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GENERAL SECRETARY'S OFFICE

LMc/jlf

12 February 2021

Darren Jones, MP
Chair of the BEIS Select Committee

sent via email: darren.jones.mp@parliament.uk

Dear Darren,

Many thanks for the opportunity to outline Unite's views on the urgent need to strengthen individual employment and collective trade union rights and freedoms – and the centrality of such a task to creating a stronger, more resilient economy and society.

In March 2020, Unite welcomed the government's statement that it would do 'whatever it takes' to get us through the pandemic. Unite stated at that point that,

> "*there will be a continuing and evolving need to put in place a comprehensive package of financial measures* ***that enable people to follow government advice and protects households financially, limits the damage to our economy and therefore minimises damaging repercussions for our fragile economy*** *in what is already an extremely worrying situation for people and businesses and* ***equips our public services to meet the crisis when they are already overstretched.*** *These are likely to have to take different forms of direct and indirect payments and transfers."*

Unite argued that as well as the weak underlying foundations of the economy that made the case for an ongoing and significant stimulus package for the economy as a whole and for specific industries that are coming under particular pressures there was also crucially a need for interventions to support households themselves – including through a strengthening of individual and collective employment and trade union rights.

Unite raised that Britain's one-sided, 'flexible' labour market was a central part of deep structural problems that would have dangerous consequences; as outlined below, it has meant households being very financially precarious, leaving them exposed and unable to afford to self-isolate and close to the edge. This would also leave people at the mercy of employers practising unsafe working conditions.

Eleven months later we have a clearer indication of the health, well-being and economic costs of the pandemic and the contribution our poor working practices have made. Unite has tragically been proven correct on the impacts on our members and all working people. In responding to media reports that the Government had decided to not go ahead with plans to immediately look at worker's rights, Unite said that "*The epidemic of low pay and insecure work in this country are the real problems, not the basic rights of working people".*

Unite believe the pandemic has demonstrated that these problems must be tackled head on, and that as a country we need to reverse the drive to de-regulate what employers must adhere to, the impulse to weaken people's *rights and protections and the emphasis on preventing trade unions performing their vital social and economic function of improving peoples pay and working conditions.*

Summary of economic situation of the country and working people – and the impact of weak employment protections

As the pandemic spread and grew, we did not start from a position of strength as a country in terms of the overall economic situation and our ability to withstand shocks and the low financial resilience of households.
Prior to the impact of Coronavirus, GDP in the last quarter of 2019 was flat (0%, October to December 2019) and last year overall was one of the slowest rates of growth since the financial crash in 2008. Under this headline figure, manufacturing was already in recession having had three consecutive quarters of contraction and worryingly the service industries recorded a growth rate of just 0.1% at that point, the weakest since mid-2016[1]. It is important to translate these headline growth figures for the country into the economic situation faced by households and local communities before the Coronavirus outbreak, in what we know is a deeply unequal country. There were 8 million people living in poverty despite being part of a working household, with 70 per cent of children living in poverty in households where at least one adult works, and child poverty stands at 4.1 million[2].

Evidence from the TUC, Resolution Foundation and others have all repeatedly demonstrated the lack of wage recovery after the financial crash, the low rate of household savings and high number of insolvencies that when put together gave us a picture of a country where very many more households were closer to the financial edge at the start of the pandemic than when we experienced the impact of the financial crash – as average wages only creeped up to pre-crash levels in February 2020.

Insecure and precarious work accelerated after the financial crash and 2010, and it was the growth and spread of such working practices – specifically zero and short hour contracts in that instance –that was used by the Government to cheer the fall in headline unemployment figures. Yet such insecure and precarious work – estimated by the TUC to be 1 in 9 workers before the pandemic - significantly contributed to the lack of productivity growth in our country and has meant millions of households are ill-equipped to deal with economic shocks. It has left people unable not only to save sufficiently, to plan their lives and enjoy a healthy work-life balance pre-pandemic it has left them unable to follow government advice to self-isolate during the pandemic, and has left them feeling unable to refuse to work in unsafe working conditions. Both of these factors have undoubtedly contributed to the spreading of the virus and us having the highest death rate in the world.

