Does Employment Regulation Burden Small Employers?

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Research objectives

- How might employment regulation burdens be conceptualised?

- What factors influence employment regulation burdens?

- What are the implications for our understanding of the influence of employment regulation on small employers?
Research context

- employment law argued to be a burden for small employers:
  - limited managerial capacity, vulnerability to external shocks
  - informal reactive approach to HR problems
  - fear of exposure to litigation & legal sanctions

- contrary evidence emphasises variability of regulatory effects (Edwards et al. 2004):
  - informal relations permit absorption of costs
  - external market conditions exacerbate/mitigate impact of regulation

- variable employer confidence in employment law compliance

- prevalence of ‘regulatory burden’ discourses promoted by powerful social agents
Analytical Framework 1: 
An ontology of regulation and its effects

- social reality as stratified (informed by critical realist philosophy & social theory):
  - deep level (regulation as rules with causal powers)
  - actual level (employer actions to comply/adapt)
  - empirical level (perceptions of actions & effects)

- levels out of phase:
  - regulation only produces effects by being perceived & acted upon
  - regulatory effects cannot be reduced to agents’ perceptions of effects
  - regulation is enabling as well as constraining - if regulation was solely a constraint, how could employers exercise agency at all?
Analytical Framework 2:
Conceptualising regulatory burdens

- **substantive** – implementing actions mandated by regulation

- **administrative** – costs of identifying & interpreting obligations, including advice-seeking

- **psychological** – subjective employer uncertainty/anxiety surrounding compliance:
  - frequent regulatory change
  - complexity
  - threat of legal action
  - loss of control/constraint on employer agency
Method

- **sample** - 20 UK small business, in a range of sectors:
  - 13 micro, 7 small firms (employed 2-19 employees)
  - mostly established firms (only four aged 3 years or younger)
  - located in London, Birmingham, Leeds, Glasgow

- **data collection**:
  - qualitative, face-to-face interviews with employers/managers
  - emphasis on process, temporality & motivations for action
  - data obtained on HR practices prior to asking about awareness & influence of regulation
  - none of the 20 firms employed a HR specialist
  - no data from employees
Findings 1: Influences on regulatory burdens

- contingent upon conception of ‘burden’

- psychological - vulnerable compliance v confident ignorance?

- employer confidence rested on a number of bases (conditions of possibility):
  - non-occurrence of employee litigation
  - belief that employees wouldn’t litigate (influence of informal recruitment)
  - prior knowledge of employment law
  - belief HR practices were fair & defensible, despite an absence of certainty
  - access to expertise from trusted, formal & informal intermediaries providing tailored advice & reassurance
Findings 2: Impact on employer agency

- employment regulation constrains employers:
  - HR problems occur at particular times that prompt the search for solutions (e.g. recruitment, dismissal, redundancy, maternity leave)
  - ... often incurring administrative costs of advice-seeking
  - but: not perceived as a general burden or major impediment to employer agency

- but: employment regulation also enables employers:
  - otherwise, how could they manage a profitable business at all?

- regulation impacts employers whether or not they are aware of this &/or report it or not
Conclusions and implications

- need for a stratified conception of regulation and its effects

- contrasting conceptions of ‘regulatory burden’:  
  - substantive/administrative v psychological burdens  
  - temporal variation in psychological burdens & actions to ameliorate

- research agenda:  
  - how does employment regulation enable and/or constrain employer agency?  
  - under what conditions?  
  - with what effects? (for employers, employees)