



Collective bargaining machinery: a solution to 'chaos' in the HGV sector

by

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for

The Institute of Employment Rights

and

Unite the union



INTRODUCTION

The UK haulage industry is in crisis. Claims that it is 100,000 drivers short are thought to be an under-estimate by Unite members. The average driver is now in his (rarely ever her) mid-50s and younger drivers are simply not joining the industry.

Rocked by the global financial crash in 2008, many drivers left the sector. Employers used migrant workers to mask the problem when recovery came, but the pandemic, supply chain changes and the ageing workforce have eventually all taken their toll.

UK haulage now has to decide: will it continue to limp from crisis to crisis, or will it accept that only worker-focused changes can bring stability?

Having largely created this crisis, it is down to the industry and government to address the problems besetting the UK haulage.

Unite members understand that we have an opportunity now to roll back decades of decay – and that is what we are determined to do.

Working with the Institute for Employment Rights, we have taken a considered look at the problems bedevilling the haulage industry in the UK and come up with a proper set of proposals for rectifying them.

Unite's preferred solution lies in establishing sector-wide bargaining to put a solid floor under this workforce and to remove the race to the bottom incentive much loved by bad employers.

It's high time that the UK government met its international obligations to encourage the conditions for the establishment of a system of sector wide standard setting with unions, employers and government all at the table.

This body would be charged with bringing significant improvements to working conditions that see lorry drivers treated with hostility and inhumanity, refused the use of toilet facilities, presented with disgusting truck stops or priced out of road transport restaurants.

Sectoral bargaining would also ensure that pay and conditions are improved and consolidated.

Above all, sectoral bargaining would restore stability and avoid further shocks to the industry. It is time to put drivers back where they belong, at the heart of the industry.

Unless and until the industry does so, change will be deadly slow and this fractured, cut-throat sector will continue to stumble from crisis to crisis.

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¹ With thanks to Dr. Andrew Moretta of the University of Liverpool, Carolyn Jones of the Institute of Employment Rights, and Adrian Jones of Unite the Union for their comments on a draft of this paper.

I) Introduction

Public awareness of the crisis sweeping the HGV transport sector built steadily over the course of 2021 until by August it was daily headline news. By mid-September the situation escalated again as fuel deliveries faltered, and lines of cars queuing outside filling stations and ‘no fuel today’ signs joined the gnawing discomfort of sporadic shortages on supermarkets shelves, all symptoms of a supply and delivery chain under severe strain. Analysis in the media has ranged from easy answers and scapegoating (‘it’s Brexit’, ‘it’s migrants’, ‘it’s inflation’, ‘it’s new tax rules’...) to more sophisticated analysis that has recognised longer term trends (factors like the aging workforce, the lack of roadside facilities, and already long working hours that were pushed even harder to meet the demands of the pandemic). Certainly the indignities of hastily constructed mass lorry parks and Brexit-linked bureaucratic wrangling at borders haven’t helped matters. But growing awareness of labour shortages in other sectors and reports of significant driver shortages across Europe further complicate analysis.

The fact is that the present crisis has many causes, and it is the interactions between these factors that have created this particular situation. Industry, the trade unions, the media, and indeed the general public are rightly concerned by what is taking place, and there is an obligation to investigate how the situation has come about and to understand the steps that might be taken to bring about a solution. This report will argue that many of the issues mentioned above were indeed contributory factors but that no single one of them ought to be regarded as the sole or even primary cause. Rather, this report will argue that there are a series of problems in the industry, and in part due to a changing society, that have made the job less attractive and that these have contributed to a gradual attrition of the workforce that has been compounded by a failure to recruit new workers, particularly young workers. This situation has been severely exacerbated by structural issues that leave the sector vulnerable to economic shocks that cause rapid and dramatic contraction and expansion. These shocks, of which Covid-19 and Brexit are but the most recent examples, have been the *amplifiers*, exacerbating existing recruitment and retention problems by forcing large numbers of workers out of the industry, which struggles to recruit new drivers every time there is re-expansion.

In summary this report finds:

- There is significant dissatisfaction with working conditions (including but by no means limited to pay) causing long-term and on-going attrition of the workforce, and that this dissatisfaction is based on real grievances and problems.
- That the workforce is aging and that a failure – over many years – to train, recruit and retain young drivers means that current labour shortages will be exacerbated as the majority of existing drivers approach retirement over the decade or so ahead.
- That there is a recurring problem of drivers being forced out of the industry after economic shocks and difficulty recruiting when the economy recovers. That this is a systemic problem in a crucial industry warranting sector-based strategies to resolve the present crisis and to prevent and manage the effects of future economic impacts.
- That the impacts of the 2008 global financial crisis are still felt in the industry after that economic shock forced many drivers out, but that recruitment failed to keep pace as the economy recovered, creating a deep long-term problem of a substantial shortage of drivers.
- That the government and industry knew about this problem years ago, what caused it, and that the shortfall was projected to keep growing.
- That a migrant workforce has been a sticking plaster approach that was in no way sufficient to address deep underlying problems, and that the reported 14,000 – 20,000 EU national drivers reported recently to have left is not the primary cause of a shortfall now estimated at 100,000, and which is projected to get worse as an aging workforce approaches retirement.

The full Summary and Conclusions are set out in more detail at the close of this report.

This report investigates how and why these problems have come about and assesses and endorses Unite's proposal that a sectoral committee of some kind will be an essential part of any long-term and sustainable solution. It does so by examining the role that sectoral negotiation and standard setting have played over the history of the mechanised road transport delivery industry, finding that the unregulated periods of history of this sector have been

recognised as periods of ‘chaos’, while the various periods of sectoral regulation have been broadly recognised as positive and constructive. The report recognises that there are issues of broad agreement between industry and Unite that may serve as the basis of effective sectoral working and that there is a recent precedent of effective sector-wide work being undertaken involving cooperative work between Unite and the industry. The report further notes the British Government’s obligations under international law to ‘promote’ conditions under which appropriate machinery for collective bargaining can be established and argues that the Government, industry and the trade unions can and should work towards the establishment of a system of sector wide standard setting. Such a body would be well placed to address the problems in the industry that otherwise have almost no chance of being implemented in such a fractured and competitive sector.

Matters that might effectively be addressed by a sectoral standard-setting body include:

- Negotiating significant improvements to working conditions and pay to build a sustainable industry for the future that will be capable of attracting and retaining drivers.
- Working across industry to ensure that pay and conditions are managed so as to avoid the damaging impacts of short-term bidding wars for recruitment based on unsustainable bonuses and the long-term damaging impacts of downward pressure based on unregulated competition.
- Developing strategies to anticipate and manage shocks to the industry, to manage and retain skills and experience across periods of economic downturn and recovery, and to facilitate entry and re-entry to the profession.

This paper elaborates what a modern sectoral framework might look like and in a series of Recommendations at the close of the report sketches out the practical steps that Unite, employers and the Government should take to establish such a body.

II) The HGV sector

Throughout the past one hundred years the sector has been notoriously competitive and fragmented, with a relatively small number of very large operators who maintain large fleets of vehicles and employ significant numbers of drivers through to the many thousands of small or micro businesses and owner-drivers. The growth of such a fragmented industry is often attributed to the early 20th Century when ‘immediately after the 1914–18 war the Government disposed of all the lorries which they had used during the war, with the result that road haulage contractors sprang up like mushrooms and the multiplicity of contractors made the position of the industry chaotic’². This complex situation has continued, despite the growth of a number of very large haulage companies, and it was noted by the Transport Committee in a 2016/17 report that, ‘The industry is highly competitive with about 36,500 enterprises’³. In 2005 as many as 329,000 people were reported to be worked as LGV drivers. This fell rapidly to a low of 259,000 following the 2008 global financial crisis, recovering (though not entirely) over several years⁴. The numbers working in the industry have suffered further recent shocks in the wake of ‘Brexit’ and the Covid-19 pandemic, which briefly sent demand for drivers plummeting, followed by a surge - with demand for drivers currently outstripping available supply.

