House of Commons

Scottish Affairs Committee

Oral evidence: Sustainable employment in Scotland, HC 762

Wednesday 1 February 2017

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Watch the meeting

Members present: Pete Wishart (Chair); Deidre Brock; Mr Christopher Chope; Margaret Ferrier; Mr Stephen Hepburn; Chris Law; Ian Murray; Anna Soubry; Craig Williams.

Questions 267-360

Witnesses

I: Gary Smith, Scotland Secretary, GMB, and Bryan Simpson, Executive Council, Unite.

II: Vaughan Hart, Managing Director, Scottish Building Federation, Ewan MacDonald-Russell, Head of Policy and External Affairs, Scottish Retail Consortium, and Donald Macdonald, Executive Chairman, Macdonald Hotels and Resorts.

Written evidence from witnesses:

– Evidence from the Scottish Retail Consortium. View here.

Examination of witnesses

Gary Smith and Bryan Simpson.

Q267 **Chair:** Welcome to the Scottish Affairs Committee. For the record, tell us who you are, which organisation you represent, and anything by way of a short introductory statement. We will start with you, Mr Simpson.

Bryan Simpson: Thank you very much. My name is Bryan Simpson. I currently represent Unite the Union's young members on the executive council. We have about 140,000 young members. It is a huge constituency. I also organise young workers, particularly in the hospitality and retail industry, with the Better Than Zero campaign.

Gary Smith: I am Gary Smith. I am the Scottish Secretary of the GMB trade union. I represent about 55,000 workers in Scotland in basically every area of the economy, from whisky, shipbuilding, manufacturing, and about half our membership now is in the public sector. I took up this role about 15 months ago.

Q268 **Chair:** I am grateful. Thank you very much for that. Throughout this inquiry we have heard that there is an overreliance on low-skilled, low-paid workers in Scotland and throughout the United Kingdom. Could you tell us if this is what you have found in your experience? If that is the case, what are the predominant reasons for this? We will start with you, Mr Simpson.

Bryan Simpson: First of all, with experiences of young workers, I have certainly noticed in the last five years organising young workers that it has got a lot worse in terms of low-paid jobs, precarious work, insecurity of contracts, and contractual instability. By that I mean people who are on zero hours. There has been a massive increase, particularly in Scotland, of zero hours contracts: people who don't know from one week to the next how many hours they are going to get, how much work they are going to get. Currently there are 118,000 people in Scotland on zero hours contracts—this is an STUC estimate based on the feedback we have had from employers and employees—and plenty more on what we call low-hour contracts. That is, for example, less than 12 hours. How can you live with less than 12 hours a week? We are talking about people with families, mortgages and bills to pay, who can't make ends meet.

The hospitality sector is the lowest-paid sector. The median wage is £7 an hour currently. It is below what the minimum wage is because of incessant breaches of the minimum wage legislation. The average wage across Scotland is about £11.92, so we are talking £5 less than that in hospitality sector. It is the lowest paid sector. Particularly with young workers, particularly in hospitality and retail, we are seeing a huge number on zero hours, minimum wage—in some cases below minimum wage—jobs.

Q269 **Chair:** Is that mainly because, in your view, there are more jobs available in the hospitality sector just now and people are drifting towards them, or is there something more significant that we need to understand about what is happening in that dynamic?

Bryan Simpson: I am a trade unionist, and I would point directly to the low collective bargaining coverage. In the hospitality sector it is less than 4%. It is the lowest sector of any area of the economy. What that means is that only 4% of workers in the hospitality sector are members of trade unions, and there is very little, if any, collective bargaining coverage. That means that there is no voice for workers collectively. That has had a massive effect in the last 10 to 15 years within the hospitality industry. We have seen a huge drive-down of wages and conditions. I think that is directly related to the lack of trade union membership within that industry.

Q270 **Chair:** Mr Smith, is that something that you would concur with? Do you have any particular views about why we are seeing this proliferation of low-skilled, low-paid jobs in Scotland just now?

Gary Smith: There are a number of points I would make. First of all, the Scottish economy is stagnating, and we have a big worry about where we are going with the economy. I think there is evidence to suggest that the construction industry has amassed a lot of the deep-rooted problems that we have within the Scottish economy. As we finish things like the Forth Bridge project, and as the first carrier goes out of Rosyth and there is a general slowing up in the construction sector, I think some of the deep-rooted problems we have in the Scottish economy are going to be laid bare. The truth about the Scottish labour market is that unemployment is up and economic inactivity is up. We can debate the level of insecure employment but the fact is that it has exploded in Scotland. Of course, we now have massive cuts in the public sector, which makes up a disproportionate part of the Scottish economy. All this says that we are in a very bad place going forward as an economy.

A big worry that we have is that, due to the lack of exploration offshore in the North Sea, we could be looking at 10,000 job losses in Aberdeen this year, on top of what has gone before. Let me be clear about two things. The first is the idea that low-paid, low-productivity, low-skill jobs are somehow the exception; for large parts of the Scottish economy that is the norm now. The idea that employers always want to train people up or are worried about recruitment or retaining staff is just a nonsense in an economy that is based on low-skilled employment that is going on today.

Q271 **Chair:** This is something that the STUC said to us, which might interest you and maybe you could comment on. They said that, "A relatively high incidence of low-wage/insecure/poor quality jobs would not necessarily represent a major social problem if such jobs tended to act as a stepping stone to better quality jobs". Is that something that you would agree with?

Gary Smith: The problem with these types of jobs, by the way, is that they are not unionised jobs. They tend to be non-union jobs, with a high turnover and people who have little stake in a business. There is a fear factor in a lot of these jobs, as we know, in places like Amazon. No, I would not entirely agree with that. The truth is that we as a trade union are not best placed to speak on some of those issues, because by its very nature we would be challenging insecure employment and low pay in a unionised workplace.

Q272 **Chair:** Can you talk a little bit about the opportunities for people who do find themselves in these low-paid, low-wage jobs, particularly in the hospitality sectors? On the notion that there are other jobs available, that it is about experience and that they will be able to move into higher paid, better quality employment, do you find that that does not happen all that often? Are there any particular reasons why that is the case?

Bryan Simpson: We did a survey of 140,000 young workers—young members in Unite. To my surprise, to be honest—because I thought it would be low wages or zero hours contracts—the No. 1 issue was lack of ability to progress through their workplace, wherever that was. That was not just the hospitality sector; that was across 20 different sectors, including the public sector. If we are talking about a generational problem as well as a sector problem, young workers in particular face those issues with progression. To corroborate with Gary, I think that is down to a drive to the bottom in which within the hospitality industry you have companies trying to squeeze as much as they can out of their workers and only really taking on people into middle management who will do 50, 60 or 70 hours a week. I think that is the main crux of the issue. As Gary says, without the collective voice of trade union density within the hospitality sector, we are seeing a serious exploitation of workers in that industry.

Gary Smith: The key question for us in Scotland is we have a Scottish Parliament that was set up to come up with Scottish solutions to Scottish problems. Frankly, at the moment it is not, because the Scottish problem is economic underemployment, economic inactivity, and a low-paid, low-skills, low-productivity economy. If we want to improve opportunities for people then we have to get back to creating an economy where—and manufacturing industries in Scotland continue to bleed. I think we have lost 7% since 2015. We need to get back to economic planning and creating high-skilled, well-paid jobs and proper apprenticeships in the energy sector, building ships, or whatever it is.

Chair: We want to come back to some of these points about interventions and just how joined up joint approaches and strategies from both Governments are. I want to ask something more about progression, but first I think Chris Law wants to ask a supplementary question.

Q273 **Chris Law:** I am the MP for Dundee, and at the moment we are going through a rapid change that will develop a lot more jobs in hospitality. My first career was in hospitality as a chef, and I was shocked by the figures you gave, with 4% or less having union representation. Can you elaborate on why that is the case and is there an opportunity there for greater representation?

Bryan Simpson: The hospitality industry, particularly the hotels industry, about 13 to 20 years ago went out of their way, under the British Hospitality Association, to get rid of trade union density and trade union collective bargain agreements because a lot of the owners of these hotels saw them to be an impediment to profit and increased profit margins. Collective bargaining frameworks in terms of many hotels—the Apex in Dundee, to take an example, used to be quite well organised and is not any more. You could point to trade unions like Unite—we can do more, and we are going to be organising within the hotels industry—but we are facing a serious structural problem with regards to employers doing as much as they can legally to prevent trade union activity within those areas.

Frankly, that is the reason we are looking at the lowest-paid sector—£7 median income an hour. We are talking about part-time workers as well. The average weekly income of a Scottish worker is about £570. The average weekly median income of a hotel worker is £210. It is less than half of the average Scottish wage, and I don't think that is enough anyway. We are talking about serious issues. It does affect women a lot more than male workers, for example, and it does affect migrant workers a lot more, because they have a high density within the hotel sector. From my perspective, the problem is both political and structural. I will not speak for Gary, but the trade union movement needs to get back into those sectors, and we are going to be doing that.

Q274 **Chair:** This brings it back to my last question before we move on. Is there more that could be done like support programmes for people who are in low-paid, low-skilled employment moving into these higher-wage, higher-skilled jobs? We are probably going to get into a bigger discussion and conversation about interventions, but is there something in your view that could be done to try to support that transition and progression?

Gary Smith: It does not strike me as obvious. I think we just have to face the fact at the moment that we have a large chunk of the economy where employers are not necessarily concerned about up-skilling their workers. They are not particularly concerned about improving productivity because they have a pool of cheap labour that they can go back to time and time again. We deal with factories that have 45% turnover. In any normal economic model you would say that is madness, but it happens and it works for them. The idea that this is all about training and development for individuals—by the way, we support that. I went back into university; my trade union supported me when I left the gas industry. We support all that.

But there has been a fundamental shift in the economy in Scotland. If you want to address the low-paid sectors that Bryan is talking about, we have to talk about collective rights for workers. You are talking about sectoral bargaining, enshrining the right of workers to negotiate over the terms and conditions, to give them a stake in businesses and organisations, which will drive improved practice with employers through improvements to productivity and investing in their workforce. That is absolutely crucial. If we think it is just about education, training and access to skills, we have spent a fortune under the Labour Government doing that, and what has happened is insecure employment has gone up. If you want to address inequality and the fact that people are disempowered in the workplace, it is about collective bargaining rights for people.

Chair: We have a couple of quick questions from first Ian Murray, and then Anna Soubry on the points made.

Ian Murray: Apologies for being late. I was speaking in the Chamber.

Chair: No, that is absolutely fine. I saw your name on the board.

Q275 **Ian Murray:** I am really interested in this issue of progression in the workplace and, indeed, overall pay, particularly in the sectors that are traditionally low paid. I do not need to declare an interest because it was some time ago, but I used to run my own hospitality businesses, and we always paid very well. We always paid the living wage and we always made sure that people could progress through training and things. The biggest pressure on the hospitality trade is price. Is there a circular argument here where, yes, it is about progression in the workplace, yes, it is about collective bargaining, and yes, it is about driving up wages, but how do we educate the public, to a certain extent, that what they pay at the till reflects the wages that come out the other end? I do not want to talk about individual companies in case I get it wrong and they do not do this, but if you have a hotel that has a room at £50, how do you educate the public that they might have to pay £62 to make sure that people are paid properly?

