

**Business and Trade Select Committee**

**Call for evidence on the Employment Rights Bill  
UNISON written evidence**

**6 December 2024**

**Introduction**

1. UNISON is the UK's largest union with 1.3 million members. We welcome the opportunity to submit evidence on this landmark piece of legislation which seeks to transform the UK's labour market and create a better life at work.

**Executive Summary**

2. The Employment Rights Bill is a long overdue set of proposals that will bring much needed relief to working people in the UK. Insecure, low-paid and exploitative work has mushroomed and trade unions are held back from our essential work to negotiate and bargain for better work. UNISON therefore welcomes a host of new rights to tackle insecure work and exploitative work from day one rights, to protection from sexual harassment, strengthened rights for pregnant workers, tackling exploitative zero hours contracts, fire and rehire and more. We believe this will support prosperity and productivity for workers and for the economy as a whole.
3. For individual rights to become a reality, collective bargaining, effective enforcement, a trade union voice in the workplace and a well-resourced employment tribunal system are all key.
4. UNISON therefore welcomes the provisions in the Bill to widen the scope of collective bargaining, introduce a Single Enforcement Body and strengthen trade union representation. We strongly support the creation of the new Fair Work Agency and measures to introduce sectoral pay bargaining starting with Adult Social Care. The social care system is close to breaking point and both staff and service users are desperate for change. Provisions in the Bill creating a framework for an Adult Social Care Negotiating Body in England has the potential to be a gamechanger.
5. Similarly, the reinstatement of the School Support Staff Negotiating Body in England will provide professional recognition for a group of staff which has been overlooked for too long.
6. UNISON believes that the Employment Rights Bill sets a vision for a fairer economy where exploitation doesn't pay and working people are

empowered to have a better life at work. It also contains key proposals to modernise trade union rights, enabling UNISON to support both workers and employers in realising this ambition. UNISON shares a common goal with public sector employers and the public – to deliver good quality public services. Good employers know that working with us will save them time, money and energy. They will have a happier and more productive workforce. Strengthening and modernising the industrial relations framework will help trade unions raise standards and pay across the labour market.

7. UNISON also welcomes the recognition within the Bill that the needs of workers and their families do not fit into the rigid and inflexible working culture that persists in too many workplaces. An expansion of flexible working, a review of parental leave and carers' leave, and the extending and strengthening of bereavement leave will come as a relief to our members. UNISON believes that if done correctly it could transform life chances, particularly those women who often feel forced into less well-paid part-time work that does not match their skills. Removing these barriers won't just transform lives, it will revitalise our labour market.
  
8. UNISON strongly believes that the provisions in the Bill will lead to a stronger, fairer and more productive economy. We endorse the evidence given to the Employment Rights Public Bill Committee by Professor Simon Deakin, Director of Cambridge Judge Business School and a leading expert in employment law and the economics of law. Professor Deakin challenged some of the assumptions made by the Regulatory Policy Committee around the economic impact of the Bill and noted that it lacked citations for its claims. Deakin went on to state *"is this Bill essential in the area of labour law for improving economic performance? Absolutely. Does it go in the right direction? Yes, it does. The research we have done in Cambridge, which I mentioned in my written evidence, shows that, on average, strengthening employment laws in this country in the last 50 years has had pro-employment effects, for various reasons. That is, as I said in my notes, not a predication or a forecast, but historically in this country, stronger labour laws are not associated with unemployment."*<sup>1</sup>

## A FAIRER ECONOMY

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<sup>1</sup> [https://hansard.parliament.uk/commons/2024-11-28/debates/a62c8a52-c2f2-4af6-afc6-bb8f03bfc8fd/EmploymentRightsBill\(FourthSitting\)](https://hansard.parliament.uk/commons/2024-11-28/debates/a62c8a52-c2f2-4af6-afc6-bb8f03bfc8fd/EmploymentRightsBill(FourthSitting))