The need for secure and safe jobs and incomes and action on equality

Yet rather than learn from the mistakes made at the outset of the pandemic and those made a decade ago in the aftermath of the financial crash we see a continued failure to act on basic matters such as raising Statutory Sick Pay to a living wage level and a further surge in the growth and spread of insecure and precarious work that will damage our country for decades to come.

As part of making jobs and incomes more secure Unite is calling for a number of measures to be urgently acted upon. These measures would firstly, make jobs and incomes more secure in the immediate and short term and secondly, would ensure that we do not repeat the mistake of spreading insecure work as an 'answer' to unemployment. Otherwise in another decade we will simply find ourselves in an even worse situation as a country, with poverty and insecurity at levels previously unseen.

Crucially there is a much more fundamental point about the need to address insecure and precarious work that requires action and a broader strengthening of worker and trade union rights beyond the immediate, most extreme problems presenting themselves. These problems are allowed to take root and become extreme because of our weak employment protections.

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[1] ONS, GDP first quarterly estimate: October to December 2019, release, 11th February 2020
[2] TUC, 28th March 2019, blog: Our Broken Economy has Locked Millions of Workers into Poverty. It can be accessed online at: https://www.tuc.org.uk/blogs/our-broken-economy-has-locked-millions-workers-poverty-heres-how-fix-it

This broader addressing of our 'flexible' labour market includes giving workers the right to a regular hours contract, workers having compensation for cancelled shifts, ending the use of umbrella companies, making employees the default status of all workers unless there is proof of genuine self-employment as well as measures such as sectoral collective bargaining. Sectoral collective bargaining – and the enforcement of national agreements in sectors where they exist – would effectively form a 'floor' across industries that would prevent bad and exploitative employers undercutting better employers in a sector and prevent the worst abuses we are seeing. There must be an effective and strengthened enforcement regime – discussed further below – and the use of good practice, such as public procurement and spend only going to good employers (also discussed further below).

As well as the deep wealth divide, Unite believe the Covid-19 crisis has, and will continue to, expose how inadequate the rights and protections workers in this country have – with women, BAEM, disabled and LGBT+ workers the most likely to endure this. Unite are clear that people's ability to raise issues at work and to assert their rights at work is inextricably linked to their security at work. The TUC report 'Living on the Edge' from January 2018 looked at the rise of workplace insecurity, with 3.2 million workers being classified as insecure at that point, and concentrated on the retail, logistics and delivery and the higher education sectors. As well as finding that casual workers were more likely to be young and Black and Asian Ethnic Minority workers it found that these working practices led to poorer mental health as workers found themselves under strain and struggling with the financial insecurity and inability to plan your life that such work brings[3]. As raised in the Unite submission in March 2020 Unite produced an 'Equality Checklist' for workplace representatives to protect members from discrimination and protect the gains that we have made in equality for all.

End 'fire and rehire'

Alongside the high profile dispute over the use of 'fire and rehire' by British Airways, Unite has seen increasing numbers of employers using Section 188 notices to terminate the employment of workers, effectively blackmailing them into re-signing contracts on worse pay, terms and conditions. This causes untold distress at an already anxious and fearful time. Cutting pay, terms and conditions at this time can place workers' homes at risk, pushing families who are just holding on into damaging debt and poverty. This has economic and social repercussions – we need to be keeping as many people out of poverty as possible and protecting their incomes.

In addition, increasing people's fear of unemployment and making their work increasingly insecure also increases the likelihood that they will be too fearful to self-isolate for the required period and instead continue going to work– raising the threat of virus transmission. Unite believe the practice of 'fire and rehire' must be outlawed urgently – it is spreading across our economy and its impact can be devastating. It is also worth noting that the practice is not supported by the public; in July 2020 Unite conducted a survey on the practice as part of the dispute with British Airways and found that the majority of those polled believed BA was wrong to terminate staff and re-employ them on reduced terms and conditions in the middle of a health crisis (70 per cent). As well as British Airways, Unite has highlighted just some of the many examples we are encountering as a union, across a variety of sectors.