Bryan Simpson: That is a really good question. It is something that Unite has taken on in the hospitality industry. We have come across really horrifying stories about hotel workers in particular. Hundreds if not thousands of pounds in tips are being used by the management—at the behest of the owners, who are obviously telling them to do it—to cover things like breakages and spillages that are not the workers' fault, or if the till happens to be down because of small human error, or even in some cases to pay for staff nights out and to top up the wages of management. It is incredible the extent to which tips, for example, in that industry—which ultimately are what make that industry possible to work in. You can't live on £6 or £7 an hour. If you are working 40 hours a week you are lucky to do that, so you are depending on those tips.

I think you are absolutely right. One of the main parts of this organising agenda is going to be to educate the public about the fact that they are paying £200 for a room, £50 for a meal and tipping on top of that—I think there is a really good, progressive tipping culture in Britain that we need to keep up—but a lot of people do not know that they are not getting that. We had the case of Pizza Express that we unearthed of them taking admin charges from tips that were put on cards. If you were paying for a £30 meal and you round it up to £35, a huge proportion of that £5 extra was being taken by the company as an administration charge for paying by card. I do not know what administration charge you would need—in some cases 30% or 40%—to cover the admin. I do not think it requires that much charge. We have unearthed that and thankfully Pizza Express has now removed that.

We were organising in Glasgow and London against the Las Iguanas restaurants. They were taking not only 100% of tips but a 3% tip tax. You had to give the company back at the end of the night, at the end of every shift, 3% of your takings. If you made the company £2,000 in food and drink, you had to find £60 to give back to the management at the end of the night. That was a policy of tips within Las Iguanas restaurants. We took direct action. We had members within Las Iguanas who challenged that, we had the petition online, and Las Iguanas has stopped that.

Q276 **Ian Murray:** The tips campaign has been great; Unite have been fantastic at pushing that through. But setting all that aside, the tip issue becomes less of an issue if people are being paid properly. How do we push up the wages of people? Does it have to be with legislation? Do the Government just have to say, "The national minimum wage is going to be X and everyone is going to have to pay it, full stop. If that feeds through to higher prices, then so be it"?

Gary Smith: Legislation has a part to play but as we have seen with zero hours contracts, if you outlaw zero hours contracts you will end up with one-hour contracts and two-hour contracts. There is a huge number of people who are under the real contractual hours in the retail sector, so people who have a 12-hour contract are working 30, 40 and 50 hours a week. Legislation for the individual on its own will not stop exploitation. What is going to stop exploitation is people having collective rights and the ability to take collective action. The growth in inequality across the western world, in America and the UK, is directly linked to the type of economy we have—and if we can, I will come back to that—but also to the decline in collective bargaining.

The balance of power in the workplace is in favour of the employer. A lot of employers would have you believe that somehow they have to cut through all this legislation and red tape. The truth is that employment law is weighted in favour of the employer, and that in itself is never going to resolve the problems. We have to have a discussion about the type of economy we want in Scotland. Dundee does not need any more Costa Coffee jobs, north Edinburgh does not need any more delivery jobs with bogus self-employment, or working in Greggs the bakers. The east end of Glasgow does not need it either. The point of the inquiry is we need—

Chair: Mr Smith, sorry, that is all very interesting and thank you for that. I am sure it is really relevant to the work, but we are trying as much as possible to see if we can stick to sustainable employment and assist this

Committee in trying to find recommendations and conclusions. Thanks for that. I know Anna Soubry has been keen to get in for a number of minutes, and Margaret Ferrier wants a quick intervention, then we will move on.

Q277 **Anna Soubry:** I do hope both of you are not saying that every employer in Scotland in the sectors where you have experience does not value and care for their employees and want to make sure that their most valuable assets are properly paid, properly trained and properly encouraged. You are not saying that, are you?

Bryan Simpson: I didn't say that.

Gary Smith: No. We work very constructively with a lot of big employers. The point I was going to make was about how we create proper jobs and proper apprenticeships and—

Anna Soubry: Yes. I think it is very important that we just establish that.

Chair: Okay. We have clarified and cleared that, which is very helpful.

Q278 **Anna Soubry:** Can I ask you about zero hours contracts? We know that big changes were made under the last Government. Would you agree with me that some people who are on zero hours contracts positively like them and want them, or are you saying that nobody wants them?

Bryan Simpson: Good question. I have not met everyone who is on a zero hours contract, so I could not possibly say that everyone likes them. I would love to think that there are circumstances where people—for example, supply teachers or because of their domestic situation—need only 20 hours. The problem, as Gary has highlighted, is that we do not have an equal partnership between employers and employees because of the lack of voice that we have through the trade union movement and the legislation that is being used against workers.

I know what you are referring to, Anna; it is the exclusivity clauses and what the Conservative Government have done with that. I have plenty of direct examples of exclusivity contracts with clauses still being used very implicitly within the wholesale and retail sector. For example, Transline, which is the famous/infamous agency that employs a lot of people at Amazon, are still on 336-hour contracts, which is where you are guaranteed 336 hours a year. If you work that out, by the end of February you will have used those hours. Beyond February you are still tied into a contract in which you cannot accept any more work. I welcome getting rid of exclusivity clauses, but it is still happening.

Q279 **Anna Soubry:** I am a former shop steward.

Bryan Simpson: I didn't know that.

Anna Soubry: There you go. And I am a Tory, as you both probably know.

Bryan Simpson: Never.

Anna Soubry: When I was shop steward, which was with the NUJ a long time ago, I always made sure that each and every one of my members wanted to be a member because they knew that their dues were worth every penny and that we were always relevant to them. Would you agree with me that if trade unions showed real, genuine value for money, and if people believe that they are democratic and going to deliver on their needs, then they will want to join them?

Gary Smith: I am glad you were a shop steward, but Norman Tebbit was a shop steward at BALPA and he never did us many favours when he was in Government.

Anna Soubry: You are a bit too tribal for me, Mr Smith.

Gary Smith: Okay, but your Government passed the anti-trade union laws. On the point about the value for money of trade unions, I will tell you this: I have spent my whole career in the trade union movement building the trade union. Where I have been we have grown the union, and we have grown in Scotland this year. It is about communication being relevant to your members. The trade union movement is not without faults; there are a lot of faults in the movement. We can and have done better—our own organisation certainly has—but you have to have a proper framework for trade unions where they have a right to collectively bargain at the sectoral level.

Chair: I think we have heard that and we get that. We want to try as much as possible to stick to what we are trying to secure and find out from you fine gentlemen today about sustainable employment. Let's see if we can stick to some of these issues. I know Margaret has been keen to get in and then we will move on.

Q280 **Margaret Ferrier:** Just a comment, and then a quick question. The comment is that a lot of people feel they maybe don't need a trade union until the point comes when they do, and then they think, "I wish I was a member of it". That is a comment.

A question on minimum wage: I am interested in how many companies or private individuals are paying below the actual minimum wage. Do we have any statistics on that at all? I am using the example of hairdressers—you hear of that going on a lot—or retail.

Bryan Simpson: HMRC figures show that 700 employers across the UK did not pay or broke minimum wage legislation. Only three of them were prosecuted out of 700. That was companies and employers; we are talking everything from family businesses to huge companies. You will have heard of the G1 Group in Glasgow who were paying their staff the minimum wage, and then they were taking up to £30 a month off them for their uniform, so they were taking them below the minimum wage. I am from a campaign that was set up by bar workers called the Better Than Zero campaign, and we took action against G1 because, frankly, we did not have a lot of members and people were scared to join a trade union.

To answer you directly, I absolutely accept that trade unions are not relevant to young members and we need to change that. I am trying to change that. The way we do that is to make ourselves more appealing to the individual and to the collective. I am part of a generation whose parents were not even in a trade union. We need to change that. We need to make them more relevant to young people, and not just on an individual sense of, "Come to me when you are looking for help". We need to start understanding the community and collective atmosphere of what being in a trade union means. It is about standing up with each other and I think that is the only way that we are going to fight that. Yes, 700 employers, three were prosecuted, and that was in 2014.

Q281 **Deidre Brock:** We have been told that the number of people in insecure work employment has very much increased, particularly since 2008, and certainly the number who are in employment but want more hours. Can we hear your views on what lies behind those trends and what that means specifically for Scottish workers?

Bryan Simpson: Obviously there could be the argument that some people want to be on zero hours. Unite did a survey, and 72% said that not only did they not want to be on zero hours, but they felt it was seriously preventing their ability to make ends meet. In terms of what kind of hours we are talking about within the hotel sector—because some people say, "You are on zero hours, but how many hours do you actually get?"—34% get less than 20 hours when they are asking for or needing 40. They need full-time jobs. 34% of those who are asking for full-time jobs are getting less than 20 and that has halved in the last five years. That is the percentage of people who are getting less than 20 hours who need full time.

Gary Smith: The other issue, as well as minimum wage and zero hours contracts, is bogus self-employment. Our union took a case against Uber recently. It is being appealed, but it was demonstrated that Uber workers are in employment. Bogus self-employment is a huge issue for us in the construction sector in Scotland and in parcel delivery. You talk about the cost of what you put across the bar and the value of that. People now expect they are going to get parcels delivered and sent back for nothing, but there is a price to pay for that. It is the men and women who are doing it who have no contracts of employment. To answer this question about zero hours and are people happy on it, I will tell you that I have not spoken to a single worker in the parcel delivery businesses who would rather be on a self-employed contract than on one that would give them minimum wage, holiday pay, and even give them access to a pension.

Q282 **Deidre Brock:** Are you saying that people's expectations are such that they are helping to drive this trend towards those styles of employment?

Bryan Simpson: I would be less inclined to blame consumers, because it has made it easier to buy things, and why would you not want things to be easier? The problem is that the profit that is being made within the hotel sector, within the delivery services, is incredible, and of course you could, for example, pay them the living wage. I organise delivery drivers, and I met with some of them in Edinburgh. I have worked in call centres and retail and I have been in horrible environments. Delivery drivers are paid £6 an hour; they are paid below the minimum wage because they are self-employed. As well as that, they get £1 per delivery. They are expected to drive from one end of Edinburgh to the other, and they get £1 per delivery. If, for whatever reason, they are more than 10 minutes late, they will not get money for that delivery. There are people that are earning £5 and £6 an hour to drive about on their own bikes, on their own expenses and, thanks to the work that GMB have done with Uber, they are not self-employed. They are employees and they should be regarded as such. They should be paid £7.20 an hour, if not more, but legally that is the case. Delivery, for me, is the worst example of the gig economy and how bad it has actually got.

Q283 **Deidre Brock:** Further to that, the CBI told the Scottish Parliament's Economy, Energy and Tourism Committee that Scotland's flexible labour market is "a significant asset that should be protected" and that a portion of the labour market "will always need to be flexible to allow companies to try new things and respond to demand". What are your thoughts on that?

Gary Smith: We negotiate agreements that give more flexibility to employers all the time. Capitalism is a dynamic system. We are in the change management business at times. That is just part of what we do. British Gas, when I was a national official, needed to change their customer offer because they were losing customers. We negotiated change to terms and conditions that allowed them to meet demand: more Saturday working, more evening working, or whatever. You can do that. You have a choice of where employers are allowed—it is not all employers but some employers—to introduce exploitative practices with bogus self-employment and all the rest of it, or where workers have collective rights to negotiate change so there is balance of power in the workplace. All these examples you have given, by the way, demonstrate that the law in itself is a very cumbersome instrument and is not always effective at delivering for workers.

