

The Business and Trade Committee

Call for Evidence

On the Employment Rights Bill

**Written evidence submitted by Prof
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Fuertes**

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1. This written evidence is submitted by Prof. Vanessa Beck, Dr Levana Magnus and Carolyn Morris (University of Bristol), Prof. Daiga Kamerade (University of Salford), Mr Miguel Munoz, Dr Luis Torres-Retamal and Prof. Tracey Warren (University of Nottingham), and Dr Vanesa Fuertes (University of the West of Scotland).
2. Contact: Prof. Vanessa Beck, Professor of Employment Studies, University of Bristol.
3. In addition to our written response, we are happy to provide any supplementary information and offer oral evidence if needed.
4. The information provided in this submission is drawn from a longitudinal mix-methods research project —‘The Underemployment Project: a sociological investigation of underemployment and the lived experiences of underemployed workers’— funded by the ESRC (grant ES/X000184/1) and from our subject expertise.
5. The Underemployment Project runs from January 2023 to January 2026. It aims to track levels of underemployment over time in the UK, detail the composition of the underemployed workforce, pinpoint the predictors and outcomes of being underemployed for individuals, families, and communities, and highlight the lived experiences within and outwith work of underemployed workers in four UK cities. The research involves longitudinal analyses of quantitative data from four datasets (the Labour Force Survey, the European Working Conditions Surveys, the UK Household Longitudinal Study, and the CIPD’s UK Working Lives Survey), and the analysis of qualitative primary data from three sample groups: 1) four waves of interviews over a period of two years with 60 underemployed individuals working in health and social care, retail and warehouse, or hospitality in Bristol, Glasgow, Greater Manchester, and Nottingham, to understand their lived experiences; 2) interviews with 25 representatives from employers, employer federations, and trade unions; 3) interviews with participants from community groups, policy officers, and other stakeholders. The project focuses on the three dimensions of underemployment: time underemployed (working less hours than workers would like), wage underemployed (earning below the real living wage), and skills underemployed (having qualification or skills not used or required in the job). More information can be found at: www.underemployment.info.
6. Our project is conducted in collaboration with four partners — Bristol One City, Nottingham Citizens UK, Salford City Council, and the Poverty Alliance in Glasgow— and with an advisory group composed of academics and practitioners expert in the research topic.

Executive summary

This written submission addresses the first three key questions in the Protecting Workers area within the call for evidence.

To the question of ‘Does the Employment Rights Bill adequately safeguard the workers it seeks to protect?’, we welcome the guarantees that the Bill provide but highlight and offer recommendations to two potential shortcomings:

- The provision of minimum hours does not mean sufficient or secure hours, and thus we recommend prioritising adequate Living Hours instead of alongside minimum hours.
- The provision of shift patterns should prioritise employee request of specific times and days of work.

To the question ‘Are there weaknesses or loopholes in the Bill that could be exploited or have unintended consequences?’, we highlight that:

- Minimum hours should prioritise employees’ current and future requirements (e.g. social security, childcare, etc.)
- Grounds for refusing employees’ request to flexible working are too broad and would benefit from being qualified.

To the question ‘Are there areas of employment law not covered by the Bill that weaken workers’ protections?’, we recommend a focus on several areas linked to employment, that otherwise could weaken the Bill’s protections:

- Understand and address underemployment as a multi-dimensional and interconnected concept.
- Increase support for parents and careers.
- Ensure a social security system that encourages work progression.
- Provide adequate for progression in terms of support and reward.

Next, we explore each of these points, providing evidence and offering detail recommendations.

Call for Evidence:

This written submission addresses the first three key questions in the Protecting Workers area within the call for evidence.

‘Does the Employment Rights Bill adequately safeguard the workers it seeks to protect?’

We believe that the Bill’s guaranteed hours provision will deal with some of the insecurity that underemployed workers regularly experience in their working life in terms of hours of work (i.e. time underemployment). It is crucial that employees know the minimum hours they will work each week in order to plan their finances appropriately, giving them deserved and welcomed security. Also, the certainty of shift patterns (set days and times of work) provided by the Bill is welcomed, so individuals can organise their other responsibilities (e.g. caring) and the rest of their lives around work.

However, there are employers who offer minimum hours that do not provide sufficient and secure hours. Equally, shift patterns can work against workers if their employer does not consider the circumstances and responsibilities outside work.

In order to deal with the shortcomings identified in the Bill, we recommend:

1. **Prioritise adequate not minimum hours.** Substantial numbers of workers in part-time jobs want to work more hours or find full-time work, and many full-timers would also like to increase their working weeks. Whilst minimum guaranteed hours are an important step, workers without enough hours will not be adequately protected under the Bill. Therefore, it would be important to consider alongside minimum guaranteed hours also Living Hours: hours that are both sufficient and secure.

Evidence: Our findings from the Labour Force Survey indicate that nearly 10% of women and 20% of men in the workforce are employed in part-time roles because they were unable to secure full-time jobs. Our interviewees found that some participants work for employers who use part-time or zero hours contracts as the default contractual option (except for managerial posts). While this business model may provide flexibility for employers, it is sustained at the expense of employees who would wish to have guaranteed and adequate hours. Our research shows, that in some cases, time-underemployed workers worked multiple part-time and zero hours or extra hours in their current part-time jobs, to make up sufficient or full-time hours. Importantly working across multiple jobs or having a part-time contract while doing extra hours can impact on their NI contributions, pensions, holidays and entitlement to sick pay.