- Outsourcing firm ESS has threatened minimum wage cleaners and cooks employed on MoD contracts with sign or be sacked contracts, with workers losing up to £1,600 a year under the proposals.

- Heathrow Airport Limited (HAL) threatened to fire and rehire 4,000 of its workers, forcing them to accept permanent pay cuts of £8,000 a year – around a quarter of their pay. Fearful of being pushed into certain poverty under HAL proposals, members reported to Unite they were preparing to sell their homes, move to cheaper location, into smaller accommodation or give up their cars.

[3] TUC, January 2018 – Living on the Edge. Please see https://www.tuc.org.uk/research-analysis/reports/living-edge-0

- IHG - the hotel group which owns Holiday Inn and Crowne Plaza brands, announced thousands of job cuts, and at its airport hotels in Glasgow and Edinburgh, Holiday Inn sacked all its workers but four of the most senior managers – and sought to rehire some 'hospitality service experts' on worse pay.

- In Manchester, nearly 500 bus drivers employed by Go North West started 2021 facing the threat of being fired and rehired, which would see a 10 per cent reduction in the number of drivers employed, an increase in unpaid working hours and drivers' conditions slashed. Unite has been in negotiations with management at Go North West, part of the Go Ahead Group, about the possibility of cost savings at the company's Queens Road Depot and to develop a turnaround plan and maintain job security. Last year, Go North West issued a section 188 notice, which would have resulted in the workforce being fired and then rehired. However, the process was halted to allow negotiations to take place.

The use of lay-off clauses

Unite are also seeing the emergence of employment contracts that include 'lay-off' clauses that include an employer's right to lay workers off for a prolonged period unpaid. These contracts often also include exclusivity clauses. This is an appalling practice. Employers should not be able to restrict the work and earnings of people in this way.

Increase Statutory Sick Pay (SSP) to £320 a week – a living wage – and available to all workers as a right

The current £96 a week is a fifth of average weekly earnings and the 2 million workers who earn less than £120 a week are not even entitled to that. Unite have argued throughout that the risk of keeping Statutory Sick Pay so low was that people would be unable to self-isolate and that *not* making these improvements would make it harder to contain the virus, with lives lost and greater economic damage done as a result. Eleven months on Unite has sadly been proven correct. The Government must urgently take action on this matter. It is still set to take several months for the roll-out of the vaccine and there remains a question mark over the length of time any vaccine will be effective for. Measures that contain the virus will therefore remain necessary for several months at least. Improving Statutory Sick Pay and making it available for all remains vital. If it is wrong now for people to have to choose between putting their health at risk or putting food on the table, it is always wrong.

An expansion of the rights of trade union Health and Safety representatives so they can be 'roving' representatives and proper funding of enforcement bodies.

As well as demonstrating how out of date our Statutory Sick Pay levels are, the pandemic has highlighted that our health and safety framework – for so long maligned by the Conservatives and sections of the media – is out of date and needs strengthening and bringing into the 21st Century to keep workers safe.

One of the specific improvements Unite has suggested is for 'roving' Health and Safety representatives. This would enable Health and Safety representatives to visit workplaces other than their own and be part of the stronger assessment and enforcement regime that is urgently needed to ensure that where people have to work those workplaces are safe.

Unite have worked with a number of employers constructively during the pandemic to put in place safe working conditions but there are insufficient penalties against employers who do not take such action and insufficient power in the hands of workers and their trade union reps. This can have fatal consequences. Moy Park was one of several food processing firms that failed to implement rigorous health and safety measures at the peak of the pandemic. In May 2020, a Moy Park worker in Northern Ireland died after contracting coronavirus.

In October 2020, a report released by an international coalition of labour groups found that XPO Logistics, a major logistics company that Amazon, Ikea, Nestle, Walmart and other popular retailers have relied on to service customers worldwide throughout the Covid-19 pandemic, has been putting its global workforce at heightened risk of contracting and spreading the virus.