Q284 **Deidre Brock:** I was going to go on to that. I am sorry, Mr Simpson, were you going to add something to that?

Bryan Simpson: As Gary said, what we need to do is to remove the obstacles that increase workers' voice, and that means the Trade Union Bill. We cannot be curtailed by a Bill that I think is preventing us from collectively representing our members.

Q285 **Deidre Brock:** Can you outline for the record exactly the areas you would like to see improved in employment legislation?

Bryan Simpson: First of all, employment law needs to be devolved to Scotland. I think the Fair Work Convention is a step in the right direction. It talks, at least rhetorically, about the need to increase workers' voice. I do not think it goes far enough, but the point is that we do not have the enforcement mechanisms and the devolved powers in Scotland to implement what we are talking about. Without being partisan about it, we need that to be devolved, otherwise we do not have teeth in the situation.

The Conservatives have been quite clear about things. At the Gangmasters Licensing Authority we have just seen two men going down for six years for slave labour, for holding workers in servitude. That is the first case. I know it has not been in that long, but we need to see this being used and the teeth that it should have being used to challenge employers who are not paying ball and are breaching minimum wage legislation. I think the facts speak for themselves—three out of 700 employers. Clearly there is a problem with enforcement mechanisms there.

Gary Smith: We have a low-wage, low-productivity, low-skilled economy, and we are in danger of having an economy with low regulation and low rights. I absolutely agree with Bryan that post-Brexit we have to have employment rights devolved to Scotland so that we can choose a different and better path. There is no doubt about that. I keep coming back to it, Chair, I know, but the Fair Work stuff in Scotland, although well intentioned, will not deliver anything for us. What has to be enshrined is collective rights.

Q286 **Deidre Brock:** The Scottish Government also, along with the Fair Work Convention, have created the Scottish Business Pledge. What impact has that had on the prevalence of zero hours contracts in Scotland?

Gary Smith: We are in a world of Fair Work and Business Pledges. Carron Phoenix, one of the oldest manufacturing companies in the world, will close this year. They produced the cannons for the Battle of Trafalgar. It is going despite the interventions of the Scottish Government. Tannoy is going. We have had closures of the big engineering construction plant at Paisley. That is not stopping the haemorrhaging of high-quality, high-skilled manufacturing jobs, so we just have to be clear about that.

Q287 **Deidre Brock:** Do you think that has had some impact on zero hours contracts?

Gary Smith: We still have contractors who do not pay the living wage in Scotland. You have Mitie in the public sector who do not pay the living wage.

Q288 **Deidre Brock:** There has been quite an increase in the living wage being paid; the real living wage, I mean, as opposed to—

Gary Smith: But you still have contractors in the world of Business Pledges and Fair Work who opt out. We cannot afford that.

Deidre Brock: As you say, without the teeth to be able to impose—

Gary Smith: Absolutely.

Bryan Simpson: The Business Pledge, again like the Fair Work, is a step in the right direction. At least rhetorically, we are talking about reducing, if not getting rid of, exploitative zero hours contracts. We are talking about encouraging, through genuine incentives, to pay people the Scottish living wage, as you say, of £8.45 an hour. Without the enforcement mechanisms, without employment law being devolved, it is just impossible to do that. As Gary says, it can only be a talking shop until we have the powers to change that.

Q289 **Margaret Ferrier:** Would you say there is more prevalence of zero hours contracts in the hospitality industry and maybe less security of employment for workers?

Bryan Simpson: The hospitality sector has the highest concentration of zero hours contracts, and 55% of all hospitality firms use zero hours contracts. They actually rely on zero hours contracts. It is hard to absorb how incredible that is. It is the worst sector in terms of the reliance on zero hours contracts. As I said, it is also the lowest paid sector. The median income of hospitality workers is £7 an hour and that is even worse within the hotels industry.

Q290 **Margaret Ferrier:** In the last Parliament the Committee looked specifically at unfair employment practice surrounding blacklisting, which affected Scottish workers. To what extent are unfair employment practices still a big issue and what kind of evidence do you have to back that up?

Gary Smith: GMB started the campaign against blacklisting. It started with a contract at a Swindon hospital and then blew up into this massive thing. I would congratulate the previous Committee on the work it did on blacklisting, because when nobody else was interested and people were in denial about it, it was this Committee that said that this was a problem. It destroyed people's lives and it has cost the construction industry tens of millions of pounds. By the way, we got to the tip of the iceberg on the blacklisting. The materials that were seized by the Information Commissioner were a tiny part of what was available, and there are big issues about what has happened in the offshore sector, for instance. But things like blacklisting and precarious employment feed back into a culture that makes it difficult to unionise. High turnover of staff is a difficult environment in which to unionise, and the fear factor in these precarious sectors, including the threat of blacklisting, is a problem and a threat for workers. People raise concerns about health and safety and they find they are not going to be working in the construction industry again.

Q291 **Chair:** On the blacklisting issue, we have had several representations from people who were caught up in this and who gave evidence to the previous Committee. The sense that we have is that the situation has improved dramatically and there has been success in some of the court cases that have been taken. Is it your view that we are starting to get there with some of the blacklisting or are there still major difficulties in addressing this?

Gary Smith: Given how much it has cost them and the pain that it has inflicted upon the construction industry, I would be surprised if it was still being used on a widespread basis. It certainly will not be as organised as it was. Let's be very clear: they were centralising the collating of information about trade union activists and people who dared raise issues about health and safety. I do not detect that is going on at the moment in the construction industry, but I repeat it was the tip of the iceberg that was uncovered. In places like the offshore sector in the North Sea, we know there was a huge problem with workers not being required back because they dared to raise issues about safety and all the rest of it. Where we think we could have done more, if I am absolutely honest about it, is things like procurement in the public sector in Scotland. Why did we not blacklist the blacklisters? Instead, they are erecting the V&A in Dundee.

Q292 **Margaret Ferrier:** Regarding the treatment of workers, do you feel that they are treated better by the public sector employers as opposed to private sector?

Bryan Simpson: Yes, but it is not so much that the public sector employers are any more ethical than a private sector employer. It is that the collective bargaining coverage, the density of trade union voice within the public sector is much higher. In Scotland we do have a large—or larger than the rest of the country—trade union movement because of the large capacity of the public sector. We do see better wages and better conditions in the public sector. But if you look at pensions, for example, that is being eroded within the public sector. I think it is always directly correlated to trade union membership and density, and that is why.

Coming back to what Anna said earlier about not every hotel being a bad employer, there are two hotels in Scotland that pay the living wage. One of them is a small, family-run hotel in Shetland and the other one is the Beardmore in Clydebank. The reason the Beardmore pays a living wage is because it is part of a hospital, as you know. It is a hotel and a hospital, and GMB, Unite and Unison are organised in there. There is a direct correlation. If we were to increase trade union membership in the hotels—in the Apex and the Malmaison hotels—then I think we would see a dramatic increase in wages.

Gary Smith: Chair, if I may, the public sector has a different liability and different responsibilities on things like equalities as well, but the prevalence of the trade unions is very important. Our members in the public sector are not the best paid by any stretch of the imagination. The best paid are in shipyards, gas workers and nuclear workers. These are well-paid, highly-skilled jobs where people went through—and I am sorry to use the term—proper apprenticeships. There are things that are better about the public sector in Scotland. By the way, I have only been up for 15 months. We fell out with numerous councils across Scotland. We do not care what political stripe you are. If you are attacking the interests of our people, as Orkney Council, Dundee Council and Glasgow City Council have done, and as South Ayrshire is doing, we will do something about it.

One point about the public sector in Scotland is that what has happened with equal pay and the treatment of women workers is an absolute disgrace. We are still wading through equal pay in Scotland when it has been sorted out in England and Wales. We still have tens of thousands of women across Scotland who are not being paid properly, and there should be shame on every political party in Scotland for failing to do that.

Q293 **Craig Williams:** I was wondering, coming from my colleague's questions about zero hours, whether there is an evidence base you could share with us, either through employee surveys or some other. Beyond anecdotal "I met", is there an evidence base you can share with the Committee to back up some of the assertions?

Bryan Simpson: Yes, much more specific than that: 118,270 people are on zero hours contracts.

Q294 **Craig Williams:** No, their perception and their relationship with zero hours. Are they comfortable with them? Are they happy with them? Is the flexibility good? Or conversely, as you have been implying, that—

Bryan Simpson: Unite surveyed the 118,000 employees who said they were on zero hours and 72% came back and said that not only would they rather not be on zero hours, but it was to the detriment of their financial ability to make ends meet. We are talking about people being unable to keep their household afloat because of it. I would argue it is much higher than 72% of people who do not like being on zero hours.

Q295 **Craig Williams:** Could you share that with us?

Bryan Simpson: Yes.

Gary Smith: As I said at the start, in our union there is not a high prevalence of zero hours contracts for the reason it is difficult to organise those workers. As a union you would expect us to do something about that, and we do. Let's be clear: I did say earlier that anybody who tells you that the parcel delivery workers who are on zero hours or bogus self-employed contracts, or construction workers who are on bogus self-employment, would not rather have a guaranteed minimum wage, a pension, and access to holiday pay—I am sorry, it is just la la land stuff. The vast majority of those people want a proper contract of employment, and that is why the Uber workers took action against Uber through us.

Q296 **Margaret Ferrier:** There has been a 64.8% reduction in applications since the introduction of employment tribunal fees, and we have been told that employers are basically getting away with breaching employment rights. Do you agree with that? Are workers being deprived of redress through the employment tribunal system?

Bryan Simpson: Absolutely. The drop between 2014 and 2015, the first year after the fees were introduced, was a lot worse than Unite had imagined, particularly in terms of access to justice for women, LGBT people, black people and disabled people. We are talking about a 60% reduction in people applying for tribunals entirely because it was about a month's wages to take that case. £1,200 is no small amount of money. Unions like ourselves do support our members in covering those fees, but if it were not for that there would be hundreds of thousands of workers who would be prevented from access to justice.

There is another point as well as the fees. The cap of £10,000 is absolutely arbitrary. It prevents people from being able to claim what they are entitled to, which could be two or three times that £10,000. If they are being discriminated against, who are we or who are the Government to say that £10,000 is the maximum that they are entitled to? We are talking about people who could be on six-figure salaries who have been discriminated against because they were pregnant. Why would they be capped at £10,000 when they have been 18 months out of a job?

Gary Smith: I agree with those points entirely. Working-class people are being denied access to justice because of this, but people lose at most tribunals anyway, and that tells you that the law is weighted against individuals. We still have huge problems with equal pay in Scotland and we have an explosion of insecure employment. Despite a whole raft of employment legislation, including rights to equal pay that date back to Barbara Castle, the law is a cumbersome instrument and is not the best way to deal with problems that people have in the workplace. Workplace issues are best dealt with in the workplace. What we have done in the legal system on employment is have a nuclear arms race. From the workers courts of Harold Wilson, we now turn up with barristers representing the employers and barristers representing the workers, and that just does not seem like a sensible use of resources. There are better ways of dealing with the vast majority of issues.

Q297 **Margaret Ferrier:** What needs to happen to protect workers from unfair employment? Is it a matter of enforcing the current statutory requirements, improving rights, improving the ability to access these tribunals, or is it a combination of all three?