Most people working in the industry are employees, but self-employment is a growing trend, with about 33,000 self-employed drivers in 2016, according to evidence supplied to a Transport Committee Inquiry by Unite. There are also significant seasonal variations in demand for drivers that have further fuelled a tendency to rely on agency and foreign drivers. There are more vehicles than drivers, and there are far more people in the UK who hold relevant licences than there are currently working commercially as drivers. In 2016 there were said to be around 470,000 large goods vehicles over 3.5 tonnes registered in the UK, 390,000 of which were taxed as goods vehicles. An Inquiry by the Transport Committee in 2016/17 found clear evidence of a shift ‘towards the use of larger vehicles; goods moved by large rigid lorries (over 25 tonnes) and large articulated lorries (over 33 tonnes), which increased by 67% and 49% respectively between 1990 and 2014’, and noting also that ‘over the same period goods moved by small rigid lorries and small articulated lorries declined by 86%’⁵.

² Mr. Awbery, MP for Bristol, Central, Hansard, Orders Of The Day ‘Wages Councils Bill’, Volume 457 (4 November 1948), at: <https://hansard.parliament.uk/Commons/1948-11-04/debates/2035f4fb-35fd-47f2-a884-6d672f137d5d/OrdersOfTheDay>

³ Further written evidence submitted by the Department for Transport (RHS0027) *Skills and workforce planning in the road haulage sector* House of Commons Transport Committee, at: <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Transport/Road%20haulage%20sector%20Skills%20and%20workforce%20planning/written/32390.html>

⁴ Further written evidence (RHS0027) Transport Committee

⁵ Further written evidence (RHS0027) Transport Committee

A fluctuating demand for freight

The ‘road freight transport’ (or ‘road haulage’, to use the more traditional term) sector plays a fundamental and strategically important role in the United Kingdom as the single most important method of transportation for all goods and freight⁶. According to the House of Commons Transport Committee, ‘almost everything that people use in their daily lives has, at some stage, been transported by a large goods vehicle’⁷, and in 2019, 79% of goods moved within Great Britain were moved by road⁸. In 2014 this amounted to 151 ‘billion tonne kilometres’ of goods moved compared to 23 and 29 billion tonne kilometres for rail and water⁹. While a shift to online shopping has seen an explosion in the use of smaller delivery vans, it remains the case that the great majority of ‘goods lifted’ are transported by heavy goods vehicles (HGVs), defined as those over 3.5 tonnes gross laden weight.

The sector suffered a tremendous downturn with the 2008 financial crisis, suffering a fall in the volume of domestic freight, from which it had not entirely recovered even by 2019, although a varied but more or less upward trend since then was continuing with a 1% increase in road freight over the year to 2019¹⁰. However, the sector suffered an even more precipitous decline in March 2020 with the first lock-down of the 2020 pandemic, eclipsing any movement over the preceding 15 years, according to the Office of National Statistics¹¹. By the final quarter of 2020, however, the sector had bounced back to pre-Covid levels. Over the year, however, a marked decline was apparent as ‘goods lifted’ (a measurement of weight) in the UK by GB-registered HGVs decreased by 12% over 2020, while ‘goods moved’ (a measurement of weight multiplied by distance) decreased by 11% to 136 ‘billion tonne kilometres’ over the same period¹². ‘Goods moved’ recovered swiftly to approach pre-Covid (and pre-2008) levels, but while ‘vehicle kilometres’ and ‘goods lifted’ also returned to pre-Covid levels¹³ these measures remain significantly below those prior to the 2008 financial crisis¹⁴.

⁶ ‘...a vital contribution to the economy’, *Skills and workforce planning in the road haulage sector* (Fourth Report of Session 2016–17), House of Commons Transport Committee

⁷ *Skills and workforce planning*, Transport Committee

⁸ Department for Transport (2020). Transport Statistics Great Britain 2020.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/945829/tsgb-2020.pdf

⁹ *Skills and workforce planning*, Transport Committee, citing *Statistical release – Domestic Road Freight Statistics, United Kingdom 2014, 26 November 2015*, Department for Transport.

¹⁰ see chart ‘Domestic Freight, goods moved by mode 1999-2019’, *Transport Statistics Great Britain 2020*, Department for Transport

¹¹ Chart 2: Trend in goods moved, goods lifted and vehicle kilometres by GB-registered HGVs, 2004 Q4 to 2020 Q4, indexed to 2004 Q4 [Table RFS0101], Office for National Statistics

¹² *ibid.*

¹³ *ibid.*, and *Domestic Road Freight Statistics, United Kingdom 2020*, Department for Transport (29 July 2021)

¹⁴ Chart 2: Trend in goods moved, goods lifted and vehicle kilometres by GB-registered HGVs, 2004 Q4 to 2020

Jobs for drivers, drivers for jobs?

Throughout 2021 concerns about a shortage of drivers have been growing, and in July came the issue of a ‘letter to industry’ from Government, citing businesses under ‘severe pressure’¹⁵. Despite this letter, and the numerous media articles that were appearing on a daily basis to decry the shortage (which was also apparent for all to see at first hand, as supermarkets struggled noticeably to maintain stock on their shelves), the Government did not appear to fully grasp the seriousness of the situation. While Britain’s tabloids played up some of the more dramatic aspects of the story, and cited somewhat fanciful stories about runaway pay inflation, a quote from the usually more restrained *Financial Times* gives an insight into the sense of rising panic: ‘A shortage of truck drivers has led to empty shelves in British supermarkets. There is even talk of the army being called in to help’¹⁶. ‘Widespread supply chain issues caused by the driver shortage have hit a range of sectors, including food, drink and medicines’, wrote the BBC¹⁷. In September 2021 the BBC quoted industry sources as saying that ‘The government seem to finally understand the scale of the problem. For the first time they looked rattled’¹⁸. According to Logistics UK, which represents haulage companies and other transport sector businesses, ‘The UK is facing a driver shortage of 76,000’¹⁹. More recent estimates are even higher, from 90,000 to 100,000²⁰.

For industry to say that only in September 2021 did the Government ‘finally understand the scale of the problem’ is extraordinary. It is extraordinary for two principle reasons; firstly, because the situation is not new – it was a well understood and widely shared view at least 5 or more years ago (as a Transport Committee inquiry held at that time makes clear – indeed that same Committee received evidence of the problem dating back at least a further decade); and secondly, it is surprising precisely because the aforesaid Committee received extensive evidence concerning the matter, and published a report which made very clear and direct findings. If the Transport Committee, the Ministry for Transport, leading trade unions, the main industry associations, major haulage companies, and haulage sector training representatives all understood the situation clearly 5 years ago, serious questions need to be

¹⁵ HGV driver shortage letter to industry from Department for Transport, Department for Work and Pensions, and Department for Environment, Food & Rural Affairs (20 July 2021), at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004268/hgv-driver-shortage-letter-to-industry.pdf

¹⁶ S. O’Connor, ‘UK truck driver shortage signals a broken labour market’, *Financial Times* (24 August 2021)

¹⁷ S. Jack, ‘Government to shorten HGV driver testing process’, BBC (9 September 2021)

¹⁸ *ibid.*

¹⁹ Logistics UK (2020) Skills and Employment Report 2020.

