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Dear Lord Carter,

### **Employment Rights Bill – Enforcement Officers**

Thank you for your recent comments during the Lords Committee Stage of the Employment Rights Bill on Wednesday 18<sup>th</sup> June. I committed to writing to you on the issue of enforcement officers.

You raised a question in relation to the powers of entry and why the requirement to obtain a warrant does not apply to all premises. Specifically, you suggested that in cases where an enforcement officer can show the magistrate reasonable cause to have concerns about the destruction of documents, they could apply on an ex-parte basis for a search warrant.

The power of entry clauses in the Bill largely replicate the existing system of state enforcement but introduce an additional safeguard: a requirement to obtain a warrant to enter any dwelling. Existing labour market enforcement bodies all currently have powers of entry and are unable able to carry out their roles successfully without them. Existing powers of entry do not require warrants to enter business premises.

Enforcement officers can't always know if a breach is being committed without carrying out an inspection and proactive enforcement checks are a key part of current regimes and the future regime under the Fair Work Agency. However, these powers do not permit the use of force to gain entry without a warrant.

The provisions in the Bill are consistent with the [Code of Practice - Powers of Entry](#)<sup>i</sup> issued by the Home Office in December 2014, pursuant to section 48(1)(a) of the Protection of Freedoms Act 2012. Enforcement officers will be relevant persons for the purposes of section 51 of that Act, meaning that they must have regard to the Code of Practice when exercising powers of entry.

The Code of Practice states that, where it is appropriate and practicable to do so, reasonable notice should be provided to the occupier or landowner of the intention before exercising a power of entry. This is what currently happens, and the powers will continue to be exercised on a consensual basis in the majority of cases. However, this would not be appropriate where giving notice would frustrate the purposes of exercising the power of entry. This could be because of a number of reasons, including the risk of documents being destroyed, the matter being one of urgency or to obtain a genuine, rather than a manufactured, impression of day-to-day activity.



Requiring a warrant to be obtained in all such cases to visit business premises would not be a good use of the time and resources of both enforcement agencies and the courts. These visits would normally be carried out where, following a risk assessment, it was considered there was a risk of a breach of the relevant labour market legislation and a visit was appropriate to check for compliance. They would take place during normal business hours, when the premises are occupied; and to require a warrant to be obtained in all such cases would create unnecessary additional pressure on the courts.

I hope this reassures you that the powers for entry have appropriate safeguards including on warrants and that these issues have been carefully considered.

I am copying this letter to all Noble Lords who spoke in the debate. I am also depositing a copy of this letter in the Library of the House.

Best Wishes,



**Lord Katz MBE**  
**Lord in Waiting (Government Whip)**