- 2. Shifts patterns should prioritise employees' request.** Employees should have the right to request specific times and days of work, based on their responsibilities and circumstances outside of work. Employers should only be permitted to reject such requests on clearly defined grounds (see point 2. related to grounds for denial in the section below).

Evidence: Our research participants that were time underemployed (i.e. working fewer hours than desired) would like to work more hours that they currently work but are unable to do so due to several factors such as extra hours not being made available by the employer at all, or the hours that are available not being suitable. A main factor in the unsuitability of hours is caring responsibilities with, for instance weekends, overnights, not fitting with traditional 8-6 Monday-Friday childcare provision.

'Are there weaknesses or loopholes in the Bill that could be exploited or have unintended consequences?'

We believe that the introduction of minimum hours contracts with established shifts is a step in the right direction. However, the introduction of minimum hours contracts with established shifts could have unintended consequences if the employer does not consider the individual needs of its employees, such as caring responsibilities, health circumstances, or social security requirements.

While minimum hours contracts with established shifts are welcomed, there are important reasons why some individuals cannot take up the ideal number of hours they would like, even when their employer is offering extra hours. Equally the Bill's right to request flexible working is welcomed, however, an employer can reject employees' request in one of the grounds for rejections provided in the Bill. These grounds for rejection are very broad and taken individually can be arguably considered unreasonable as a rejection ground.

As noted above, the welcomed regulations introduced by the Bill could have unintended circumstances, and thus we recommend:

- 1. Minimum hours should prioritise employees' needs.** Employers should be guided by employees' minimum hours suitability and review the contract whenever policy changes make it necessary.

Evidence: Our research found that social security limits the amount of money that can be earned from employment before it affects Carers Allowance or Universal Credit payments, therefore a change in the number of hours of work can affect the suitability and possibility of employment for those receiving Carers Allowance or Universal Credit.

- 2. Qualified grounds for rejection.** Grounds for rejection of employees' flexible working request a, b, e, f, g, h, or i, are very broad. Thus, it would be suitable to introduce grounds c and d as qualifying ground. In other words, grounds for rejection a, b, e, f, g, h, or i, may only be considered after grounds c and d are also at play.

Evidence: Some participants in our research explained that their place of work is understaffed, and work pressures in terms of tasks and/or hours are directly related to the lack of adequate staff numbers to deliver the service offered. While in some other cases, there was an adequate number of staff but there was still a lack of flexibility in reorganising work amongst existing staff.

'Are there areas of employment law not covered by the Bill that weaken workers' protections?'

The Bill introduces welcome protections for workers around several areas of employment. However, there are other relevant areas linked to employment that could weaken workers' ability to access and sustain suitable employment making them unable to escape underemployment or risk unemployment. The lack of focus on these areas, within or alongside this Bill, means that the Bill does not tackle key factors that could weaken workers' protections granted by the Bill.

Some of these key areas are childcare, adult social care, social security, skills and career progression. Each of those have specific factors that could weaken the work that the Bill is aiming to do. Consequently, we recommend the following:

- 1. Understand multi-dimensional underemployment.** Without a profound and evidence-based understanding of each dimension of underemployment (time, wage, and skills) and how these interact and cumulate to form 'stacks of disadvantage', it is likely that the protections offered by the Bill could be weakened. The understanding is necessary to put in place policies and laws that tackle the causes and consequences of all underemployment dimensions and their interconnections.

Evidence: Our research shows that underemployed is an increasing phenomenon in the labour market, especially skills underemployment (people being overqualified or over skilled for their jobs). Our interview findings also show that causes of underemployment are complex and interrelated (e.g. someone who is time underemployed can also be skills and/or wage underemployed).

- 2. Increase support for parents and carers.** Working parents and carers struggle to get the support they need to manage their work and care responsibilities, support needs to meet peoples' needs, be of good quality, affordable, and geographically accessible. There is a breadth of research on the current shortcomings of UK childcare supply and support for carers, and there are also many recommendations on how to tackle existing challenges. Without a solution to the current problems, the

protections of the Bill will not be a reality for many parents, especially for underemployed workers.

Evidence: Many of our research participants stressed that the jobs or hours of work available are not suitable due to the lack of support for parents around affordable and accessible childcare, and carers, who experienced limited support from child and adult social care. This limitation is why many of our participants were time underemployed, often having to find jobs that met their household needs, which are oftentimes in sectors with low wages (social care, retail, and hospitality) and for which they are over skilled (i.e. they are skills underemployed).

- 3. Social security that encourages increase work and progression.** While the social security limit on earnings is more responsive than previous limits of hours worked, there are still cliff edges in support that mean low-income workers lose out financially if earnings increase. We highlight a significant problem that weakens the Bill's guaranteed hours protection.

Evidence: Our research affirms that some participants receiving Carers Allowance or Universal Credit are unable to earn over a certain amount without their social security payment being affected. While for Universal Credit recipients the amount discounted from the social security payment balances with the increase in their work salary, there are hidden costs of working more hours that are not accounted for, such as child- and other care, transport, health and wellbeing, as well as the loss of other benefits connected to Universal Credit entitlement such as Council Tax support and free school meals. In other words, there are negative repercussions for some underemployed participants with working more hours, even when they would like to do so.

- 4. Adequate paths for progression.** Clear pathways for progression, adequate career support, and guidelines on pay grades that reflect occupational roles and responsibilities, would be helpful in promoting and fairly rewarding job and career progression.

Evidence: Our research found that for many workers there were not clear career progression pathways at work, and external employment support or training was not always accessible. Lack of clear progression pathways included low financial reward for taking on more responsibility, lack of support from managers to progress, and low investment in staff training.