<https://logistics.org.uk/CMSPages/GetFile.aspx?guid=86764e99-6b36-4517-a93d-f567ebfa0ada&lang=en-GB>

²⁰ Driver shortage crisis: UK business groups demand action, Logistics UK (22 August 2021), at:

<https://logistics.org.uk/media/press-releases/2021/august/driver-shortage-crisis-uk-business-groups-demand-a>, and S. Miskin, ‘HGV driver says 40% pay rise shows industry’s desperate situation’, BBC (1 September 2021), at: <https://www.bbc.co.uk/news/uk-england-coventry-warwickshire-58409277>

asked about how it was possible for the Government to remain unaware of the full extent of the problem until September 2021.

An extract from the Transport Committee's report sets out the situation quite frankly as it was then understood (at the time of the 2016-17 Inquiry), 'Concern about a shortage of drivers is not new. In a joint statement ahead of a meeting with HM Treasury in February 2015, the Freight Transport Association (FTA)²¹ and the Road Haulage Association (RHA) estimated that the haulage industry was short of about 45,000 drivers and that a further 40,000 drivers would leave the industry by 2017. In their evidence to our inquiry the FTA said that the sector was short of 43,000– 45,000 drivers but the RHA suggested it was closer to 60,000'²².

It appears that the Government did then know about the shortage, despite having apparently subsequently forgotten the issue. As the report noted, 'The Government agrees with the industry estimate of a shortage of about 45,000 drivers. It told us that the problem was long-standing and had been evident a decade ago'²³. The report further observes that 'Unite the Union's evidence provided us with a broadly similar figure'. Expert evidence submitted to the Inquiry showed that the problem was worsening over time, 'the UK Commission for Employment and Skills found that LGV driver was not listed in the top ten hard jobs to fill in 2012 but was third by 2014'. And 'the Chief Operations Officer of Hermes Europe said companies were finding it really hard to get hold of drivers' observing further that the problem 'was getting worse'. This point was re-iterated by 'a number of other witnesses'. Indeed, the written evidence that the Department for Transport submitted to the Transport Committee inquiry appears to indicate that all of these issues were well understood at the time, 'We know there is a significant shortage in lorry drivers. [...] Industry estimates a shortage of about 45,000 drivers, which we agree is a sound estimate of the scale of the problem'²⁴.

Even more significantly, the Department for Transport seems to have been fully aware at that stage not only of the fact that a driver shortage existed, but also that it was a long-standing problem, and crucially also well-aware of how the 2008 financial crisis and the rapid downturn and re-expansion of the sector in the wake of that had forced drivers out of the industry creating a lacunae, and how this had been filled with the sticking plaster approach of over-reliance on migrant workers:

²¹ The FTA is now known as 'Logistics UK', see below. Both it and the RHA are employer associations

²² *Skills and workforce planning*, Transport Committee

²³ *Skills and workforce planning*, Transport Committee

²⁴ *Skills and workforce planning*, Transport Committee

The shortage results in the extensive use of nationals from other EU countries moving to and living in the UK, difficulties fulfilling deliveries and quality control challenges with drivers. The problem is long-standing and was evident a decade ago. The 2008 recession led to a reduction in demand, but also a loss of drivers from the industry. The recovery from recession, particularly strong growth in demand for freight in 2014 increased the shortage²⁵.

These were crucial factors that had interacted to *amplify* a more fundamental problem: that driving was losing its appeal as a profession, not only for new entrants, but also among those who already held relevant qualifications and had long-standing experience. This was also a conclusion of the Transport Committee in 2016, ‘It is imperative that the industry takes steps to improve the terms and conditions so it can recruit and retain the drivers it needs²⁶. Had this final, critical, factor not been the case, the ordinary logic of supply and demand would have saved the day – there are far more qualified drivers in the country than there are jobs available. But since the profession had lost its sheen, and the cab was no longer a place where many wanted to work (under prevailing conditions), the triple shocks of the financial crisis, Covid-19, and Brexit, were enough to throw the wheels off the machine.

The crucial question, what will it take to put them back on again?

²⁵ Further written evidence (RHS0027) Transport Committee

²⁶ *Skills and workforce planning*, Transport Committee

Box. 1

What happened to the HGV sector?

The scene setting ‘big event’ was the precipitous fall in demand for freight during the 2008 financial crash, which saw a consequent fall in employment²⁷, forcing many drivers out of the industry. This event set certain patterns in motion and its impact still resonates. As the sector recovered many of the former drivers had moved on to other work, or their professional credentials²⁸ had lapsed²⁹, or they simply no longer viewed the sector as an attractive employment option. Significant numbers chose not to return, creating a large shortfall in the pool of qualified drivers ready and willing to work professionally in the sector. Even over the years of economic recovery this situation was compounded as drivers have continued³⁰ to leave the industry for one reason or another³¹.

Despite the significant shortfall thus created, the problem has, until now, been largely mitigated by a rapidly growing number of migrant workers (many of them from the European Union) who took up employment in the sector. The presence of migrant workers (and the influx of foreign-registered HGVs carrying freight in and out of the UK) helped to mask the problem, but did not resolve it. Over the course of 2020 and into 2021 the combined disruptions of the UK’s departure from the European Union (‘Brexit’), and the Covid-19 global health pandemic, have had further impacts upon both the domestic and migrant workforce, greatly exacerbating both the shortfall and its visibility to the public³².

²⁷ Further written evidence (RHS0027), Transport Committee

²⁸ The Driver Certificate of Professional Competence (CPC), needed to obtain a ‘driver qualification card’ (DQC), must be renewed every 5 years for a driver to work professionally, see: <https://www.gov.uk/become-lorry-bus-driver/after-youve-qualified>

²⁹ Department for Transport statistics cited by the 2016 Transport Committee Inquiry indicated a large pool of people holding an LGV licence but not holding an up to date DQC and not currently working as LGV drivers.

³⁰ ‘Between 20,000 and 40,000 people pass their tests to become truck drivers in a non-pandemic year, but many appear to leave the sector’, see S. O’Connor, ‘UK truck driver shortage signals a broken labour market’, Financial Times (24 August 2021)

³¹ These factors will be discussed below

³² Logistics UK (2020) Skills and Employment Report 2020.

<https://logistics.uk/CMSPages/GetFile.aspx?guid=86764e99-6b36-4517-a93d-f567ebfa0ada&lang=en-GB>

What went wrong, and how do we fix it?

Despite a fixation with getting EU migrants back to address the problem, Logistics UK (an industry body) nonetheless appears to recognise that Brexit and Covid-19 merely exacerbated an *existing* situation, ‘there was a shortage of HGV drivers prior to the Covid-19 pandemic and Brexit, these two events have exacerbated the situation; the pandemic halted driver training and testing for more than 12 months’³³. Certainly it is not just a recent wave of departures by migrant workers that has created the present crisis. Analysis of the ONS Labour Force Survey Q2 for Logistics UK by independent research company Repgraph ‘has shown that 14,000 EU HGV drivers left employment in the UK in the year to June 2020, and only 600 have returned in the past year (by Q2 2021)’³⁴. This is a significant impact and has doubtless contributed to making the problem visible to the wider public as more services are disrupted. But 14,000 departures are just a shock impact highlighting or exacerbating what was a pre-existing crisis. By themselves these figures are insufficient to explain how a shortfall now thought to be up to 90,000 – 100,000 drivers³⁵ came about.

Essentially the big shocks simply amplified the simple fundamental problem in this industry, which is that HGV driving is no longer an attractive profession. To understand how this problem arose, the following section will examine a wide range of issues and grievances. These include the lack of diversity in the sector, changing work practices, regulatory factors, changes to the industry, the emergence of alternatives such as the booming van sector, lifestyle and health impacts for drivers, levels of union organisation, job status and respect at work, and crucially the matter of pay. All of these contribute to the principle question of why the job is no longer sufficiently attractive. The big economic shock and awkward recovery from 2008 followed by two very recent economic shocks in succession were calamitous for an industry that was already in such a state that experienced hands were being driven out and potential new entrants were being deterred.