Gary Smith: The key issue, if you go to the big unionised companies like EDF, British Gas—Scottish Gas in the case we are looking at—and the shipyards, they do not generate a huge number of employment tribunals. Why? There is a balance of power in the workplace and we sort issues out through negotiation and representation. It comes back to collective rights. There always has to be an underpinning, with individuals having rights, to stop exploitation and the worst types of exploitation, but if we think that a nuclear arms race with the application of barristers to deal with unfair dismissal is working, I am sorry, I just disagree completely.

Q298 **Ian Murray:** Do trade unions pay the fees for employment tribunals if your members have a legitimate case that you want to take forward on their behalf?

Gary Smith: I think they have a problem, but we do.

Bryan Simpson: We do cover members who have a good chance of winning. The reason for that is because we are obviously talking about thousands of pounds but also because we do not want to lead our members up the garden path. If the case does not have a great chance we would refer them to other places, but we would cover that cost to ensure that they do not see that. GMB represents poor workers at Asda. We represent poor workers in the hospitality sector who simply cannot afford the £1,200 so we have to help them.

Gary Smith: With changes in legislation for personal injuries and so on—and it is too much for this Committee—we have set up our own legal company, UnionLine, and you are more than welcome to come up and visit UnionLine Scotland. To be frank with you, I am not interested in lining the pockets of well-heeled Edinburgh lawyers, or Glasgow lawyers for that matter, so we have set up our own legal operation.

Ian Murray: The reason I asked, Chair, is because I have the scars of the wounds of the Enterprise and Regulatory Reform Bill when all this stuff went through. There was an argument that trade union members would take action against an employer through the trade unions and the trade unions became the filter for vexatious claims, but the whole issue around vexatious claims was just nonsense. It was a made-up concept, because there was no way that a trade union was going to spend hard-earned members’ money on taking a case that the trade union knew was vexatious. There was already a filter, which was another good excuse for joining a trade union.

Chair: How could we forget the Enterprise and Regulatory Reform Bill? Thank you for reminding the Committee of that.

Q299 **Anna Soubry:** I very much agree with the point that Ian makes about how it can be a filter, but I think Mr Smith and I will never agree on these things, because I am also a barrister, Mr Smith. I am sure that you would agree with me that there are times when it is in everybody’s interests if you have somebody who may represent the union or the worker who does have all the qualities of an independent lawyer who can give good, frank advice and represent that person without fear or favour. I am sure you would agree with me perhaps just a wee bit on that. Meet me halfway.

Gary Smith: I absolutely agree there is a role for employment law for individuals and independent legal advice. That is why we have our own employment law company, UnionLine Scotland. That is why we set it up.

Q300 **Anna Soubry:** Do you not go to advocates, though, to get advice if you need to?

Gary Smith: It depends on the case. If it is about equal pay, something complex, of course we would do it, but I will tell you my view as somebody who heads up a trade union organisation in Scotland and pays the bills: the vast majority of the money we spent on lawyers could have been better used somewhere else. Yes, there is a role for that, but what started off as worker courts under Harold Wilson where a worker goes along and puts their argument, now to the fact we have paid advocates and barristers and silks down here and all the rest of it, at times it is utter madness. There has been a nuclear arms race around it and it is not the best use of resources. Sort problems out in the workplace like we do with UnionLine Scotland.

Q301 **Anna Soubry:** I agree with you on that. You were talking, quite rightly, about Deliveroo and Uber and this different way of working. Obviously people are extremely concerned about the abuse, and full credit to those who have taken them up with much success, but what should policymakers be doing to make sure that the labour market is able to respond to these sorts of changes?

Bryan Simpson: We need to be better at enforcing minimum wage legislation. We need to be clearer. We are very vague on what we mean by self-employment and that allows companies like Deliveroo to get away with it. We saw it with the Uber ruling. We are talking about lawyers there in terms of judgments. It was an excellent judgment, clear and to the point that you should not have an employer, because that is what they are, who employs hundreds if not thousands of people, who can prevent them from taking other work and performance manage them out the door if they do not take up work. To me that is employment and Deliveroo are almost the epitome of how that is not working.

Q302 **Anna Soubry:** What do we do as policymakers, rather than have to have people running off to court? It is a genuine question. What do policymakers need to do?

Chair: We will hear from Mr Smith perhaps on that one. I know he is keen to come in.

Gary Smith: I keep talking about it, but this is about having a framework for collective negotiations and collective bargaining in sectors of the economy, as you would in other countries around the world, for the hospitality and tourism sector. It works elsewhere. Why not?

The key thing for me, if I am candid with you, is that within Scotland we have an economy that is stagnating, unemployment and insecure employment and employment inactivity is going up. The real issue for me for policymakers is about creating a public policy framework that is going to focus on creating high-quality jobs in the energy sector and the construction sector. We can plan for these things.

Q303 **Anna Soubry:** We are living in a modern world where people want to have delivery, they want food delivered to them. It might be lost on me, but that is the reality and it is a different way of working. What can policymakers do to ensure that people's rights are properly protected? Do we need to make more laws? I don't know. This is what we need to know. Do we need to do stuff while you are achieving your utopia?

Gary Smith: I get the point about that type of employment, but it does come back to we have the chance to build three Royal Fleet Auxiliary ships. We should be building them in the UK because we know it creates apprenticeships and we know that it is—

Anna Soubry: Yes, I know, but that does not answer my question.

Bryan Simpson: I am a modern trade unionist and I organise a sector that is completely untouched by that movement, so I know that we need to completely change how we go about that and organise how we build that collective bargaining framework, and that is our responsibility.

To answer your point about policy and legislation: repeal the Trade Union Bill; get rid of the fees that access the justice. That is policy that can be changed, Anna, and it can be changed by the Conservative Government. That is how we can start to build the confidence of workers to fight back.

Q304 **Anna Soubry:** Do we need to change the laws, though, in relation to definition of things like self-employment?

Bryan Simpson: Yes.

Q305 **Anna Soubry:** Are there other things as well that we really should be looking at legislatively?

Bryan Simpson: What is wrong with a regulatory framework and a clear statement? It only needs to be one piece of paper that clarifies what we mean by self-employment that is stronger than what the company has, and that is why Deliveroo are getting away with it.

Q306 **Anna Soubry:** Do you think we could also better improve people's knowledge of what their rights are?

Bryan Simpson: Yes.

Gary Smith: Yes. Improving people's knowledge about their rights does not mean that they are going to exercise their rights, and you have to be in employment for a long period of time before you can exercise any rights. A whole sector, a large chunk of the economy—I was talking about a manufacturing company, but I will not mention their name, in Scotland with a 45% turnover in staff. Those staff are never going to have employment rights to enforce. Yes, we can do things through legislation. I absolutely think it is worth looking at, but there are things we could do around procurement and we do need to look at—sorry to go on a bit—the types of jobs we are creating in the economy.

It is an absolute scandal, by the way, the UCATT, the construction workers in Dundee—four local workers on the V&A project. On the new Forth Bridge we had people arrested because they did not have the right to work here, as I understand it. There are a lot of things that we could be doing to raise up or to create and protect good quality employment.

Q307 **Ian Murray:** A very quick supplementary on that. Anna Soubry is right to a certain extent that repealing the Trade Union Act, taking away employment tribunal fees and repealing the Enterprise and Regulatory Reform Bill, all of that stuff that has been brought in—even going further back than 2010, the economy was not doing it then—are not going to be the silver bullets that resolve the problem. There has to be some kind of framework put in place that allows all these issues to be taken forward. I am not quite clear, and maybe you can write to us with some further written evidence about what you would see an employment framework looking like that would resolve some of these issues.

Bryan Simpson: To come back on Anna's point about the education stuff and to answer Ian, it is our role as the trade union movement to reeducate workers about their rights. I would encourage Anna to look up the Better Than Zero campaign in Scotland. It started in Glasgow and we go about workplaces, community centres, youth groups and speak to workers, particularly young workers, about their rights. We have produced a really good document, and I should have brought it with me. It is a poster that we have put up in thousands of workplaces that has legal regulations and what people are entitled to. If they are on a zero hours contract, a lot of people do not know they are still entitled to statutory sick pay. We have put that on this poster. They scan it with their phone—it is very modern, too modern for me—and that takes them to the gov.uk website or it shows them the legislation. That has worked. It has brought so many people to us with more questions about what they are entitled to, so we need to reeducate.

To answer your question, we need a fair hospitality framework, a clear charter that employers and the Government can sign up to, and I do not think that they are extreme demands. It is things like 100% of tips. If you go into a restaurant and you give £5 you should be expecting that £5 to go direct to the worker and not to the employers. Things like we used to get transport home after 1.00 am, particularly for young women working in bars who are spending £8 to £10 to get home, which is two hours of work. That should be written into charters and we will be launching that in Holyrood in the near future, so it would be really good to get your input.

Q308 **Anna Soubry:** Do you have any evidence that particular communities are being exploited? By that I mean people who come here to work, migrant workers in particular, and indeed even legal workers as well who are being exploited?

Bryan Simpson: Some 25% of the hospitality sector is migrant workers; 34% are under the age of 30. In other words, migrant workers, women and young people are particularly discriminated against in the retail and hospitality sector. There are incredible breaches of the Equality Act and race discrimination in hotels particularly that I will not go into because they are very specific cases, but I can give you written evidence of that.

Chair: If you could, that be good. There are two quick questions that I want to get in before this session finishes and I know Chris Law has one of them.

Q309 **Chris Law:** I wanted to look at the future of supporting high-skilled, high-paid jobs. As you will know, the UK Government has recently published its consultation on a new industrial strategy for the UK to improve skills and boost productivity. What implications do you think this strategy will have for Scotland?

Gary Smith: If I am honest with you, Chris, and this will be contentious, we have a big problem in Scotland. I have talked about where we are with the economy, an economy that is stagnating. The Scottish Government came out with an energy strategy last week that is not a strategy, will not support employment and in fact if it is implemented in full will cost jobs and push up bills. We should be looking at the energy needs of the country, and we diverge with the Scottish Government and a number of colleagues over what that entails. Why are they building a nuclear power station in Cumbria when they could be building it where there is a national grid connection in Scotland, creating tens of thousands of jobs? We are going to miss out on a jobs bonanza that is going to happen in Cumbria and in the south-west of England. We have to look at the fact that we are not energy-independent anymore and where we are going to get that in future. Those types of things give us the opportunities to bring in investment and jobs.

I keep going on about shipbuilding. We have produced a report on shipbuilding in Scotland, about how important that still is to the Scottish economy—hundreds of millions of pounds in wages, tens of thousands of jobs. We need to do something concretely about the Royal Fleet Auxiliary work, the three ships that are going to be built. These are the size of the carriers when you combine them. That is important to keep Rosyth open. In construction, we know that we need new hospitals and we need new homes in the central belt of Scotland. We can plan for those things. We can create jobs, create apprenticeships and upskill. At the moment, public policy is often over here and the real world, the jobs, are somewhere over there.

Bryan Simpson: Coming again from a young worker's perspective, the modern apprenticeship scheme on paper was an excellent scheme, because it sought to bring back, as Gary says, the decent apprentices, not paying people, for example, £2.85 an hour when they have families and people to support. That is not what is happening in practice. We have cases of modern apprentices who are being brought in by call centres, particularly in the call centre side of things, for £2.85 an hour. Of course, as part of the modern apprenticeships they are obligated to provide some form of education. They are literally being taken off the phones for half a day to read a few documents or books about business management and they have been brought in for cheap labour.

