Question 41 - How might the ICE regulations be improved?

1.1 The regulations should promote the conditions and circumstances in which the options for a transition to worker ownership (partial, controlling or full) can be more frequently and fruitfully explored and pursued over the life cycle of businesses. The ICE regulations should particularly support the conditions that lead to successful worker buyouts as part of business ownership succession.

1.2 As the Chancellor highlighted in Autumn Statement 2016, the UK has a growing problem with business succession.¹ Too many home grown firms get to a certain size only to be brought out by foreign investors, with increased risk that capital and employment will end up being offshored.² There are also concerns that the successful succession of thousands of family businesses in the coming decade is far from assured.³ If we do not have a plan to deal with these issues we will see more jobs and capital move abroad. With proper public and private backing, worker buyouts could be a viable succession route in the UK, as they are elsewhere in the world.⁴ Since evidence shows that worker ownership boosts productivity⁵ while also contributing to good work and inclusive growth,⁶ the economic and social gains from this would extend beyond the retention of capital, jobs and skills.

1.3 Given that this section of the consultation focuses on worker voice as part of government’s very welcome Good Work Plan, we believe it would especially relevant to consider how the ICE regulations could help give a very meaningful voice to workers and foster inclusive growth, by supporting worker ownership.

1.4 We believe BEIS should revisit government’s response to the 2012 Nutall Review of Employee Ownership and recommendations L and M of that review in particular.⁷ Recommendation L concerned a: “statutory Right to Request consideration of an employee ownership proposal” and Recommendation M covered: “the best means to encourage owners and employers to make information available to employees, if a

¹ https://www.gov.uk/government/speeches/autumn-statement-2016-philip-hammonds-speech
² http://www.telegraph.co.uk/business/2016/12/06/foreign-firms-spend-100bn-buying-british-businesses-far-2016/
⁶ Young Foundation (2017) ‘Humanity at Work’
Increasing transparency in the labour market

change of control of a company or sale of the business in which employees work is envisaged, in order to allow employees to consider an employee buyout.”

1.5 We note that government undertook a call for evidence on a possible statutory Right to Request in 2012 and decided against it, on the grounds that it might result in greater regulatory burdens for business and might anyway not be necessary if a voluntary code covering similar ground had a positive effect. The BIS response said:

“Government will monitor the progress and uptake of the voluntary guide and will make a final evaluation of whether a statutory ‘Right to Request’ is justified three years after the guide has been in place.”

1.6 We would be interested to get an assessment from government of how much progress it thinks has been made in the years since that response was published.

1.7 At the very least, the ICE regulations could be improved by requiring better flows of information and meaningful consultation, between workers and their representatives and directors and business owners, about possible changes in business ownership. We note that this would make good on a pledge in the Conservative Party’s 2017 general election manifesto:

“Subject to sensible safeguards we will introduce for employees a right to request information relating to the future direction of the company.”

1.8 If properly applied, such a measure would provide more scope to explore, plan and execute worker buyouts, especially if that transition route was established as an option to be explored as a matter of course. But to have real effect, there should be a specific Right to Request worker ownership, as set out in the Nuttall Review.

1.9 To summarise we propose the following changes to the ICE regulations:

- introduce a worker right to request information relating to the future direction of the company, with measures to ensure a transition to worker ownership is an option explored as a matter of course
- linked to this, introduce a right to request worker ownership that should draw on the proposals and recommendations in the Nuttall Review

2 Question 46 - How might government build on the expertise of stakeholders such as Investors in People, Acas and Trade Unions to ensure employees and workers engage with information about their work?

2.1 The most powerful way to encourage workers to engage with information about their work is to allow them an ownership stake where they work. We believe government

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8 Ibid
10 https://www.conservatives.com/manifesto
should broaden its thinking and its stakeholder engagement to draw on expertise about, and lived experience of, worker ownership in all its forms.

2.2 With the right arrangements, worker ownership can be a very effective and practicable means of improving worker engagement and participation in a business. Examples of good practice government should build on are:

- Worker co-operatives, such as Suma, Infinity Foods and Edinburgh Bicycle Co-operative; all business with more than 100 employees that are 100 percent worker-owned, with democratically elected all-worker boards
- Employee owned businesses such as John Lewis, Scott Bader and Clansman Dynamics; all of which use the employee ownership trust model and include arrangements that give all employees democratic power up to and including board level
- Employee shareholding schemes where the participating employee shareholders are given democratic influence up to and including board level, for example by electing an employee shareholder representative to the board; government should look to France for examples of this in practice, where the law gives employee-shareholders the right to elect a director whenever they hold at least 3 percent of outstanding shares

2.3 This is as much about fostering positive cultures of ownership in businesses as it is about regulations and governance structures. Good ownership cultures for workers include individual and collective self-responsibility for the business, solidarity among worker owners, valuing fairness and trust within the business and active participation and engagement with the business as responsible and interested owners.

2.3 Co-operatives UK hosts the Worker Co-operative Council, which is comprised of elected representatives from worker owned businesses across the UK. With the Council we maintain the Worker Co-operative Code of Governance, which is the only code in the UK that deals specifically with worker control as well as ownership of businesses. We recommend that BEIS engages with the Council to improve its understanding of the approaches to business and work discusses above.