So, how do we ‘fix’ this?

It is not in any simple way possible to ‘un-do’ the financial crisis (although significant healing has been taking place). Neither can the impacts of the Covid-19 pandemic be wished

³³ Driver shortage crisis: UK business groups demand action, Logistics UK (22 August 2021), at: <https://logistics.org.uk/media/press-releases/2021/august/driver-shortage-crisis-uk-business-groups-demand-a>

³⁴ Driver shortage crisis: grant 10,000 temporary visas to EU workers, says Logistics UK (20 August 2021), at: <https://logistics.org.uk/media/press-releases/2021/august/driver-shortage-crisis-grant-10-000-temporary-visa>

³⁵ Driver shortage crisis: UK business groups demand action, and S. Miskin, ‘HGV driver says 40% pay rise shows industry’s desperate situation’, BBC (1 September 2021), at: <https://www.bbc.co.uk/news/uk-england-coventry-warwickshire-58409277>

away (although, likewise, economic recovery is occurring, and rapidly). And it seems (almost) as infeasible to ‘un-do’ Brexit (true, with a few tweaks to the law migrant workers could fairly easily be re-admitted, but for a Government than won on the basis that they would ‘Get Brexit Done’ this seems likely only to be considered as a stop-gap emergency measure). Since it is not realistically possible to ‘un-do’ any of the amplifying factors this leads us to the inevitable conclusion that any realistic strategy to address the shortage must be focussed on addressing the factors that have made HGV driving a less attractive profession in the first place, rather than the shocks that turned problems into a crisis. What those factors are, and some thoughts about how they might be addressed are discussed in the following section.

There is, however, a final crucial part of the puzzle to unlock before the gravity of the current situation can be fully understood. This is the ‘ageing workforce’. The phrase is innocuous in itself, and probably prompts many to shrug and think ‘truckers are getting a bit older - so what?’ The statistics outlined below hopefully make it clear why this is not an appropriate response and why this is in fact a really urgent matter. Basically there are very few young drivers, a modest pool of older drivers, and the majority of the workforce is aged over 50.

Box 2.

An aging workforce

The profound fall in driver numbers coinciding with the 2008 financial crisis saw the overall number of those working as drivers fall from 332,373 (2005) to 285,722 (2010) - a fall of 46,651. The fall was deepest across mid-career workers aged 25-44. The overall number of drivers recovered by 12,313 by 2015 and by a further 15,257 in 2019. Absolute numbers fell significantly by 35,074 from 2019 to 2020, but demand is now surging once again – to the point of the present crisis – as the economy re-opened and the HGV sector returned to scale.

There is only a small pool of younger drivers. In 2020 there was some positive news as this figure was nearly double that reported for 2015. However, compared to 2005 figures the age group has only grown slightly. In terms of absolute numbers the pool of young workers remains very low at just 32,707.

There has been a precipitous decline among ‘30-something’ drivers. The number of drivers between the ages of 30 and 44 has been in decline for more than 15 years:

Year	No. of drivers aged 30-44
2005	142,629
2010	105,478
2015	97,900
2019	81,446
2020	73,177

There is a larger pool of older drivers – but many will soon retire. For over 50s the number of drivers is comparatively high at 131,330. Rounds of desperate pay increases currently reported may retain many of them (at least for a short time) but ultimately many of these drivers, who comprise the bulk of the workforce, will be retiring over the coming years.

Driver age data from ONS³⁶

As the next ten years or so passes this has very serious implications:

- the majority of drivers are nearing retirement and **they will retire**
- there are only **half as many** mid-career drivers to replace them
- and there are only **half as many** young drivers to replace mid-career drivers
- recruitment of young drivers is increasing but at **nowhere near the scale needed** to address this.

While there is now a shortage that some are describing as a crisis this is as nothing to the shortfall that is racing towards us. In short, the problem is going to get very much more serious over coming years, unless radical action is taken.

³⁶ Large goods vehicle drivers by age group, UK, selected periods from October to December 2005 to October to December 2020, ONS, at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/12930/largegoodsvehicledriversbyagegroupukselectedperiodsfromoctobertodecember2005tooctobertodecember2020> (totals and sub-totals for grouped age brackets author’s own calculations).

III) Problems, grievances, shortfalls and barriers

As indicated in the previous section, there are many factors that have combined to create a situation in which driving is no longer the attractive profession it once was. In this section I present an overview of a number of the issues that are said to be contributing towards an overall decline in the attractiveness of the industry.

Diversity

There is no getting around the fact that HGV driving has a pretty clear image as ‘a man’s job’. The popular perception is thoroughly backed up by the hard statistical evidence: the Office for National Statistics reports that 99% of drivers in 2020 were men, and that just 1% of drivers were women (there were 275,600 men and just 3100 women HGV drivers according to ONS figures for 2020³⁷). As women now constitute almost half of the all-sector workforce (in 2020 there were a total of 15,494,800 women in employment across all sectors, compared to 16,923,200 men)³⁸ understanding the barriers that deter their entry into the profession will be essential for determining the kinds of adjustments that would most radically increase the potential pool of workers able to consider taking up driving.

All this has been well known for some time, as the Transport Committee noted in its report,

‘Drivers are predominantly over 45, white and male. The industry needs to be more representative of Black, Asian and Minority Ethnic groups and women. It must do more to encourage young people to become drivers. We do not think the sector will be able to broaden its appeal beyond its core demographic unless there are changes in the approach to driver training, the funding of licence acquisition, and facilities for drivers’³⁹.

There is no fundamental reason why women cannot work as drivers. A driver-training instructor told the Transport Committee that heavy lifting, for example, is not a relevant factor ‘The other thing I always mention whenever I am talking to women is that, in the job, I have never had to lift anything heavier than a two-year-old, and women lift those quite a lot’⁴⁰. The factors that act as a deterrent include the range of those set out below but working

³⁷ Employment by occupation (SOC2010) by sex, Nomis, at: <https://www.nomisweb.co.uk/datasets/aps168/reports/employment-by-occupation?compare=K02000001>

³⁸ Employment by occupation (SOC2010)

³⁹ *Skills and workforce planning*, Transport Committee

⁴⁰ Transport Select Committee, Oral evidence: Road haulage sector: Skills and workforce planning, HC 517 Monday 1 February 2016, at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/transport-committee/road-haulage-sector-skills-and-workforce-planning/oral/28333.html>

time and perception of the industry were key problems as was a recurring concern around the poor provision of facilities, specifically rest, toilet and washing facilities.

Poor provision of facilities

Roadside facilities for drivers are poor and drivers have often had difficulty finding toilet and washing facilities, and decent places to take their statutory rest breaks. A (woman) driver and training instructor told the Transport Committee in evidence that it was ‘common for drivers to be refused access to facilities at delivery sites’⁴¹. While aspects of the poor provision of facilities have a more pronounced impact on women in an industry geared towards a 99% male workforce it is interesting to note that the problem has been repeatedly cited as a grievance by men working in the sector. This suggests that action to tackle these barriers could make the job more appealing to men, as well as very significantly more appealing to women.

