Act 1994 Some of the Sections have been repealed by other Statutory Acts
The Deregulation Bill should be consolidated and Proceed together with the Deregulation and Contracting Out Act 1994.

2. Section 41 (5) (a) (b) (c) (d) (e) of the Police and Crime Act 2001 should be included in the Deregulation Bill.

3. There is Section 56 of the Senior Courts Act 1981 This should apply before any Court of Law or Tribunal in any Part of the United Kingdom.

4. There are many Sections from different Statutory Acts which have been repealed under the Constitutional Reform Act 2005

The Judicial Conduct Ombudsman should carry out Investigations of Mal-Administration before any Court of Law or Tribunal where there should be no time limit.

5. DAMAGES FOR MISCARRIAGE OF JUSTICE UNDER THE CRIMINAL JUSTICE ACT 1988,
This should also apply to Civil Proceedings before any Court or Tribunal.

6. There is a Legal Right to bring a Private Law Claim on a Judicial Review Claim Form by Virtue of Section 31 (4) of the Senior Courts Act 1981, where Section 1 and 2 of the Crown Proceedings Act 1947 and The Civil Liability (Contribution) Act 1945 should be taken into consideration before any Court or Tribunal.

7. The Powers of the Chancellor of the High Court Chancery Division-
In accordance with the Order made on the 25th July 2003 in B1/B2/B3/2003/0596
This had ended when a Section 42 of the Senior Court Act 1981 Order had been made on the 8th December 2003 in the CO_3208_2003
HM Attorney General versus Ismail Abdulhai Bhamjee.

8. The Offices, Shops and Railway Premises Act 1963- Section 1 (3) (iv)
There should be a Right to make a Complaint before any Court or Tribunal in any Part of the United Kingdom.

9. In Section 336 (1) of the TCPA 1990
The Words-
TCPA 1971
TCPA 1968
This should be repealed
There is a Statutory Instrument 2014 No 683
The Town and Country Planning (Revocations) Order 2014.
and Statutory Instrument 2014 No 692
The Town and Country Planning (Revocations) Regulations 2014

This should be included in the Deregulation Bill.

I believe that the above is true

March 2014

Written evidence submitted by The Rt Hon Anne McGuire MP (DB 20)

I have been contacted by a number of Insolvency Practitioners within my constituency who are concerned about the proposals included in the Deregulation Bill to introduce Partial Licences for Insolvency Practitioners.

My constituents do not believe that the introduction of partial licences will have a positive impact on either businesses or individuals seeking financial advice. They are concerned that often the distinction between corporate and personal financial affairs are blurred, particularly with regard to small business, and it is therefore important that IPs are trained in both personal and corporate insolvency.

My constituents are concerned that the proposals will have a negative impact on small and micro firms as the large firms are more likely to take up the partial licences giving them a competitive advantage. They do not think that partial licences will increase competition especially since there have been a number of redundancies in the sector in the last few years.

One of my constituents trained at one of the larger firms but now works as a sole practitioner within the area. They believe that should they have trained for a partial licence it would have had a negative impact on their career and will restrict the opportunities of the younger generation just beginning their career in the profession.

March 2014

Written evidence submitted by The Work Foundation (DB 22)

1. Introduction:

1.1 The Work Foundation (TWF) aims to be the leading independent, international authority on work and its future, influencing policy and practice for the benefit of society. Through its rigorous research programmes targeting organisations, cities, regions and economies, The Work Foundation is a leading provider of research-based analysis, knowledge exchange and policy advice in the UK and beyond. The Work Foundation is part of Lancaster University—an alliance that enables both organisations to further enhance their impact.

The Work Foundation welcomes the opportunity to feed into the Deregulation Bill. Our concerns relate to the proposed simplification of apprenticeships in England. This submission focuses only on Clause 3 of the Deregulation Bill (English Apprenticeships: simplification).

2. Our Concerns:

2.1 The Work Foundation broadly welcomes moves towards an 'employer-led' apprenticeship system. Compared to other European economies with more successful apprenticeship systems, far fewer UK employers take on apprentices and those that do have been less involved in their design. We believe that limited employer engagement has been one of the biggest weaknesses of the apprenticeship system to date, and has meant that the current system has been developed without their needs in mind. This, in turn, is likely to have limited the growth of the supply of good quality apprenticeships.

2.2 It is important that reform of apprenticeships does not focus solely on meeting employer needs, but that the new apprenticeships equip apprentices with experience and qualifications that are both recognised and valued across their occupation, and provide a strong platform for success in the labour market more generally. A narrow focus on employers in designing new apprenticeship standards may mean that apprentices meet the immediate needs of employers but do not have the opportunity to develop a technical understanding and a level of educational development which is needed both to progress and develop transferable skills for use both now and in the future.