Q310 **Chair:** I am very conscious of the time, and I do want to ask a little bit about workplace democracy. We have had quite a number of submissions about this in the course of this inquiry and we know and learn that we are in the bottom half of the European league when it comes to involvement of workers and workplace democracy. Is there anything that you can suggest tangibly that we could do to try to improve the situation? Again, it will have to be brief. What added value does it give employers, businesses, the whole concept of sustainable employment, when there is effective workplace democracy in their businesses?

Gary Smith: I will be very brief. Don't forget that young workers are not just in hospitality and tourism. We have 1,800 workers, predominantly young workers, fitting smart meters the length and breadth of this country. It is 98% unionised, very diverse, with a high preponderance of women workers and ethnic minority groups. In BAE Systems, 300 new apprenticeships have been created. This is good quality, high-skilled jobs.

The role of the trade unions in workplace democracy is about enshrining collective rights. It brings balance to the workplace and will help in change management. If you negotiate change, if you work with trade unions and workers have a stake in it and they vote on changes—we talked about the examples with British Gas where 90% of the workforce voted in favour of change—you get a better quality of engaged workforce and a better delivery of change. We are in the change management business.

Bryan Simpson: I am very pleased that Theresa May, upon taking office, also took on the rhetoric of the trade union movement in saying that she wants to be the voice of the people, but I would like to see that in practice because putting a worker on an executive committee of a large company does not change that. That person is an individual. Of course they could raise issues that they face as a worker and that is helpful—it is a step in the right direction—but as Gary says, we need a collective voice and that cannot be properly represented by an individual.

Chair: We are grateful for that. We are almost right on time, so thank you very much for being concise and answering all these questions. As usual, if there is anything else that you feel you could usefully contribute to this Committee, please give us any further information, and if you hear anything in the course of the inquiry, we are available to you for further evidence. Thank you ever so much.

Examination of witnesses

Vaughan Hart, Ewan MacDonald-Russell and Donald Macdonald.

Q311 **Chair:** Donald, we believe you are a late replacement, which we are very grateful for, in the hospitality sector. That is right, isn't it? Yes.

Donald Macdonald: I am here anyway. Thank you very much for inviting me.

Chair: It is my pleasure. Thank you, at late notice, for coming along and being prepared to give evidence to the Committee. We will go from left to right and if you could just say who you are, who you represent and anything in the way of a short introductory statement.

Ewan MacDonald-Russell: Thank you very much, Mr Chairman. I am Ewan MacDonald-Russell, Head of Policy and External Affairs for the Scottish Retail Consortium, lead trade association for the retail industry. I am very happy to move straight to questions from the Committee and I am sure we will cover the main points in due course.

Donald Macdonald: Donald Macdonald is my name. I am Chairman of Macdonald Hotels. We operate 50 hotels throughout the UK, Spain and Portugal and we have been in existence for 27 years. We employ about 4,000 people. We are predominantly in the four and five star rating of hotels.

Vaughan Hart: Thank you, Mr Chairman. My name is Vaughan Hart, the Managing Director of the Scottish Building Federation, formed in 1895. We are a traditional federation made up of 17 associations, representing approximately 400 members from Orkney to the Borders, and the members are made up of large multinational contractors down to small, micro business entities.

Q312 **Chair:** I am grateful. You were all here and you heard the previous evidence session from our friends from the trade union movement. There were some things that were said there that I think need to be talked about and addressed, particularly the proliferation of low-skilled, low-wage jobs in all your sectors. Why is there such a degree of low wages and low skills, particularly in the tourism sector, which we have heard mentioned again and again and it has come to us in the course of this inquiry? What is happening that we are seeing so many low-wage, low-skilled jobs there? Mr Macdonald, we will start with you.

Donald Macdonald: It has been traditionally perceived as a low-skilled job, but I do not agree that it is a low-skilled job. I think where you have properly operated hotels it is not low paid either. I did not come here to talk about wages and staff turnover and suchlike, but I heard all that was said earlier. Our objective as a company is to get to £9 an hour, which is really above the living wage. I heard what was said about third-party influence and negotiating for staff, but I believe that our staff are our biggest asset, and that is not just a phrase running off my lips. It is our only contact with our customer. Our philosophy towards our staff is that we treat them the way we would want to be treated ourselves. We would not feel the need to have a third-party union or anything coming in to negotiate for our staff. If we cannot look after what we believe is our biggest asset, we should not be in business.

We have several handicaps in our industry and that is what I understood I was here to talk about today, particularly three handicaps that I think have crept into our industry and have really held our industry back. There is probably a fourth one as well, which was also mentioned today.

Q313 **Chair:** Are you going to tell us what these are?

Donald Macdonald: One is the VAT rates in Britain. They are double what they are in the rest of the western civilised world, in most instances with very few exceptions. Another one is our building development tax allowance, which used to be at one time 100% capital loans for all developments we did. That is also an impediment to growing our industry and improving it. The third one is our living-in offset. We operate in areas of the world or areas of Britain that we can't do without living in, and we provide what I believe to be first class—

Q314 **Chair:** Thank you for that. This inquiry is on sustainable employment and what we are looking at is to see if there is anything that this Committee could understand better about what is happening—

Donald Macdonald: Well, this is part of sustainable employment.

Chair: Yes, and I am grateful for that, but just to clarify that what we are looking at is ways that we could take significant evidence about what constitutes sustainable employment and hopefully make some suggestions and recommendations on the back of all this.

Anna Soubry: Mr Wishart, I am a bit concerned, if I may say. This gentleman is saying that he has come along thinking that he is going to give us evidence on how to assist Scotland in sustainable employment. I am sorry, but we have just heard, especially from one of our witnesses, quite an astonishing attack on his industry directly as an employer. I do not know what has happened, but if he has come here to give us certain evidence that may assist us, he must give it, and all three must answer these quite serious criticisms that have been made against Scottish employers. I got to number two, which was a building tax allowance. What was the third one?

Donald Macdonald: The third one is the impediment of living-in staff, where because of the law, we are restricted in relation to what we can deduct for living in, which is totally unfair in relation to living-out staff. It is unfair economically. I think it is unfair on the people because they are living in a false sense of security in relation to what they are being charged in relative terms to what they receive. It is also unfair on the community that they are part of, because there is no incentive for them to invest in their own property and to live out and to become part of that community. I think that is a big problem and it is only something that has crept into our industry in the last seven or eight years.

Chair: I am grateful for that. It is quite a giveaway what this inquiry is about when it says "sustainable employment". It is sustainable employment. Chris Law, did you have a question?

Q315 **Chris Law:** Mr Macdonald, I was a live-in trained chef many years ago and I saw it as a benefit as part of my job, because obviously the cost of living in was a lot cheaper than living out, and I am assuming that is your same position. Is that not something you say to your staff that is part of the package of working within your hotel?

Donald Macdonald: Yes, but it is grossly unfair on the local people who are living out.

Chris Law: Who are also employed in your hotels?

Donald Macdonald: Who are doing the same jobs.

Q316 **Chair:** Let us see if we can get back to what we are trying to secure here in terms of evidence, which is—

Donald Macdonald: Can I come back—

Chair: If you do not mind, Mr Macdonald, we are grateful for what you have said so far but we are quite keen to hear from our other witnesses and guests here today.

Mr Christopher Chope: He had a fourth point, Chairman, I think.

Anna Soubry: I am sorry. I think it is really important to treat all witnesses equally.

Chair: We should also try to secure the evidence that we are trying to get on this—

Anna Soubry: This is about—

Chair: Anna, sorry, listen. We have an hour with these gentlemen. We are trying to have as much time as we possibly can to get proper evidence about what we are trying to secure on sustainable employment.

Mr Macdonald, if there is a fifth point that you want to make, or a fourth point, then please if you can, and then we will try to get back to other people.

Donald Macdonald: The fourth point is the business rates in Scotland in relation to England.

Q317 **Chair:** Right. Thank you for that. Mr MacDonald-Russell?

Ewan MacDonald-Russell: Thank you, Chairman. I will not talk about business rates now, but I am sure I will rant about it at some point.

On employment, the Scottish Retail Consortium recently produced a retail pay and benefits paper that covers the industry. The median wage among Scottish retailers, as far as we can deduce from the evidence of our members, is about £8.30 per hour. We would argue that there is a total award beyond that. If you include the pure cash elements, which are bonus, additional holidays and paid breaks, that comes to £8.81 an hour. A number of retailers will offer benefits on top of that package including staff discount cards, maternity or paternity pay, salary sacrifice schemes and so forth, as you would expect.

In terms of how that ranks across the United Kingdom, Scotland is just below mid-table on pay rates. London and the south-east of England are slightly above, as you would expect. That masks a fair disparity within certain parts of Scotland where economic conditions will be different. Where I live in Morningside is obviously very different from where other people live in different parts of the country.

In terms of the wider discussion about pay, I would say that we have seen a 5.6% growth in the last year. Over the two categories, full-time and part-time, there is a disparity between the two. I am very happy to come into more specific questions. I do not want to tangent off. Within retail what we are definitely seeing is a move towards higher pay. That is something that will happen in varying degrees as productivity and economic growth happens. However, I am afraid that is likely to come as a trade-off in terms of fewer jobs. I am happy to explore the narratives around that later on, but I do not want to bore people with my diatribe about the industry.

Q318 **Ian Murray:** I do not want to sound as if I am being awkward either, but it seems to me that if we are looking at sustainable employment then the whole concept of employment is about salary, progression in the workplace, training, and the issues around that in any business are your top three costs of staff, rent and rates. If the gentlemen here are saying that business rates are the real problem, business rates are too high and it increases the cost of your business, it means that you are driving down wages, you employ fewer people and you need to be more flexible to get rid of people. Rather than us talking about a Trade Union Act that perhaps we might need to repeal to make things a bit easier for the trade unions, it would be really good to hear practically from people who are running organisations that are employing lots of people the impediments to them of either employing more or having sustainable employment. If business rates is one I would rather that be a recommendation to Government than us talking about perhaps—the reason people are shopping online more than anything else is convenience, but it is because it is costs, because you do not have the salary cost, the business rates, the staff premises. That was not really a question, but I will put a question mark in at the end. Do you agree? I live in Morningside as well. It is a great place to be.

Chair: Maybe Mr Hart could pick that one up for us.

Vaughan Hart: Within construction, we do have a history of collective bargaining. We have a nationwide bargaining agreement called the Construction Industry Joint Council Agreement and that is negotiated in London. We then take it through the individual nations and we apply that model where we are. The CIJC gives and sets minimum rates, and I will just give you a brief example. A low-skilled worker currently gets the basic minimum of £8.73 an hour—that is a rate of pay and excludes any form of productivity bonus—going up to a skilled worker on a minimum of £11.61, say a joiner or a bricklayer and so on. If you then identify those rates within the industry, they are generally far more than that and it is obviously depending on where the production is taking place.

We can then drill that down into apprenticeships, and one of the other roles I play is I am the Employers' Secretary for the Scottish Building Apprenticeship and Training Council and we are the registration body. Half the table is trade unionists, half is employers, and we set out the basic indentured rates for all construction apprentices that we indenture within Scotland. Looking at those rates, a year 1 apprentice, potentially coming in at the age of 16, is on a minimum rate of £4.10 an hour for the first year if they are under the age of 19, going up to, in their fourth year of the indenture, a minimum of £9.10 an hour. We regulate that and we are quite controlling of that. Notwithstanding, there will be organisations out there that do not pay it that have not come to our attention, but if they do we will go in and we will try to work with the trade unions collaboratively to make sure those minimum wages are used.