As with a number of the other issues raised there is widespread agreement that change is needed, and it is a view shared by the main representatives of Industry and by trade unions. Logistics UK has called for ‘a dramatic improvement in driver facilities, such as safe places to rest, sleep and take refreshment breaks’. The industry clearly views the Government as a key actor in this, ‘the Government can enable the provision of more suitable parking spaces’⁴². In evidence to the Transport Committee Inquiry Unite’s representative identified three crucial reforms needed to improve the sector

Number one would be work-life balance and long hours. Number two would be facilities—for drivers to be able to access proper and secure facilities. The third would be career progression. In order to recruit new drivers and help licensed and qualified drivers to return to the sector operators will need to take steps to: improve conditions, including pay and terms and conditions; address diversity and imbalance in the workforce; and tackle barriers to entry for new drivers⁴³.

Unite further added

Toilet breaks are a basic necessity, but for the UK’s 300,000 plus truck drivers getting access – if at all – to decent loos is a lottery. It’s humiliating and degrading – not to mention a public health hazard. Our truck driver members regularly report serious failings, including filthy facilities, no running water, no lockable cubicles, no soap or

⁴¹ *Skills and workforce planning*, Transport Committee

⁴² Logistics UK (2020) Skills and Employment Report 2020.

<https://logistics.org.uk/CMSPages/GetFile.aspx?guid=86764e99-6b36-4517-a93d-f567ebfa0ada&lang=en-GB>

⁴³ *Skills and workforce planning*, Transport Committee

too roll in facilities provided by employers and public conveniences. In some cases access to toilets is denied altogether⁴⁴.

Outsourcing

Outsourcing is a widely prevalent business practice in the UK and globally. It can take various forms, from quite extreme forms that strip a business of its main productive and substantive operations (such as a clothing company that closes and sells its factories and contracts out work to third party factories – even overseas, in which case the practice is referred to as ‘off-shoring’) to those that leave core activities untouched and consist merely of the occasional contracting of external expertise. There is a world of difference between the two, yet both, and many shades in between, are now very widespread practices, with a recent YouGov poll indicating that 70% of British businesses outsource work to third parties⁴⁵. The contracting of agencies to supply workers on an ad-hoc basis is another form of outsourcing, and it is one that has attracted concern with respect to employment rights. This form of outsourcing is increasingly common in the HGV sector. Research into transport and warehousing by Dr Akilah Jardine and Dr Alexander Trautrim from the University of Nottingham’s Rights Lab confirmed that

many companies in the sectors now predominately use agencies to fill their workforce. This is problematic as extant research has shown that agency workers are often at higher risk of poor labour and employment practices due to the lack of oversight and accountability⁴⁶.

⁴⁴ *Skills and workforce planning*, Transport Committee

⁴⁵ R. Supryan, ‘Seven in ten British businesses outsource to third parties’, YouGov (24 Oct 2019), at: <https://yougov.co.uk/topics/finance/articles-reports/2019/10/24/seven-ten-british-businesses-outsource-third-parti>

⁴⁶ *Disposable workers? Experiences of work in road freight transport and warehousing* (2021)

Dr Akilah Jardine, Rights Lab Research Fellow in Antislavery Business and Communities, and Dr Alexander Trautrim, Associate Director of the Rights Lab (Business and Economics Programme), University of Nottingham

Box 3.

Outsourcing: impacts on job security and labour rights

A recent report produced by the European Trade Union Institute makes the following observations regarding the rationale for outsourcing and the impacts it can have (that may, or may not, be intentional) in respect of job security, work conditions and collective bargaining

Outsourcing, or a shift of activities performed within a company to its suppliers, has become widespread. This strategic choice has become increasingly available not only to large companies and multinationals but also to smaller ones. Production networks in many sectors have thus become increasingly fragmented. Outsourcing has also been pursued by public sector organizations. Cutting labour costs by lowering pay, increasing work intensity and/or shifting flexibility costs to workers are just some of the motivations for outsourcing. But it can also be used to circumvent employee representation and collective bargaining systems within companies, and labour market regulations in general. Though such intentions may not drive the bulk of outsourcing decisions, any change in company boundaries is likely to impact employment, working conditions and industrial relations in the value chain.

[...]

The rationale behind subcontracting is to devolve risk, costs (infrastructure, means of production) and flexibility demands down the value chain. Contractors enter short-term contracts with subcontractors (cancellation periods of one month; payment per parcel irrespective of the ups and downs in business) and benefit from the imposed flexibility of their service partners. Subcontractors have hardly any organizationally substantial relationship to the third-party logistics service providers and are characterized by individualized and insecure work arrangements⁴⁷.

‘Some workers acknowledged the benefits of being employed with an agency’, according to the University of Nottingham Rights Lab project, which cited both worker interviews and comments gathered from online HGV forums to support the claim⁴⁸. The comments from these workers are revealing, and suggest that it is frustration with an industry that has become too demanding of their time and energy that has driven them to prefer agency working, rather than a simple preference, ‘Agency work also has its problems, but I’d rather work for an agency and take annual leave whenever I want to’⁴⁹. Another expressed frustration that working ‘direct’ meant that shift patterns could be ‘any five days out of seven. Whereas with the agency, I could turn around and say “Look, I’m only doing one day this week. I’ve got

⁴⁷ J. Drahokoupil (Ed.), ‘The outsourcing challenge: Organizing workers across fragmented production networks’, at: http://englishbulletin.adapt.it/wp-content/uploads/2015/07/etui_07_20151.pdf

⁴⁸ Disposable workers? Experiences of work in road freight transport

⁴⁹ *ibid.*

that flexibility⁵⁰ (and see comment in footnote). Despite some recognition that agency working could be preferable due to allowing workers to choose to work fewer shifts there was also concern around the prevalence of outsourcing and agency work. The report notes that the ‘general consensus from drivers was that agency workers have poorer working terms and conditions compared to directly employed staff. Negative attitudes towards agency work predominately concerned the terms and conditions of their work’⁵¹. Many drivers reported that agency workers feel their working arrangements are ‘unstable and insecure’.

One practice that emerged in the industry was for companies to set up third party companies for their workers and avoid paying tax⁵². Drivers were encouraged to operate as self-employed sole traders and told or advised to ‘go self-employed’. In discussions prior to writing this report Unite described the issue of ‘bogus self-employment’ or ‘disguised employment’ as ‘a significant problem’. There have been reforms to the IR35 tax rules on self-employed status that should limit the extent of tax avoidance practices, but these reforms are impacting heavily in areas where these ‘Ltd. company’ strategies were being used. The RHA observed that ‘Employers using agency drivers with self-employed status or who are hired through ‘umbrella’ companies are warned that HMRC may well take action as they are likely to be breaking the rules and could face substantial penalties’⁵³. Among the concerns for unions is that such practices have exacerbated downward competition on wages throughout the sector (squeezing tight margins further by avoiding tax payments). For drivers operating under such practices, low rates they had found acceptable when tax and national insurance deductions were being minimised or avoided (whether lawfully or otherwise) now began to look much less appealing.

Former driver Dr. Andrew Moretta advised the author of this paper that, ‘The belief of many is that the recent revision of IR35 and the return of numbers of Eastern European drivers to the continent were the primary triggers of the present crisis’⁵⁴. Drivers were paid without tax or national insurance deductions being made, so that ‘poor hourly rates were effectively

⁵⁰ *ibid.* A note of caution. The Rights Lab report indicates the ages of most the drivers in its survey as being in the 40-60 age group. Given that the majority of drivers are aged over 50 there is a probability that most would be towards the older end of this age bracket, and many may therefore be in a different economic situation to the young. If these workers are fortunate enough to have paid off a mortgage, acquired some savings, and expect pension payments to begin within the next ten years or so then their needs and interests may be quite different to that of a 22-year old with no savings who is obliged to pay at least hundreds of pounds per month in rent and for whom a pensioned rent-free life is a very distant and perhaps unattainable dream.