2.3 The Work Foundation welcomes simplification of the apprenticeship system. This should make it easier for more employers to engage in the apprenticeship system. However, we are concerned that the removal of minimum SASE standards may compromise the quality of some apprenticeships. Even with SASE the training content of many apprenticeships has been lacking. Most apprenticeships in England currently last for around 12 months, which is short by international standards. In addition, a recent survey by the Department for Business, Innovation and Skills found that one in five apprentices in England received neither on- nor off-the-job training. We are concerned that the removal of SASE risks further limiting the training content of English apprenticeships.

2.4 The apprenticeship system must be better monitored than it is at present to ensure that apprenticeships involve a new job role, that they train apprentices to do a higher skilled job, and that apprentices receive their minimum wage entitlement. In addition, if SASE standards are to be removed, the impact of this on the quality and quantity of training should be closely monitored.

2.5 Training content has so far been most limited in service sector apprenticeships (which provide the majority of apprenticeship opportunities). However representation from employers in these important and growing sectors has so far been limited in apprenticeship reform.

3. Conclusion:

3.1 In summary, The Work Foundation broadly welcomes proposed changes to simplify and increase employer engagement in the apprenticeship system, however there are concerns about what deregulation would mean for quality and training content.

March 2014

Written evidence submitted by Ipswich Borough Council (DB 23)

Taxi and Private Hire Licensing

Proposal 1—To allow PHV Operators licensed in England (outside London) and Wales to sub-contract bookings to an operator licensed in a different district. London PHV operators are allowed to sub-contract to an operator licensed outside London so it would be a case of establishing a more level playing field.

Comments: This proposal is supported provided an audit trail between Operators is maintained.

Proposal 2—To allow private hire vehicles licensed by a local authority outside London to be driven by a person (e.g. a family member) who does not hold a PHV driver licence, when the vehicle is not being used for private hire work i.e. when it is "off-duty".

Comments: Whilst understanding the reasons for wishing to introduce this measure, it is believed that it would be detrimental to the licensing regime and will seriously undermine public safety.

As the process for obtaining a PHV driver's licence involves having a DBS check, passing knowledge tests, driving tests, BTEC qualification (varies for each Local Authority) and medicals, relaxing the regulations as to who can drive these vehicles could lead to more people opting out of the licensing regime due to the time/cost of obtaining a licence or simply because they are not fit and proper to hold a licence by virtue of criminal convictions/motoring convictions/no driving licence/medical conditions. This could lead to a large number of journeys being carried out by unlicensed drivers.

It will be virtually impossible to carry out enforcement against illegal use of licensed vehicles and will open up the possibility for an unscrupulous and unlicensed person to pick up passengers in a licensed vehicle. It will also be almost impossible for the Council to identify and prosecute illegal pick-ups and associated insurance offences.

It is strongly suggested that the significant public safety implications arising from this proposal should outweigh any other considerations.

Proposal 3—that taxi and PHV driver licences should be issued for a standard period of three years (and PHV operator licences five years) and licences should only be granted for shorter periods in the circumstances of an individual case.

Comments: There are no perceived public safety implications arising from issuing PH Operator licences for five years.

However, whilst understanding that a three year licence for drivers would reduce the burden on licensees, there are public safety implications arising from this proposal.

At Ipswich, licences are issued for one year and each application is reviewed upon application for renewal to ensure they remain fit and proper to continue to hold a licence. If licences were granted for 3 years, any unsuitable person would remain licensed for longer.

At renewal time we pick up on changes of address/telephone numbers/email addresses/medical conditions/convictions/motoring offences etc that have not been notified to us as per Conditions of Licence/byelaws. This is particularly relevant for those drivers who require an annual medical examination.

Ipswich carries out electronic driving licence checks with the DVLA and as a result of this a licensed driver was found to have had his DVLA driving licence revoked. If there were three year licences, a person could be transporting the public in a licensed vehicle without insurance (no DVLA driving licence) for much longer.

If three year licences are to be introduced, Local Authorities must retain the ability to carry out an annual check to ensure the person remains fit and proper to continue to hold a licence.

General Comment

The taxi and private hire industry is the only public transport operating 24/7. Taxi and private hire drivers transport the most vulnerable members of society (the elderly, school children, the disabled, drunk lone females etc), therefore it is vital that the licensing regime retains the core principle of ensuring the safety of the public and that this principle outweighs any other consideration in policy/law formation.

It is hoped these comments are helpful to the Committee.

March 2014