Q319 **Chair:** Mr MacDonald-Russell, you may be able to help us with something that was in evidence from the Retail Consortium. It said that, "Public policy, at both Westminster and Holyrood, has increased the cost of operating from property and of employing workers" and according to your consortium this has incentivised the adoption of technology and deterred investment in people. What changes in public policy have deterred greater investment in people?

Ewan MacDonald-Russell: I may have a short list. First, we have mentioned business rates. In Scotland we have not had a reform of business rates. The Scottish Government have now agreed to that, something the Retail Consortium has called for, and that process is ongoing.

Leaving that aside, you have a situation where larger shops—there will be 5,000 next year—pay a large business supplement in Scotland, which makes it more expensive to an equivalent store in England. Any members in the north-east will be aware that the revaluation ongoing, which has not happened for seven years, is causing huge disruption. That sort of uncertainty makes it hard to make capital investment when you are unsure what is next. On top of that, we have seen things like, for example, a retail levy from Holyrood and a large business supplement. I am afraid, however, it is not simply one Government. You see the changes that have come in from the Government based down here that have often not been in consultation. While we welcome that a national living wage and higher wages is good, the lack of notice of that was very difficult for business planning. On top of that, of course, you have the apprenticeship levy, which I am very happy to come back to and more detail about our concerns.

There has been a simultaneous situation where there has been a ratcheting up of the cost of people and that has come at a time in the retail industry when the impact of technology and disruptive business models is making it harder and harder to compete equally. We heard quite a lot about different businesses and obviously we primarily represent a lot of retailers who are still bricks and mortar enterprises but are evolving into online as well. A level playing field would absolutely be our call on these, and I think that some of the points where you have differing employment tactics are probably disadvantageous.

Q320 **Chair:** Just on that, in your evidence you did state there were issues when it came to online retailers, which we are grateful for. But in the balance of all this is it the public policy that is driving this change or is it the changing market that is primarily driving unemployment and shop closures among your members? Is it more to do with the changing nature of the market or is it policies that are doing that?

Ewan MacDonald-Russell: I would love to be able to disaggregate the two and give a clear answer. It is a little bit of a combination of both. People think of technology as just the online element, but it is not. A huge part of it is automation. It is really boring stuff like sales and marketing. It is whether people bring in things like shelf-edge labelling in the future. All of these things take away the routine and slightly tedious work, probably the less valuable and less productive work in retail. The trade-off of that, though, is that in itself is an incentive and that capital investment can hugely free up and increase productivity. It is very hard when the individual costs are higher. Retail margins that used to be 6% to 8% are 3% to 5% within the industry. In grocery they would be at the lower part of that. It is a very small margin and you have pretty significant costs. The apprenticeship levy alone is £12 million to £15 million to Scottish-specific retailers, the large business supplement is about £30 million, and the business rates bill is a quarter of the £2.8 billion, which is—my maths is not great—£600 million or so. That is a huge amount for an industry and is really tough.

If you look at the Scottish Government statistics you see that 10,000 retail jobs have gone in the last seven years. You see that 1,600 shops have closed and that is not just individual elements. There are big high street names, and in Perth you will be aware of McEwens. This is a real challenge to the industry where businesses are unable to manage, partly because of competition. We love competition, we think it is really fantastic, but you have public policy on top of that. Which bits of those definitely do it? I could not disaggregate and I would not want to do that. I would say that it incentivises an online lighter and perhaps not specifically Scottish agenda. That is a challenge and something we would ask policymakers, and this Committee particularly, to consider UK legislation that comes on top of different Scottish elements.

Chair: I am grateful. You made a not bad job of disaggregating.

Q321 **Craig Williams:** Mr Macdonald, because you have direct exposure in a portfolio across the world, the United Kingdom, on overheads and what you are touching on, not just business rates, how would you compare your businesses in Scotland to other areas on profitability?

Donald Macdonald: It is much harder to run businesses in Scotland than the rest of the UK for a number of reasons, not least local authority rates, business rates. People will pay more for their accommodation in England pro rata than they will pay in Scotland for the same accommodation, yet our business rates in Scotland are virtually six times what they are in England.

Craig Williams: Six times?

Donald Macdonald: Yes, if I relate it to what the customer is prepared to pay in Scotland versus England.

Q322 **Chair:** Do you have evidence to back that up?

Donald Macdonald: I do not have any evidence with me but I can send it to you.

Chair: If you could, please, just to suggest that is the case.

Q323 **Anna Soubry:** This is a question to Mr MacDonald-Russell. I think there is no debate that many retailers, and I suspect hospitality as well, have found the combination of the national living wage increase and the apprenticeship levy quite onerous. I think that is common ground, if I may say. Would you agree with me, given that and now we hear about the high rates, it is absolutely critical that whether it is locally or nationally—and when I say national I mean the Scottish Government and indeed the UK Government—the policymakers, whatever tier we are in Government, get the balance right because we need the revenue for services? Equally, if it is onerous, it will kill your business, particularly in retail. Would you agree with me on that?

Ewan MacDonald-Russell: Absolutely, and one thing we are really keen on is that we see closer co-operation between the Scottish and UK Governments specifically on these types of areas. The apprenticeship levy may or may not be the right mechanism for skills in England. I am simply not conscious of that and I am very much in the devolved sector. From that perspective, when you have a policy area that has a very different Scottish approach with the modern apprenticeship system and then imposing a cost basis, it is particularly onerous on two types of business. The first is our Scottish-specific members. We have Scottish grocery members, for example, who will pay an apprenticeship levy that their English-equivalent business would also pay, but that business in England will be able to claim it back directly. In Scotland, understandably—it is not necessarily the Scottish Government's fault because of the various ways these have come—that business has a very different approach and is trying to match up. That is problematic.

Secondly, for UK-wide businesses, for English workers there is a very straight forward funding mechanism and system to go through that apprenticeship system. In Scotland it is very different, and that is not a criticism of the Scottish Government's approach at all. It is different, but it is desperately keen that devolved areas should be kept almost separate and then there needs to be collaboration on the UK-wide issues. Not just on the negative, I do not want to just sit here and talk about all these horrible public policy things. The productivity drives that the Chancellor and the Scottish Finance Minister are very keen on—infrastructure, both digital and transport, city deals and the industrial strategies or retail strategies as they impact—are really important but they need to be tied together. Retail is an industry of scale, a conglomeration of different units, and it allows retailers to have low prices and be efficient. Every time we get disparity it will add cost one way or another, and that is not in the interest of consumers or businesses, or ultimately Governments who need the revenue.

Q324 **Chris Law:** One of my questions has already been answered, so I will go to the next one. It is good to see that retail growth in terms of wages has gone up 5.6% last year, but it still sits on the median hourly pay, according to SPICe earnings, in the bottom two categories or sectors out of 20. The retail, accommodation and food service sectors have substantially lower wages than the others. Why is this and is that historical as well?

Ewan MacDonald-Russell: I think it probably is an historical element. Retail is partly being a large employer and an employer of scale. Also a large proportion of retail jobs traditionally are entry level jobs. We have always been quite proud of being an industry where people with relatively few qualifications, or quite frankly no qualifications, could come in and in some cases were able to progress and succeed very well. We absolutely accept that there are still huge challenges with that, and there is a huge challenge particularly in part-time workers, many of whom do not necessarily want to progress and that leads to some of the challenge.

With full-time workers, there are a lot of good solutions, lots of training and ways to do that, because of all the productivity benefits and a necessity, quite frankly, for retailers to be more efficient to survive in the marketplace. Where there are new market entrants, particularly in something like grocery where you have two or three new businesses who are really efficient and really good, that drives it up and competition is great for that. I would say, however, that in part-time there is stuff that Government could do but also stuff that retailers themselves are trying to do to help people to look for new work. People have had to value flexibility more than promotion. We have to get better at those things and that is something that our members are doing a huge amount of work on. As a consortium we are trying to help them with that.

Q325 **Chris Law:** Mr Macdonald, could you answer that question as well? We heard earlier from one of our colleagues, Ian Murray, asking about how price affects hospitality and the food and accommodation trade. The same question to yourself. Why is the food and accommodation sector in the lowest sector across the whole range of industries in Scotland? Is there something that we can do more about and is it something that has been—

Donald Macdonald: I think the whole of the UK is behind the rest of the western world by 50%. One of our bedrooms that would cost you, say, £100 in this country, in Britain, would cost you double that in Europe or in the States. The biggest single impediment we have is VAT. We collect something like £32 million or £33 million in VAT every year. For me to put all our staff on a living wage would cost me another £5 million. If our VAT was what it is in the rest of Europe, the bill would be half of that, and you can imagine what we as a company could do with half of the VAT, not to mention the low tariff that we have in this country. A lot of it is a hangover from the recession we had. Our industry went through fire and water and we are one of the few companies in the hotel sector that have survived the last recession.

Q326 **Chris Law:** I am grateful for that. This is an additional supplementary to that. Would you argue that VAT for the hospitality sector could be differentiated or that VAT across all sectors should be looked at?

Donald Macdonald: I can only quote you what our peer group in the rest of the civilised world charge for VAT, including the Middle East, which is about 10% and we are 20%. That is a huge liability to our industry and the BHA have been lobbying for this for several years.

Q327 **Chris Law:** Thank you very much. To lead on to my next question, you have obviously heard from our previous witnesses here about low-paid, insecure, short-term contracts, zero hours contracts not necessarily in some sectors being a bad thing if there is progression through those industries. In your own industries, what is the progression? Do you know the numbers, for example, of how many people progress into higher, better paid jobs with more secure contracts? Are the opportunities increasing or decreasing?

Donald Macdonald: Before I answer that, can I give you an example of VAT in one country? When Germany decided to lower its VAT on hotel accommodation from 19% to 7%, a survey of the German Hotel and Restaurant Association, surveying 5,000 member businesses, pointed to the creation of 6,237 additional jobs and €858 million of additional investment in the first year. VAT is a huge impediment to us, to our industry.

Q328 **Mr Christopher Chope:** What date was that? What year was that?

Donald Macdonald: I think it was about five years ago. Don't quote me on that, but that is my—

Chair: I am grateful. Now Mr Law's question, Mr MacDonald-Russell?

Ewan MacDonald-Russell: I am afraid I do not have the data to hand on progression. I will attempt to find it and if I can I will follow up. The brief point is I know there is much discussion about zero hours contracts.

It is not something I am particularly familiar with within the industry. I know, however, we do have a couple of members who take them on primarily for students and for people specifically in that type. One of the members I have spoken to on this—and I don't know if they have been public about it so I won't mention the name—did a workforce survey and they found the majority of the workers in this particular business wanted to stay on these particular types of zero hours contracts because it suited their lifestyle. They wanted the flexibility. I know another high-street retailer has brought them in place purely for students so they can work in the Christmas and summer holidays and do not have to take it up. I suspect these are not really relevant to the examples raised earlier.

It is not that common. It is particularly not common in a lot of the larger retailers because people tend to have varying amounts of flexible working—16 hours or wider than that. One of the challenges we face is a lot of retailers are keen for workers to take on more hours and perhaps to take on less sociable hours. That is quite a challenge in progression. It is a huge barrier particularly to older workers. While 71% of young workers would like to progress, I think it is much lower with older workers, who have other commitments. They may well also not be the only income earner in the house, so that will affect it too. I am afraid I do not have the specifics, though.