⁵¹ Disposable workers? Experiences of work in road freight transport

⁵² Pay Report 2019, RHA

⁵³ *ibid.*

⁵⁴ A. Moretta, comments to author of this paper, email

subsidised by the state⁵⁵. The growth of disguised employment seems to have been built around a confused understanding of employment rules and tax responsibilities.

The ‘corporate veil’ was, it would seem, mistakenly believed by some to be a means by which agencies and employers, as well as the drivers themselves, might protect themselves from potential liability for tax evasion and from HMRC demands to repay the tax and NI which should have been deducted at source⁵⁶.

The recent changes have emphasised the responsibility of contracting employers to ensure that they no longer permit tax avoidance through artificial ‘ltd. company’ arrangements. But to avoid potentially catastrophic disruption of supply chains during the pandemic the new rules were postponed until April 2021. Since 6 April 2021, any shortfalls in tax and NI following the use of disguised employment arrangements have now become the responsibility of the firm using the driver. While there are still those (mainly owner-drivers) who continue to legitimately operate various models of self-employment the change has seen the transfer of many drivers from dubious ‘ltd company’ frameworks onto PAYE terms. A comment from a drivers’ online discussion forum is quite revealing

I'm ltd driver getting £13 an hour Monday to Friday with a well known agency. They contacted me this week saying I might have to go paye they offered me £10.00 its shocking that's a £120 drop on a 40 hour week they've since come back with £11.10 an hour £12.00 after 8 hrs. They're need to go back to the customer and tell them the rates are going up⁵⁷

A related factor has been the exemption of self-employed drivers from the Road Transport (Working Time) Regulations 2005, which left an avenue for competition on costs by self-employed drivers working over and above the hours permitted for employed drivers. While this loophole was theoretically closed by the Road Transport (Working Time) (Amendment) Regulations 2012 (and did create an obligation for companies contracting with self-employed drivers not knowingly to contribute to a situation constituting a breach), the principal responsibility for monitoring and reporting compliance remained with the self-employed drivers. Unite advised the author of this paper that the situation in practice remains problematic, ‘in our sector the major benefit ... [is that] self-employed drivers are exempt from working time regulations. The resulting disparity [...] has been another contributing factor in the race to the bottom’⁵⁸. Again, the exception should have related to genuinely self-employed drivers, not to those merely presenting themselves (or being encourage to present themselves) as self-employed in what was actually a disguised employment situation.

⁵⁵ *ibid.*

⁵⁶ *ibid.*

⁵⁷ Drivers’ online forum post (forwarded to report author by Dr. Andrew Moretta)

⁵⁸ Unite official comments to author of this paper

Working Time

The Transport Committee Inquiry recognized working time to be a significant issue, ‘The work is characterised by long, often unsocial, hours⁵⁹’. There seems to have been across the board agreement with this analysis. Unite the Union’s evidence to the Transport Committee raised concerns over: ‘a culture of long hours, unreasonable routing and overloading of vehicles that are contributing to accidents. Unite are seeing the amount of hours drivers are expected to work continually rise, at a time, when their terms and conditions are being eroded’⁶⁰. Unite the Union told the Inquiry ‘the industry must recognise the cumulative effect on drivers of working demanding schedules and how this affects driver fatigue⁶¹’. Unite continued, ‘Tiredness for drivers is endemic [...] POA⁶² is a tool that is being misused by employers to reinforce these practices. It is time that this is addressed with the removal of POA. This would be a major step in making roads safer for us all’⁶³.

The Road Haulage Association also recognises the problem, ‘Their hours are long anyway, and so we’re piling more pressure on, and that’s going to probably force many drivers to reconsider whether or not they want to stay in this industry, but it’s also a road safety issue’⁶⁴.

And an industry insurance expert writing for Logistics UK agreed that

It’s well known that lorry drivers spend long days on the road which can be dangerous as concentration levels are bound to dip after a few hours. Added to long hours is the stress that many face on a daily basis because of the volume of traffic and delays which impact on many who battle against fatigue, and struggle to maintain concentration levels at all times. If I have a lull in concentration in the office it’s likely that it will go unnoticed, but on the road one dip in concentration can be fatal⁶⁵.

ONS data⁶⁶ for 2020 shows that drivers’ working hours typically range from 36.5 – 60 hours per week, with a median of 46 hours. This is 24.7 percent higher than the 36.9 hours reported as the average across all sectors. For male full-time drivers the figures were higher again, ranging from 38.5 – 60 hours per week with a median of 47 hours, which is similarly 24.7

⁵⁹ *Skills and workforce planning*, Transport Committee

⁶⁰ Written evidence from Unite the Union (RHS0009) to the *Skills and workforce planning in the road haulage sector* House of Commons Transport Committee, at: <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Transport/Road%20haulage%20sector%20Skills%20and%20workforce%20planning/written/23154.html>

⁶¹ *Skills and workforce planning*, Transport Committee

⁶² Period of Availability – the issue of POAs is discussed below

⁶³ *Skills and workforce planning*, Transport Committee

⁶⁴ Extensions To Drivers’ Hours ‘Counter-Productive’, Road Haulage Association (8 July 2021), at: <https://www.rha.uk.net/News/News-Blogs-and-Press-Releases/News-Updates/detail/extensions-to-drivers-hours-counter-productive>

⁶⁵ S. Cooke, ‘Daily issues for the modern lorry driver by Stuart Cooke of BMG Insurance’, Logistics UK (February 2016), at: <https://logistics.org.uk/blog/daily-issues-for-the-modern-lorry-driver-blog>

⁶⁶ ONS dataset: Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 (2020)

percent higher than the 37.9 hours reported as the average for male full-time workers across sectors. And these figures are actually down 4.2 percent on the previous year for all drivers and 2.1 percent down for male full-time drivers (this is likely linked to the freight disruption that occurred during the early stages of the pandemic lock down).

Shocking research from the European Transport Workers Federation asked more than two thousand truck drivers across Europe this question, ‘In the past 12 months, how often have you fallen asleep while driving?’⁶⁷. The answers revealed that only 62 percent were confident that they had not fallen asleep at least once, with 11 percent answering that they had fallen asleep while driving on at least three occasion or more. Only 11 percent said they ‘never’ drive while tired. However, the ‘interviews also show that drivers are generally afraid of reporting such incidents’ and that the real extent of the problem would be far greater⁶⁸. The ETF research reported ‘a direct relation between the level of drivers’ remuneration and their long working hour’ and that a ‘common’ response from drivers was to suggest that ‘working time should be reduced in order to reduce driver fatigue’⁶⁹. However, drivers also said that lower working hours would require higher hourly pay, and the ETF report noted ‘There is a direct relation between the level of drivers’ remuneration and their long working hours’⁷⁰. Perhaps most significantly the report includes survey findings that show that factors such as ‘monotonous driving’ and ‘long drives’ were not viewed by drivers as a major factor in causing fatigue (although they were still significant factors) but the most commonly reported factors among drivers were lack of rest areas, lack of sleep overall, and their own poor state of health⁷¹.

With fatigue such a critical issue for workers’ job satisfaction and also for public safety the ETF report Driver Fatigue in European Road Transport goes into significant detail and is a vital reference point for anyone seeking to understand this issue.