Enforcement bodies such as HMRC, GLAA and the HSE require uplifts in their funding, status and power to ensure workplaces are safe and that rights are being respected. Trade unions should also be enabled to access workplaces and workers so they can act on information of poor employment practices and abuses. The move to ‘light touch’ regulation has meant that many of the worst employers can continue to act with impunity, knowing the likelihood of having any penalty levied against them is extremely small. It is well know that a number of sectors harbour some of the most exploitative practices – such as food, warehousing and distribution, retail and hospitality and construction. Unite believe that measures, such as sectoral collective bargaining mentioned previously, combined with a more rigorous enforcement regime is needed to stamp out these practices. Taking such action would contribute to preventing the spread of poor practices to other sectors of the economy. This is exactly what we saw with the rise of zero hours contracts - a practice which began in these sectors became widespread across all sectors.

The government should reward good employers – good working conditions must be a criteria for government contracts and spending

Job creation remains a gaping hole in the Government’s actions. The Government must use every lever at its disposal to protect and create jobs with every penny of an on-going and significant support package and Government spend going towards the goal of protecting and creating decent jobs. The government should not only bring forward and increase the scale of investment to upgrade our infrastructure, including communications, housing, public transport and energy, to make our economy green and sustainable but also guarantee this money goes to maintaining and creating jobs around the UK through an active industrial strategy and public procurement policy.

This includes ensuring the public procurement budget and that public investment is proactively used to maintain and to create decent jobs in this country. There must be obligations on receipt of public funds to ensure that companies receiving such contracts, public investment and spend do not use insecure working practices, that they recognise trade unions, provide quality apprenticeships, have equality targets and best practice to diversify the future workforce, have high environmental and sustainability , and pay their taxes in this country.

All of these obligations would ensure that the investment, procurement, sectoral support and public service spend all goes towards the protection and creation of decent jobs in our communities. The Government itself directly has the power through multiple levers to help the incomes of millions of workers to help them weather the economic storm - and through maintaining and increasing the disposable income of workers would show they are not only valued but would have a positive multiplier impact.

Protecting workers from job losses – and protecting them when businesses fail

As highlighted above, Unite has a number of broader calls around the urgent need for the government to act to prevent further job losses and prevent mass unemployment, and to create jobs and to aim for full employment through good jobs.

Where job losses do occur because businesses fail (and this would be minimised within a strengthened net of business support) there is a need to introduce legislation similar to the US and European countries where companies continue to trade under protected administration, rather than fall into immediate collapse. At the very least this would allow workers to receive the pay they are entitled to and redundancy.

At Norwegian Air UK operations the more than 1,000 mainly Gatwick-based staff have been left with nothing after Norwegian Air’s UK operations (NAR UK) went into liquidation last month. This also highlights another challenge - at this critical juncture in Britain’s trading relationships and dire economic situation, Unite are also finding that the relatively weak employment protections for British workers is contributing to multi-national business decisions to shed jobs in Britain because it is easier and cheaper than in other countries of operations.

Sieman's made the decision to shed jobs in Britain, and maintain them in Italy. A strengthening of employment rights and protections in Britain would remove this factor of consideration. Accompanied by wider economic measures, such as investment in energy, communications, transport and housing to radically lower the other costs of being based in Britain, would significantly aid the drive to prevent job losses and to create jobs over the coming weeks, months and years.

Workers need a pay increase

The public sector pay policy announced by the Government amounts to a cut in real terms for millions of public service workers, even the lowest paid, after a decade of real cuts. It is an insult to millions of public service workers who cared for our loved ones during this crisis.

Unite believe that as well as the above the Government must fix furlough, extend it and make it comprehensive. It is unacceptable there are hundreds of thousands of the lowest paid receiving only 80% of the minimum wage and many others who are excluded entirely – this must be addressed.

Unite believe the Government must raise the minimum wage to £10 an hour. Raising the statutory minimum for wages to £10 per hour for all – rather than £8.91 from April for those aged 23 years and over - would greatly assist in the fight against in-work poverty.

Yours sincerely,

LEN McCLUSKEY
General Secretary