Vaughan Hart: I don't want to digress too much from the question but just in case this helps as far as statistics, back in 2007 we indentured about 2,750 traditional building trade apprentices, which was probably the optimum time over the last 40 years. It has dropped significantly. Last year, 2015, we are indenturing 1,600 apprentices a year. Compared with the employment within construction, in 2008 we were employing approximately 235,000 workers and we are now employing approximately 175,000. The apprenticeship figures are probably testament to the fact that there is still a clear progression route there because you are still getting the applications for apprenticeships. Then if you identify positions within certain building organisations, the majority of management staff have come from the craft route, which is just showing evidence of that form of progression.

Q329 **Chris Law:** Mr Macdonald, hotels is one area I understand quite well. There are lots of avenues for progression. As an example, how good is your staff retention within your own chain of hotels?

Donald Macdonald: We have three programmes for different categories of people. They can go from one programme to another. A minimum programme is something called Stairway to Success. We have another programme called High Achievers, and then we have a programme that leads to management.

Chris Law: Excellent, thank you.

Q330 **Anna Soubry:** Can I ask a very quick one about hospitality to Mr Macdonald? We have heard examples from the hospitality sector that are frankly shocking and not acceptable. What is your take on this? Obviously, there must be very good chains of hotels or individual hotels that value their staff and want to train and progress them. Then you have some rogues, which seem to be much bigger across the UK chains. Tell me what your take is on it.

Donald Macdonald: I don't pay too much attention to what goes on outside my business. As I have said already, I take the view that I treat my people the way I would want to be treated myself. I was visiting our hotel in Manchester the other day with our finance director. I heard him saying to the manager, "If I can't eat in your staff restaurant or I can't bring a guest into your staff restaurant, there is something wrong with it". If we expect our staff to look after our guests in the way that we do, then we have to look after our people. It is as simple as that.

Anna Soubry: It is all part of the tourism chain.

Donald Macdonald: I don't need a third party to come in and negotiate on behalf of my staff. My responsibility is to look after my people, whether I employ them privately or through my business.

Q331 **Margaret Ferrier:** A quick supplementary to Mr Macdonald. Where are the employees coming from? Are they local to the hotels?

Donald Macdonald: Our industry and every industry in Scotland is full of eastern European people, and they are fantastic people. I was talking to somebody about this at lunchtime. Many industries in the UK would grind to a halt if it wasn't for the Polish people, the Hungarian people, and further afield.

In my view of this, it should be opened up further. I believe one of the best areas for finding good employees is India. Dubai, for example, where the standards are extremely high, very consistent, is full of Filipino, Indian and Asian people. I believe that the law should be tightened on who comes into the country but we should have a much more open policy across the world. The world is becoming a smaller place every day in terms of getting people from other countries and if we—

Q332 **Margaret Ferrier:** Sorry, what percentage of your workforce would be eastern European?

Donald Macdonald: That is a very good question. It must be high 20s.

Q333 **Anna Soubry:** Are you now worried because we are about to leave the European Union?

Donald Macdonald: No. Unless our Government wants our whole nation to grind to a halt, they are not going to change the legislation on allowing people, first, to stay in the country and, secondly, for more to come in.

Anna Soubry: I think you will find that there is a very good chance the Government are going to do precisely that.

Chair: I know there is a real conversation to be had in all this and I know

Chris was wanting to come in.

Q334 **Chris Law:** Mine is a similar question. Is it just indicative of your own chain of hotels or does the retail sector have a significant percentage of people from the EU working within it? Do you have concerns about it? Right now we are in the middle of a European Union debate on the withdrawal, so it is very topical to hear your views. It is important from all sectors, including construction.

Ewan MacDonald-Russell: I am glad we managed 90 minutes before the B word was mentioned. That must be a record in discussions. From the retail perspective, we have been clear on the wider discussion about tariffs and so forth. Specifically on people, as I said, we have an awful lot of workers. We are doing some exercises to work out exactly how many workers we have in Scotland who are EU nationals. Clearly, we think those people are fantastic. It is very important that they get a clear guarantee over their ability and right to stay here. I do not think there will be any dispute among retailers.

In terms of the future, as was alluded to, it is going to be a very difficult discussion. I would say that the right skills mix and the right people in order to ensure that we can look after consumers is going to be really important. I don't know exactly what that is now because of the way the industry is changing. I think that a world in which you can simply not allow any form of interaction or engagement from people is unlikely to be the most beneficial to consumers, if I could weasel around it that way.

Q335 **Deidre Brock:** The BHA did a report in 2011 on the Scottish hospitality sector and it said there that the Scottish Parliament, local authorities and enterprise bodies must recognise the importance of the hospitality sector. What it did not mention in that was the UK Government. You have mentioned that and you have mentioned immigration. Are there other areas where you think the UK Government could take a role in all this in trying to push things forward for the sector?

Donald Macdonald: I mentioned capital allowance and development and expansion. We have had this before in our industry and it was a huge boost to expansion and development. If we are going to keep up with the rest of the world, we need that consistently.

Q336 **Deidre Brock:** Forgive me, Mr Macdonald, when was that allowance taken away, roughly? We can find that out I am sure.

Donald Macdonald: I think it was taken away in 2008.

Deidre Brock: Really? At the time of the crash?

Donald Macdonald: Yes, and it was replaced with an annual investment allowance, which was really nothing. It was a waste of time.

Q337 **Deidre Brock:** Insufficient, okay. Up until that point it had been very helpful in expanding the business. Yes, Mr Hart?

Vaughan Hart: With regards to the construction sector, there are some tax dispensations for new properties and so on. Where we are certainly seeing it, and I have seen this for the last 11 years, is that the industry was calling out for a proper, better VAT dispensation for retrofit property—rather than knocking it down and rebuilding, retrofit it more sustainably. Obviously, employment would benefit as well as a result of that. Again, I think for capital investment, not just public investment, through capital investment, through businesses, if you lower it that will undoubtedly lead to more sustainable employment.

A great concern that has been raised with me, especially in light of the oil and gas sector, is the empty property rates. You have lots of construction companies that have invested that really wanted to pump-prime the industry for increasing the level of employment. Rather than talking ourselves down, let's invest and be a little bit more entrepreneurial. That is now impeding the progress because those properties remaining empty is costing the businesses. Who is going to suffer from that? Not only the business owners but the employees as well. That is of concern to us.

Ewan MacDonald-Russell: VAT for us, apart from anything that makes prices lower for our customers is always welcome. I think that would be the only specific we hear.

Q338 **Deidre Brock:** We have been told over the course of the inquiry that in economies where the cost of employing workers is higher—some Scandinavian countries were given as an example—employers provide better jobs so that they get value for money for the wages they pay. Do you think that that in itself is fair to say? It is also perhaps one of the reasons that there are so many low-skilled jobs in certain sectors because of the availability of cheap labour. Is that driving a low wage?

Vaughan Hart: In a way it is a double-edged sword because if the consumer wants cheaper delivery of a product then there is going to be an offset amount. It is educating the consumer, whether that is public sector or private sector, saying, "If I am putting the value into the development of this product, I can now pay my staff more." In addition to that, it might lead to more sustainable employment and higher pay for employees as well.

Q339 **Deidre Brock:** Can you point to examples within your sector where that happens, where that has been made clear?

Vaughan Hart: The only thing that I am seeing is that every £1 million spent in 2008 supported 20 construction jobs. If we move forward to 2015 and look at the statistics, every £1 million spent is supporting only 12. My response to that as a human resources professional is to say the jobs are potentially less labour intensive. What projects are we investing in? Is cognisance taken of that level of investment, saying we need, for instance, the bridge to be built, which is currently near enough completed but look at the cost of that compared to the number of employees that are working on it compared with social housing? One would argue social housing would be better for directly employing staff.

Ewan MacDonald-Russell: From our perspective, it is as much about how the journey gets to higher wage roles within retail perhaps than any dispute about that being a good, worthy and attributable goal. That is something where retailers of scale are already quite committed to going down this. It is a huge challenge definitely for small retailers who do not have the ability to invest.

If I can leave that aside, the challenge for us is how you develop the productivity goals and productivity benefits in a sustainable way. The big challenge, of course, is that there is a very fake growth in productivity and retail over the last five years. If you simply look at retail sales and retail employment, because one graph goes up and one graph goes down, that tells you nothing about retail employment. It simply says there is a problem with a reduction of roles in the industry. For us, it is about how we get the right capital investment, and that requires there to be a tax regime that makes that possible but also the right training. That is a role for the industry as well, but our plea to public policy is not to add additional burdens at a time when we have a very challenging situation. The goal of higher wages, investing more in employees, higher training and getting better rewards is really the holy grail for our industry. We want to get to those higher skilled, better jobs. Quite frankly, retailers who do that are the ones that are going to be successful in the next decade.

Donald Macdonald: Yes, I agree with that. It becomes a virtuous circle or a virtuous spiral going up the way. It is a win-win, no question about it.

Q340 **Chris Law:** I want to turn to employment legislation. We were hearing earlier from witnesses about their views. In particular, they mentioned that given it is UK legislation it ought to be devolved. What are your views about employment legislation as businesses and also for people who are working within the business?

Vaughan Hart: I am not convinced that devolving it will add any great value because we have a mechanism. I am yet to be convinced by that. With regard to what my colleagues beforehand were saying about greater employee and employer education with employment law, I would welcome that. In working within the employment law field for the last 25-plus years, the majority of cases that I have dealt with have been as a result of lack of communication and collaboration between two parties and they can be resolved quite simplistically. Going into that, I do welcome the pretribunal Acas conciliation approach. My only concern is the fact that perhaps it does lack teeth; is it persuasive enough? That would be my comment on that.

Ewan MacDonald-Russell: It is fair to say, and as I have said before, retail is an industry of scale. Working within, if I could use the phrase, the UK single market and a single employment legislation structure is the one that works best for retailers. It tends to be one that obviously minimises differentiation, minimises extra cost. It is also probably worth noting I am not sure exactly how unions and retailers—I know from a number of retailers they work with USDAW on both a national and Scottish level, so those negotiations are potentially complicated.

From our perspective, though, it is a devolution of employment law and other related areas, which may get discussed over the next few years. That would also include things like VAT or minimum wages. We think that the right approach is for the UK single market to take a single approach to these things that is consistent. Of course that still should be an approach that ensures there is a level playing field for all businesses. Some of the practices earlier are not necessarily helpful to good employers, quite frankly. It does not help our industry either.

Q341 **Chris Law:** Mr Macdonald, do you have a view on it?

Donald Macdonald: I couldn't add anything to what these chaps have said.

Q342 **Chris Law:** That is fine, thank you. What changes do you think are necessary with employment legislation that will help to enable businesses to provide better paid, better quality, highly skilled jobs?

Vaughan Hart: I would welcome again a greater collaboration, and I am going to say this, between trade federations and trade unions. Again, that can be done through perhaps public sector procurement to ensure that social inclusion clauses and sustainability clauses are not only put in them, which they are, but they are monitored and they are managed appropriately. I think that would add a great deal. Those employers that are not working with good practice or showing a poor example should not necessarily get those contracts moving forward or should effectively be penalised.

Q343 **Chair:** Can I ask you all what you think about the Government's national living wage? Is it something that you welcome?

Donald Macdonald: Yes, most definitely.