Industry specific working time rules introduced to implement the EU Road Transport Working Time Directive of 2002 mandated an average 48-hour working week and a maximum permitted working time of 60 hours of work in any given week. But ‘periods of availability’ (POA) ‘bring average working hours crashing down’, according to former driver

⁶⁷ K. Vitols and E. Voss, Driver Fatigue in European Road Transport, ETF (2021), at: <https://www.etf-europe.org/resource/driverfatigue/>

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ *ibid.*

and academic Andrew Moretta⁷². During a POA ‘the driver, although paid, not on a work break, and very likely in charge of many hundreds of thousands of pounds worth of vehicle and freight, is deemed not to be working’⁷³. Consequently, Moretta notes that ‘it is still possible – and far from unusual – for a driver to put in an 82 hour working week’⁷⁴. Adding weight to the suggestion that POAs and shift scheduling sometimes extend working time Unite reported concern ‘that some companies are operating on ‘the edges of legality’⁷⁵. Unite told the Inquiry about what was described as the ‘abuse’ of periods of availability. These periods, which Unite described as ‘basically waiting time, which is not a break or a rest’, drivers can be at their place of work in excess of 60 hours a week’⁷⁶. Driver trainers giving evidence to the Inquiry told the Committee that ‘it was not uncommon for drivers to be kept waiting for hours to unload when making deliveries. This makes it hard for drivers to plan their home life and they may have further work to do after waiting’⁷⁷. In a damning indictment of the 2005 Regulations, Moretta observed that ‘Many haulage firms don’t even bother feigning compliance’⁷⁸.

In a somewhat desperate move to address the present driver shortage, the government announced a temporary relaxation of the enforcement of the drivers’ hours rules in England, Scotland and Wales between 12 July 2021 and 8 August 2021⁷⁹. This was not the first such action. Over the past year or so the UK has filed repeated exceptions to working time with the European Commission, citing, variously, Covid-19, Brexit, and the driver shortage⁸⁰. Similar exceptions were used (introduced on varying legal grounds⁸¹) between 23 December 2020 and 21 January 2021 and from 22 January 2021 to 31 March 2021. In response to the changes in December 2020 Unite condemned the measure as ‘dangerous and useless’⁸². Industry representatives have been similarly dismissive of the measure. The Road Haulage Association called it a ‘sticking plaster’ to driver shortage problems and that the move

⁷² A, Moretta, ‘Truckers, public safety and the government’s duty of care’, Institute of Employment Rights (3 August 2015), at: <https://www.ier.org.uk/comments/truckers-public-safety-and-governments-duty-care/>

⁷³ *ibid.*

⁷⁴ *ibid.*

⁷⁵ *Skills and workforce planning*, Transport Committee

⁷⁶ *ibid.*

⁷⁷ *ibid.*

⁷⁸ A, Moretta, ‘Truckers, public safety and the government’s duty of care’

⁷⁹ Extensions To Drivers’ Hours ‘Counter-Productive’, Road Haulage Association (8 July 2021), at: <https://www.rha.uk.net/News/News-Blogs-and-Press-Releases/News-Updates/detail/extensions-to-drivers-hours-counter-productive->

⁸⁰ Temporary exceptions submitted by EU and third-countries under Article 14 of Reg. 561/2006 or any other equivalent provisions, at: <https://ec.europa.eu/transport/sites/default/files/temporary-relaxation-drivers.pdf>

⁸¹ <https://lordslibrary.parliament.uk/hgv-drivers-temporary-relaxation-of-driving-hours-limits-and-minimum-rest-period-rules/>

⁸² Unite condemns ‘dangerous and useless’ relaxation of HGV driving rules in response to Dover delays, Unite (23 December 2020), at: <https://www.unitetheunion.org/news-events/news/2020/december/unite-condemns-dangerous-and-useless-relaxation-of-hgv-driving-rules-in-response-to-dover-delays/>

‘wouldn't make any difference’⁸³. ‘Relaxing drivers’ hours won’t make any material difference – and fails to address the underlying issues which require a package of measures to fix’⁸⁴. The RHA’s Chief Executive said: “We oppose wholesale extensions to drivers’ hours as we believe they can be counter-productive by making the job less attractive. Loading more hours on to drivers that are already exhausted is not the answer”⁸⁵, adding that ‘Ministers should be mindful that road safety is the reason HGV drivers’ hours are limited’⁸⁶.

Surveillance at work

The problem of surveillance is no longer a complaint only about the tachograph (which is now quite accepted), but increasingly often it is also tracking software at depots and even in vehicle. Monitoring measures include recording time-keeping and standards of driving, and may include cameras in the cab directly monitoring drivers. It is in this environment that Unite’s Drivers’ manifesto complains of ‘high levels of surveillance’⁸⁷. Unite’s evidence to the Transport Committee Inquiry noted that

Whilst Unite would welcome the use of technology to enforce existing legislation we do have serious concerns about the use of in vehicle technology that monitors the driver at all times. The “spy in the cab” is being used by employers to monitor drivers and on some occasions to bully them into doing more and faster. Even on-vehicle camera manufacturers have admitted that there is no valid reason for having cameras in the cab of commercial vehicles and that it could in fact have a detrimental effect on the driver⁸⁸.

The University of Nottingham Rights Lab research confirmed Unite’s concerns

several electronic devices are used to monitor drivers. This includes tachographs and cameras fitted to trucks [...] some companies have fitted inward facing and outward-facing cameras to their trucks. These devices can protect drivers in a variety of ways such as ensuring that they do not work over their legal hours and capturing accidents on the road, but also tracking goods being transported. However, some workers feel that the cameras (particularly the inward facing cameras) and tachographs are used to micromanage and exert control over them. While many recognise that the tachograph can help protect them from going over their legally allowed hours, they feel that this is exploited by management. For instance, it is common for drivers to be given planned routes by transport managers but different variables can affect plans, such as accidents

⁸³ ‘Backlash against longer hours to ease lorry driver shortage’ BBC (7 July 2021), at: <https://www.bbc.co.uk/news/business-57753277>

⁸⁴ Extensions To Drivers’ Hours ‘Counter-Productive’, Road Haulage Association (8 July 2021), at: <https://www.rha.uk.net/News/News-Blogs-and-Press-Releases/News-Updates/detail/extensions-to-drivers-hours-counter-productive->

⁸⁵ *ibid.*

⁸⁶ *ibid.*

⁸⁷ Unite Drivers’ Manifesto, at: https://www.unitetheunion.org/media/3925/9486_a5-drivermanifesto_3.pdf

⁸⁸ Written evidence from Unite the Union (RHS0009) to the *Skills and workforce planning in the road haulage sector* House of Commons Transport Committee, at: <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Transport/Road%20haulage%20sector%20Skills%20and%20workforce%20planning/written/23154.html>

on the road and delays in warehouses. Many expressed that tachographs are used to micromanage their routes⁸⁹.

Training and qualification

The Transport Committee noted that ‘factors affecting a driver’s willingness to work in the sector and operators’ ability to recruit and retain them, include ... cost of licence acquisition and driver training’⁹⁰. Several of those giving evidence to the Inquiry indicated that ‘driver licence acquisition’ was ‘a key factor’, while ‘71% of respondents to the FTA’s internal polling said that they found licensing requirements to be too costly and onerous’. The Committee further reported that ‘several witnesses told us that young people contemplating becoming a driver would also be looking at other sectors where licensing costs were not a barrier to entry’⁹¹. The Driver Certificate of Professional Competence (CPC) is needed to obtain a ‘driver qualification card’ (DQC), which is needed if a driver wants to work commercially⁹². It must be renewed every 5 years.

Writing for the Institute of Employment Rights Andrew Moretta argued that

The ‘certificate of professional competence’, a qualification which became mandatory for all HGV drivers in September 2014, has evidently cost the industry some 10,000 to 20,000 drivers [...] almost all of those drivers resigned because they had been told they had to pay for the CPC themselves – some £250 to £400 – and take five days holiday to attend the course.

Employers who paid to put their drivers through the CPC retained their drivers [...] No one resigned because they couldn’t face the prospect of five days of late starts and early finishes, and a few hours sat in a classroom⁹³.