9. The UK suffers from an insecure, low wage economy, rampant exploitation and falling living standards. Measures to increase workplace security and good quality work, upgrade individual and collective rights and tackle bad practices through a fair work agency and more active trade unions are all vital. The Bill supports good employers from being undercut by those who refuse to treat workers fairly. This will revitalise our economy and our public services.
10. Reforms to tackle insecure work are long overdue. The Work Foundation which measures the phenomenon of insecure work found that in 2023 around 6.8 million people were in severely insecure work, a rise of 600,000 on the previous year.<sup>2</sup> Many of these workers, 55%, were dependent on Universal Credit to make ends meet.
11. The Cambridge Centre for Business Research Labour Regulations index has been gathering data and analysing labour regulations in 117 countries from the 1970s to 2021. Emerging findings include positive effects on the labour share of national income, productivity and innovation.<sup>3</sup>
12. Their analysis of the UK labour market found that particular types of labour laws, including those regulating flexible working, working time, and employee representation, can have positive productivity effects.<sup>4</sup>
13. UNISON therefore welcomes a host of new rights to tackle insecure work and exploitative work and believe this will support prosperity and productivity for workers and the economy as a whole. Moving workers from insecure, badly paid work to well-paid, secure work won't just benefit them day to day – it will help their future pension income and their retirement.

#### **Zero hours contracts**

14. UNISON welcomes the Government's intention to end 'one sided' flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period. The Bill also introduces a right to a reasonable notice of shifts and payment for shift cancellation and curtailment at short notice. We strongly welcome the proposals made by

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<sup>2</sup> [The UK Insecure Work Index 2024 - Lancaster University](#)

<sup>3</sup> [Comparative legal regulation of digital employment • Digit](#)

<sup>4</sup> [The economic effects of changes in labour laws: new evidence for the UK • Digit](#)

Government to include agency workers within these provisions and have made a detailed submission to the Government's consultation on its proposals. By prompting employers to offer secure contracts to individuals, this provision will reduce the creeping reliance on casual workers in sectors like the NHS (with over 40,000 registered nurse vacancies<sup>5</sup> and a large number of 'bank only' staff).

### **Fire and rehire**

15. Fire and rehire has been a significant issue for UNISON. Members in British Gas, for example, were threatened with fire and rehire during the pandemic, with all employees told they would have to sign new contracts on far worse terms and conditions than currently – or face redundancy. It is also used across public services to undermine decent standards of employment. The provisions in the Bill are welcome and UNISON is making detailed submissions on the Government's proposals.

### **Unfair Dismissal**

16. UNISON welcomes the Government's introduction of a day-one right not to be unfairly dismissed rather than the current two-year qualifying period. This could mean immediate protection against unfair dismissal that sits alongside the fair and transparent reasons for which for employment can be terminate including during the probationary period. UNISON will be engaging fully in the consultations and discussions around this new right to ensure that it is meaningful and workable.

### **Sexual harassment, gender pay gaps, menopause and maternity**

17. The Bill will increase protections from sexual harassment in the workplace, introduce gender pay gap action plans, strengthen protections for workers going through menopause. It will also introduce greater protections for pregnant workers, making it unlawful to dismiss them within 6 months of returning to work. UNISON believes that there is huge potential for the Bill to be life-changing for women workers. The Bill will protect pregnant workers from redundancy for up to six months on return to work. New protection from dismissal would be significant, providing security of employment in the vital early months after a baby's birth. Strengthening menopause protections will improve productivity, retention and employee wellbeing, preventing workers being pushed out of well-paid, secure work. Women make up 51% of the UK workforce<sup>6</sup> and will experience the menopause at some point.<sup>7</sup> An evidence

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<sup>5</sup> [NHS Vacancy Statistics England, April 2015 - March 2024, Experimental Statistics - NHS England Digital](#)

<sup>6</sup> [www.ons.gov.uk/employmentandlabourmarket](http://www.ons.gov.uk/employmentandlabourmarket)

review by the Government Equalities Office highlights the extent to which menopause transition affects women's economic participation in the UK,<sup>8</sup> with women reporting an experience of "*gendered ageism*." There is substantial evidence that older women face a greater gender pay gap than their younger counterparts.