Ewan MacDonald-Russell: From our perspective, I would say the higher wages are important. I think it is good. Probably the important thing is that the role of the Low Pay Commission is treated appropriately within this. As I have said quite clearly, we do not have an objection to wages rising. We do have a concern about when this becomes a political rather than necessarily an economic decision. That is partly simply because in the retail industry, on a 3% margin, a huge labour cost increase, keeping that input inflation down from hitting consumers, is quite high, to be honest, so there is that challenge.

Q344 **Chair:** Fair enough, but do you not feel that employees who are working in your sector deserve to have a living wage that can ensure they can do all the usual things that you and I would expect? Surely that must be a good thing.

Ewan MacDonald-Russell: We have to be careful with the term "living wage" around here since it is defined differently.

Q345 **Chair:** Exactly. That is why I said the national living wage, which you will all obviously have to accommodate as part of your business models. I am asking you do you think that that is a good thing. Is it something your sectors welcome?

Vaughan Hart: Absolutely, yes. A bigger concern for us is the employment status of employees, whether they are self-employed or they are not self-employed. Coming back to an earlier question, it is greater clarity with regards to whether someone is in employment for themselves or not in employment for themselves and, therefore, is a worker. That is where that legislation comes in and that is very effective, but I think we do need a greater defined policy or greater guidance on that.

Q346 **Chair:** I think I heard a "yes" from you, Mr Macdonald?

Donald Macdonald: You did.

Q347 **Margaret Ferrier:** We hear a lot about this bogus self-employment. Why are employers doing that? Is it to avoid paying national insurance contributions? Is it a shift in the tax burden? Why are they doing it?

Vaughan Hart: If I can go back in history with regards to construction, in 2008 there were many people who were saying that they were self-employed. That was either because they were on priced work or because that was the way they wanted it. I will give you a prime example of going into an organisation. They had 100 staff on their books and 50 of them were workers, as in employees, and 50 of them were allegedly self-employed. This was a member company that is not in operation anymore. When I looked in, when I identified what was working, I said, "They are all employees. They are not self-employed". When I interviewed several of the self-employed workers, the reason it was more beneficial for them was, "We are on priced work and if we do it and our productivity is managed on that basis, we can earn double what we would have done if we were on the books". That is the reason.

If I come back to where we are today in the Scottish construction market and where we have a level of concern, we have major contractors taking on major jobs. They are then approaching their subcontracting chain for labour only. They will provide the goods, the products, the materials and so on. They just want the labour only employed. I am concerned with that because that is creating smaller SME businesses. They become, effectively, employment agencies and not construction businesses, and I have a difficulty with that for sustainable employment.

Q348 **Anna Soubry:** Obviously some people choose to be self-employed. It suits them. I think you would all agree that there is evidence that it is being exploited by some, especially subcontracted, when it is not self-employed, it is basically avoiding your responsibilities. Can you tell us very quickly any changes to that, though, especially things like zero hours contracts? In other words, would changing some of the flexibilities that have begun to develop over the years be good, bad or what? What do you think?

Ewan MacDonald-Russell: I am afraid I would not be able to offer a definitive view as I tend to work on devolved issues. It is not one that we have come across. Sorry about that.

Q349 **Anna Soubry:** What do you think, Mr Macdonald?

Donald Macdonald: My view is that when you employ somebody you should agree with them what they want to do and how many hours they want to work. As somebody said earlier, if they are only working 10 hours a week and their liability has to be covered by 40 hours a week, how can they live? It is counterproductive to employ somebody who thinks they are going to work 40 hours a week and they only get 10 hours. You are destroying their lives as well as destroying your business. I cannot understand the logic of that personally, unless somebody wants to be on a zero hours contract, like somebody talked about students and housewives who only want to come and go.

Q350 **Ian Murray:** I think Mr Hart answered the question of what the Scottish Building Federation is doing about bogus self-employment. You are all representatives of well-respected industry bodies and Macdonald Hotels is a very well respected hotel chain. Do you get frustrated that your members are undercutting the good guys, which puts pressure on the good guys to lower wages and lower costs and try to compete in a race to the bottom?

Vaughan Hart: Sorry, are you saying that our members are being undercut by the bad guys?

Ian Murray: Yes, particularly in the hotel sector.

Vaughan Hart: I think in construction we totally recognise that. Notwithstanding the fact that 60,000-odd workers were displaced during or since 2008—and let's be quite frank, these people have a right to put bread on their table and I understand that—I think you are very right. If you are running a bona fide contracting company, you work in line with the HSE legislation and you make sure you have the proper controls there, then your fixed costs are going to be slightly more or a lot more than someone whose only fixed cost is their van and a few tools in the back of that. That does give me cause for concern, absolutely.

Q351 **Mr Christopher Chope:** Can I thank you all for a fascinating evidence session, which seems to be well rooted in reality? Earlier we were talking about possible devolving issues such as employment law, and I think Mr MacDonald-Russell referred to the possibility of devolving VAT, which, of course, we cannot do at the moment because VAT is an EU-controlled tax. As soon as we are out of the EU, we will be able to deal with this as we wish. I wondered whether you thought that this would be advantageous to Scotland and to the sectors that you represent. We found that when Scotland had business taxes devolved to it, it did not use that devolution power to give you a more favourable business rate in Scotland compared with what we have in England.

Ewan MacDonald-Russell: As you might imagine, we have quite strong views on these sorts of areas. First, we have the assignment of VAT, which is a welcome step from the Scotland Act. That will put a metric by which the performance of the retail industry is relevant to Government revenue. That is very helpful and something good to see.

I am not sure what the advantage of devolution of full VAT necessarily could be. Part of it is that most retailers who operate on scale have single-pricing policies. I think that is absolutely the right way and it means that customers in different parts of the country are not disadvantaged. I struggle to see why differential VAT rates, which would almost certainly have to lead to a break of that single pricing policy, would be helpful. I would be nervous that if one side of the border decided to have a lower rate it would massively encourage evasion, particularly in a world in which we have lots of digital and there is not necessarily a requirement to build your supermarket in Gretna or in Carlisle, to pick the obvious example. Having those differentiations is unhelpful and it comes back to that simplicity is what the retail industry would always look for in this. The UK single market is a good model. We are very comfortable with that.

Donald Macdonald: I did not realise that VAT was governed by Europe. In that case, why is Portugal at 6%, Germany at 7%, France, Italy and Spain at 10%?

Q352 **Mr Christopher Chope:** It is to do with the rules. None of those countries have the ability to have differential rates within their own countries. For example, for the hospitality industry, you could not charge a different rate of VAT for hotels in Madrid from what you charge in Barcelona because of European rules. There is also a restriction under the European rules as to the way in which you can reduce levels of VAT once you have them. It is quite complicated, but all those complications will be removed as soon as we get Brexit.

Chair: That is not the case.

Donald Macdonald: Germany reduced them from 19% to 7%.

Q353 **Chair:** I think the point Mr Chope is trying to make, in a rather elegant way, is you are soon going to have the ability, or the Government will have that ability, to shape VAT.

Donald Macdonald: Okay. That is something to look forward to, then.

Chair: Yes, indeed.

Mr Christopher Chope: Yes, exactly.

Chair: That could cheer us all up.

Anna Soubry: But you won't have any workers in your hotels to worry about.

Mr Christopher Chope: If you do not want to answer that—

Donald Macdonald: Can I tell you it won't just be the hospitality sector? We buy our beef and lamb from the same supplier as Marks and Spencer. Probably a third of their staff come from all over Europe.

Anna Soubry: Mr Macdonald, here you are preaching to the converted. We are as one with you.

Donald Macdonald: I did not know that before I came.

Chair: Mr Chope has a couple of questions. Go on, Christopher, please, and the rest of you behave yourselves.

Q354 **Mr Christopher Chope:** Mr Macdonald has very successful businesses, as he was saying, in Portugal and Spain. What are the critical success factors for those businesses in Spain and Portugal that you are inhibited about bringing to your businesses in England and Scotland? I know you have a business very close to where I reside down at Ameysford.

Donald Macdonald: VAT is one of the biggest impediments. It is a huge impediment. If I could have 10% VAT, I could pay our staff another £3 an hour and still reduce what we are charging our customers and make the same profit as we are making today.

Q355 **Mr Christopher Chope:** There we are, okay. Do you find in Spain and Portugal you have the same proportion of foreign workers as compared with locally-employed workers?

Donald Macdonald: No.

Q356 **Mr Christopher Chope:** What is the reason for that?

Donald Macdonald: Unemployment is much higher in Spain and Portugal.

Vaughan Hart: I do not think I can add to these two gentlemen. I would concur.

Q357 **Chair:** I represent Highland Perthshire. We found in Pitlochry that nearly every business was dependent upon eastern European labour particularly. Not only was it a valued workplace resource; it was a valued community resource. People welcomed them within the community.

Donald Macdonald: They are important to the economy.

Chair: There are big issues in all of this that we are currently confronting and having to deal with as we go through the process of leaving the

European Union. We have the last question from Margaret Ferrier.

Q358 **Margaret Ferrier:** I am going to talk about technological advances and increased automation. I think the Scottish Retail Consortium has stated that new retail jobs will be better jobs and much more focused on engaging with customers. Is that something that we are craving now—engagement with customers rather than the internet? Are people fed up with engaging with computers and automated systems and they want the personal touch now?

Ewan MacDonald-Russell: We are definitely not giving up on computers. Some 27% of non-food sales in December were online sales. That was the third highest month of online sales we have had. The first highest was November last year, so an absolute shift, and a shift to mobile.

There are two points I would make about the way people are changing. Across the United Kingdom—not just Scotland; we have not disaggregated it—there have been 100,000 new jobs created within the retail industry. Whether that is people dealing with social media or people dealing with different mechanisms of stock control, which is terribly dull but takes a lot of work, lots of these measures are designed for freeing people up from the laborious, tedious work. For people working in property, it is getting much more customer engagement, because that is where you get a greater value up. In a department store, for example, that is absolutely aimed at trying to sell more things, trying to sell higher value things and different products, but also providing an insight and information.

Part of it is because customers know so much now. We all do it. If you are looking up a big, expensive bid, whether it is a phone or whatever, you will look up the specs, you will look up the contract. When you go into the shop, you know a huge amount. If the person you are speaking to does not know as much, it will frustrate you or annoy you or you will go elsewhere. It is having the ability to have people in those frontline roles who know about products and understand them. It is crucial. There are loads of other things, too: digital, marketing and all the rest. I would be happy to go on at length but I suspect the Chairman will cut me off.

Q359 **Margaret Ferrier:** Labour requirements will change then in the future?

Ewan MacDonald-Russell: Yes.

Q360 **Margaret Ferrier:** How can both the UK and Scottish Governments make sure that future workers are prepared for these changes?

Vaughan Hart: Within construction I see a greater opportunity for growth in offsite construction. We are importing certain products and kits from different countries. To me, there should be a greater incentive for the investment in our own production for offsite manufacturing so we are giving local wealth and local employment to do that. It will need economic investment or a level of tax incentivisation for companies to do that, but it is a huge opportunity.

Chair: Great. Thank you ever so much, gentlemen. We have managed to get that fitted in within an hour too, so we are very grateful for your concise evidence this afternoon. As usual, if there is anything further that you feel would be useful to this Committee, please submit it. We are grateful to you, Mr Macdonald, for turning up at short notice. The Committee found all your evidence very interesting and compelling. Thank you ever so much.