3 Question 48 - Are there other ways that the government can support businesses on employee/worker engagement?

3.1 The most powerful and seamless way to boost meaningful worker engagement is to foster broader worker ownership in the UK economy. While it is of course possible for a business to give workers a voice without sharing ownership, it is also true that worker ownership aligns profit, control and worker benefit in a business more seamlessly than

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11 https://halshs.archives-ouvertes.fr/halshs-00626310/document
12 https://www.uk.coop/about/about-co-operatives-uk/our-governance/strategic-members-groups/worker-co-op-council
13 https://www.uk.coop/sites/default/files/uploads/attachments/worker_co-operative_code_2nd_edition_0_0.pdf
other available models. BEIS should develop a plan of action to promote and support worker ownership in the UK economy.

3.2 In addition to the recommendations we make in our answer to question 41 we believe a more proactive policy for business succession that includes initiatives to promote and support the worker ownership option should be part of the UK’s Industrial Strategy and Good Work agenda. BEIS should look to the example set by the Scottish Government. It funds a service that raises awareness of worker buyouts among business leaders and provides expert support for businesses pursuing worker buyouts as part of their planned succession process. Scotland now leads the UK in the number of such buyouts, averaging one an month and with the delivery body Co-operative Development Scotland reporting more than 100 in the pipeline. The success of this programme demonstrates that when businesses and their workers are supported to understand, explore and develop the option, worker buyouts can become a mainstream succession option.

3.3 BEIS should also develop proposals for how the UK Shared Prosperity Fund (UKSPF) can be used to expand worker ownership. We believe there are two key aspects to this, discussed below.

3.4 The UKSPF should help to fund inclusive, accessible and civic-based models of economic development, in which local communities and businesses everywhere are supported to gain greater control over their economic circumstances, through both social action and commercial enterprise. The foci of these economic development programmes should be: better work, responsible ecology, inclusive growth and wellbeing. These programmes would provide a nurturing climate to the development of new worker co-operatives as well as for buyouts.

3.5 The UKSPF should also be used to capitalise a UK-wide Worker Buyout Investment Fund. This fund could help to finance buyouts of viable business during succession and could also crowd-in private finance and give more business owners confidence in this option. To reduce administrative costs and ensure effectiveness and independence, the Worker Buyout Investment Fund could be held and administered by the British Business Bank.

3.6 BEIS should also work with HM Treasury to review the ‘inclusivity impact’ of the UK’s existing employee shareholding tax schemes: Company Share Option Plans, Enterprise Management Incentive, Share Incentive Plan and Save As Your Earn. This review should consider the performance of these schemes in terms of broadening worker ownership and enhancing worker voice in UK businesses. We have concerns that the two ‘discretionary’ (in other words exclusive) schemes, Company Share Option Plans and Enterprise Management Incentive in particular waste significant amounts of public money every year through tax breaks for a very small number of already high-earning, well-motivated employees. HMRC figures show that in 2016 these two schemes awarded

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15 As reported by Co-operative Development Scotland to the Cross Party Group on Co-operatives in the Scottish Parliament
£230 million in tax breaks to just 25,000 elite employees.\textsuperscript{16} We believe this money would be better spent funding the expansion of broad, inclusive forms of worker ownership.

3.7 BEIS should also work with HM Treasury to explore whether the current package of tax incentives for worker buyouts via the trust model could be do more to support worker influence as well as ownership. We believe as part of the Good Work agenda, government should consider amending these tax incentives to include additional eligibility criteria requiring the governance of the trust and the company to give meaningful democratic influence to all employees. There are practical examples of employee owned businesses with carefully balanced governance arrangements to make this happen, such as John Lewis, Scott Bader and Clansman Dynamics.

3.8 With real ambition, BEIS could explore how to provide greater statutory support for worker buyouts, through a worker ‘right to bid’. BEIS could draw on the example of the Community Right to Bid under the Localism Act, in which communities in England can list an ‘asset of community value’ and then trigger a ‘stop the clock’ procedure on any possible sale, which gives time for a community buyout to be put together.\textsuperscript{17}

3.9 To summarise, we make the following recommendations:

- Fund a national programme that promotes and supports worker buyouts as part of planned business succession
- Develop proposals for how the UKSPF can be used to support an expansion of worker ownership
- Review the performance of the current employee shareholding tax schemes against good work and inclusive economy criteria
- Consider changes to worker buyout tax incentive eligibility criteria, so that these promote enhanced worker voice as well as more worker ownership
- Consider creating a statutory worker ‘right to bid’ when the business they work in is put up for sale

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\textsuperscript{16} \url{https://www.uk.coop/newsroom/trade-body-co-operatives-uk-criticises-government-tax-breaks-dished-out-ps230-million-just}

\textsuperscript{17} \url{https://www.gov.uk/government/get-involved/take-part/protect-a-local-building}
About Co-operatives UK

Co-operatives UK is the network for Britain’s thousands of co-ops. We work to promote, develop and unite member owned businesses across the economy. From high street retailers to community owned pubs, fan owned football clubs to farmer controlled businesses, co-ops are everywhere and together they are worth £35.7 billion to the British economy.