## Social care

18. The social care system is close to breaking point. The toxic combination of years of chronic underfunding and a dysfunctional, under-regulated market system means that thousands of elderly and disabled people are unable to get the level of care they need, while money continues to bleed out of the system to profit-driven care providers.
19. Workforce shortages are a big problem in adult social care, with the current vacancy rate one of the highest in any sector of the economy<sup>9</sup> and more than 130,000 roles unfilled across England. A key driver of the high vacancy rate in adult social care is endemic low pay. IPPR analysis for the Living Wage Foundation before the general election found that more than 400,000 adult social care workers in England were paid below the real living wage (43% of the total).<sup>10</sup> Research from 2022 found that over a quarter of the UK's residential care workers lived in, or were on the brink of, poverty – and that nearly a tenth experienced food insecurity.<sup>11</sup>
20. There are other costs to this long running public policy failure: Inaction has created a direct cost to the NHS in terms of delayed discharge. The latest *State of Care* report from the Care Quality Commission found that waits for care home beds and home-based care accounted for almost half of the delays in discharging patients who had been in hospital for more than 14 days, with nearly 4,000 people delayed on an average day.<sup>12</sup> A new and regularly updated Fair Pay Agreement for Adult Social Care in England, therefore, has the potential to be a gamechanger.
21. UNISON welcomes the proposals in the Bill to create a framework for the establishment and implementation of a legally binding agreement that would set out matters relating to pay and other terms and conditions for workers in

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<sup>7</sup> It can affect younger women too through a premature or a medical or surgical menopause. It can also affect transgender and non-binary people.

<sup>8</sup> GEO (2017) '*The effects of menopause transition on women's economic participation in the UK*' [www.gov.uk/government/publications/menopause-transition-effects-on-womens-economic-participation](http://www.gov.uk/government/publications/menopause-transition-effects-on-womens-economic-participation)

<sup>9</sup> [Skills for Care](#), A workforce strategy for adult social care in England, July 2024

<sup>10</sup> [Living Wage Foundation](#), The real living wage in social care, June 2024

<sup>11</sup> [Health Foundation](#), The cost of caring: poverty and deprivation among residential care workers in the UK, October 2022

<sup>12</sup> CQC [state of care](#) report

the adult social care sector. The agreement would be negotiated by an Adult Social Care Negotiating Body in England that would be made up of relevant employer and trade union representatives.

22. This welcome development heralds the changes that are desperately needed by care workers and the wider sector. UNISON welcomes this commitment to bring staff in adult social care within the scope of collective bargaining on pay and other matters and urges the earliest possible implementation. Low pay and lack of professional recognition are inextricably linked in the social care sector. Experienced care workers (with five plus years in the sector) are paid on average just 8p more than new starters meaning that there is little incentive for workers to remain in the sector and no meaningful career progression.

### **School Support Staff Negotiating Body (England)**

23. UNISON has actively campaigned for the reinstatement of the School Staff Negotiating Body (SSSNB) since it was scrapped by the Coalition government. We believe this reinstatement is key to providing professional recognition for a group of staff which has been overlooked by the government for too long.
24. The Bill will establish the SSSNB, which gives the Secretary of State powers to ratify agreements reached by it on school support staff terms and conditions and makes provision about the effect of ratified agreements, as well as the power to issue related statutory guidance. The body would work toward a number of goals for support staff including: giving them a proper voice in the national education conversation; achieving fair pay and helping move towards a synchronised package of terms and conditions across the country; ensuring that they are properly rewarded for their work and granted opportunities for professional development; and protect dedicated support staff from pressure to regularly do work above and beyond their grade. This is of key importance.

### **Statutory sick pay**

25. UNISON welcomes the commitment to improve statutory sick pay (SSP), which is most likely to be relied upon by low-paid workers. Proposals to remove the lower earnings limit, to make it available to all workers and remove the waiting period will make a significant difference to low paid and part-time workers, who are mainly women. A fair earnings replacement for people earning below the current weekly rate of SSP is also vital.

## **A MORE MODERN AND FLEXIBLE WORKPLACE**

26. The ERB will make flexible working a day one right for all workers by default – UNISON welcomes this expansion, and we believe that if done correctly it could transform the life chances of those who are pushed out of well-paid work because of rigid workplace cultures. This particularly affects women who often feel forced into less well-paid part-time work that does not match their skills.
27. UNISON also welcomes the commitment to review parental leave and carers' leave. Parents and carers represent a huge proportion of the workforce. Employers have everything to gain by helping them juggle their home and work responsibilities. Too many workers are struggling to stay in work while also caring for their loved ones. The proposals for widening and strengthening bereavement leave are also welcome. Bereavement can have a significant impact on a person's life and work, if workers are not adequately supported at the appropriate time.

### **SOCIAL PARTNERSHIP AND BETTER INDUSTRIAL RELATIONSHIPS**

28. The Bill repeals damaging anti-trade union legislation and proposes modernisation of the industrial relations framework. UNISON welcomes this recognition of the role trade unions play in tackling exploitation, promoting fairness and bargaining for better conditions and better services.
29. Trade union activity provides workers a place to voice their experiences and therefore plays a central role in resolving disputes in the workplace and in avoiding industrial unrest. UNISON has long argued that the effect of the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023 was only going to prolong disputes in the workplace, making them more difficult to resolve swiftly and amicably. In simplifying industrial action laws and removing hostile and unneeded legal hurdles, the Bill can support a reset of industrial relations in Great Britain, with changes to strike processes a spur to re-instate positive dialogue between workers and employers. This is of particular importance in public services, where the employer's role in negotiating pay and terms is subject to Ministerial oversight/other external processes.
30. UNISON supports the Bill's acknowledgment of the importance of tackling inequality at work by proposing formal status for local workplace Equality Representatives.
31. UNISON also welcomes proposals to support our work in organising, recruiting and bargaining – the essential activity that helps challenge exploitation, protect workers and raise standards at work. These include: access rights to meet and support members in their breaks; strengthening of

facility time rights; trade union recognition; consulting on the introduction of electronic balloting; and stronger measures to tackle blacklisting.

32. By working together to implement the raft of changes in the Bill, employers and trade unions can initiate or cement positive industrial relations in the workplace, supported by appropriate guidance and support at a sectoral level where appropriate.

### **Outsourced workers**

33. UNISON also welcomes protections for outsourced workers through the reinstatement of the two-tier code. For too long outsourcing has created a two-tier workforce where staff moved outside direct public sector employment via procurement decisions have suffered a worsening of their pay, pensions, terms and conditions. The Bill enables Ministers to create a statutory code to prevent the emergence of a 'two tier workforce' when outsourcing occurs. UNISON supports measures to reduce outsourcing and its impact on the status, pay and terms of workers. Increased scrutiny at procurement stage will mean more effective consideration of the full employment costs of provision associated with each contract, and decrease the likelihood of service-failure or in-contract cost-inflation. Public procurement should be on the basis of service quality not exploiting low paid workers.

### **Immigration**

34. An important area for further work is the UK's immigration rules which leave migrant workers vulnerable to the worst forms of exploitation and at the mercy of unscrupulous employers<sup>13</sup>. The fact that people on skilled worker visas are totally dependent on an employer for their right to live and work in the UK means that challenging any injustice or attempting to access workplace rights can result in deportation. UNISON believes this needs to be urgently addressed in order to make the provisions in the bill a reality for overseas workers. We believe that individual employer sponsorship should be replaced by a sector-wide sponsorship scheme which has a rights-focused approach which treats migrant workers with dignity and respect.

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<sup>13</sup> <https://www.unison.org.uk/news/general-secretarys-blog/2023/11/blog-the-shocking-treatment-of-migrant-workers-harms-us-all/>