In response to the driver shortage the Government has proposed simplifying the tests. Among the proposals were: removing the licence staging arrangements for drivers who want to drive articulated lorries or a rigid lorry with a drawbar trailer; and considering alternative arrangements for the conduct of the reversing manoeuvres⁹⁴. Unite’s Drivers’ Manifesto makes clear that they do not like the present system, ‘Many drivers do not see the value of the current Certificate of Professional Competence (CPC). We know that in practice drivers will

⁸⁹ Disposable workers? Experiences of work in road freight transport

⁹⁰ *Skills and workforce planning*, Transport Committee

⁹¹ *ibid.*

⁹² CPC qualification, see: <https://www.gov.uk/become-lorry-bus-driver/after-youve-qualified>

⁹³ A. Moretta, ‘Truckers, public safety and the government’s duty of care’

⁹⁴ Changes to HGV and bus driving tests and allowing car drivers to tow a trailer without an extra test (Consultation), at: <https://www.gov.uk/government/consultations/changes-to-hgv-and-bus-driving-tests-and-allowing-car-drivers-to-tow-a-trailer-without-an-extra-test/changes-to-hgv-and-bus-driving-tests-and-allowing-car-drivers-to-tow-a-trailer-without-an-extra-test>

sit through the same module repeatedly that may have no real link to their jobs'⁹⁵. But the union has not called for straightforward simplification or cuts, and has said rather that CPC modules should be 'industry and job specific so that drivers can see that the subject matter is relevant to them'⁹⁶. Unite has further put forward clear demands about the costs of the training, 'The cost of CPC is erroneously placed on the driver. This is vocational training that is legally required to do the job. CPC training must be paid for by employers, through government subsidy if necessary, and carried out in work time'⁹⁷.

Illustrating the wider resonance of these issues and the concerns that licencing regulations raise for some outside the sector, the London Cycling Campaign responded with the view that: 'It's deeply alarming to hear that heavy vehicle safety requirements could become less stringent. A slackening in safety standards will clearly come at a cost to the health and safety of people cycling in London who've no choice but to share space with HGVs'⁹⁸.

The growth of alternatives: the van sector

There has been a very significant expansion in van sector employment following the massive growth of online shopping and home delivery. ONS data (now maintained by NOMIS) supports this analysis and shows van sector employment falling by 20-30,000 from pre-2008 levels to a low-point of 181,200 in 2011 but then accelerating to a peak of 283,100 in 2019⁹⁹. Media talk of a 'booming van sector' also tends to support this view¹⁰⁰, while van sales recently reached an all time high. 'Prior to the pandemic, demand for new vans was already very strong - in 2019, sales in the first six months of the year were the highest on record [...] Inevitably, momentum was lost during the lockdown last year, and sales fell by 20% compared with the year before. Nevertheless, the soaring popularity of home delivery services meant the vans business suffered less severely than other parts of the auto industry. Now, with the economy reopening, demand is strong once again. In the first six months of the year more than 191,500 were sold, the third highest total on record'¹⁰¹. Recent Department for

⁹⁵ Unite Drivers' Manifesto

⁹⁶ *ibid.*

⁹⁷ *ibid.*

⁹⁸ J. Talora, 'Plans to streamline HGV driver testing will endanger cyclists, campaigners say', Evening Standard, at: <https://www.standard.co.uk/news/london/hgv-driver-shortages-cyclists-campaigners-b954545.html>

⁹⁹ Employment by occupation (SOC2010) by sex, ONS data now hosted by Nomis, at: <https://www.nomisweb.co.uk/datasets/aps168/reports/employment-by-occupation?compare=K02000001>

¹⁰⁰ T. Legget, 'Van sales soar amid home delivery boom', BBC (5 July 2021), at:

<https://www.bbc.co.uk/news/business-57723836>

¹⁰¹ *ibid.*

Transport statistics appeared to tell a different story¹⁰², but there is wide agreement that van-based deliveries are booming. The 2016-17 Transport Committee Inquiry noted increasing van traffic some years ago, observing that ‘Light van traffic has increased to its highest level ever [...] growth in van traffic might be due to the growth in internet shopping and home deliveries¹⁰³.

Concerning the attractiveness of the van sector, the Transport Committee observed that ‘Several witnesses told us that young people contemplating becoming a driver would also be looking at other sectors where licensing costs were not a barrier to entry (such as driving a van or driving a bus or coach, where operators did more to fund driver training and licence acquisition)’¹⁰⁴. The Committee continued, ‘It is not surprising that young people will look at jobs driving vans or buses where they do not need additional qualifications or will be funded to acquire them’¹⁰⁵, and observed

Given the required higher skill levels and training costs the rate of pay for LGV drivers does not compare well with that of van drivers (£9.02), who need no training beyond the standard car licence. The DfT said the small pay differential between LGV drivers and van drivers could be seen to be acting as a disincentive to undertake the training required to qualify for the more highly skilled profession¹⁰⁶.

Lifestyle and health impacts for drivers

As society has grown more health conscious people have sought to follow healthier eating patterns¹⁰⁷, take more care for their physical health through exercise¹⁰⁸, and have become more aware of health impacts of sedentary work¹⁰⁹. But the working life of a driver remains essentially sedentary. The greater awareness of these issues among the public, and among younger generations in particular, may be contributing to disinclination for young people to pursue driving as a career. Unite have raised mental health concerns in relation to isolation

¹⁰² Department for Transport statistics suggest that most vans (and an increasing proportion of them) are used for ‘carrying equipment, tools and materials’ (54%), with ‘delivery/collection of goods’ some way behind that at just 16%¹⁰². Furthermore, van use for delivery and collection has actually fallen significantly as a proportion of van use compared to 2008 (at 16%, down from 22%), Final Van Statistics April 2019 - March 2020, Department for Transport (15 April 2021), at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/978087/van-statistics-2019-to-2020.pdf

¹⁰³ *Skills and workforce planning*, Transport Committee

¹⁰⁴ *ibid.*

¹⁰⁵ *ibid.*

¹⁰⁶ *ibid.*

¹⁰⁷ NG Wunsch, ‘Health and wellness food trends in the United Kingdom - statistics & facts’, Statista (19 August 2020), at: <https://www.statista.com/topics/6843/health-and-wellness-food-trends-in-the-uk/>

¹⁰⁸ Number of gyms and fitness centres in the United Kingdom (UK) from 2011 to 2021, Statista (2021), at:

<https://www.statista.com/statistics/1194837/gyms-fitness-centres-uk/>

¹⁰⁹ D. Griffiths, ‘Being active at work: overcoming a sedentary lifestyle’, Westfield Health (18 October 2018), at: <https://www.westfieldhealth.com/blog/being-active-at-work>

and the solitary nature of the work. The union has also cited health issues for drivers generally, which they say include ‘diabetes, sleep apnoea etc’¹¹⁰. On the issues of health and welfare for drivers the Transport Committee Inquiry observed that

Driver stress is a significant problem. It is exacerbated by changes in the sector that focus on timed deliveries and worsening urban congestion. The lifestyle can leave drivers prone to a number of medical conditions, stress and fatigue. Drivers are exposed also to diesel engine exhaust emissions¹¹¹.

Unite has now produced evidence that it says demonstrates that ill health is ‘a major factor’ in the driver shortage. The union’s claim is based on the outcome of a freedom of information request to the Driving and Vehicle Licensing Association, which revealed that ‘within a decade the number of lorry and bus drivers who are having their licence refused or revoked for medical issues has more than doubled’¹¹². In 2005, notes Unite, ‘a total of 4,583 drivers had their licence refused or revoked ... by 2018 this number had increased to 12,242’. The DVLA data further showed that the figure had been rising year on year throughout the decade (bar a single year when the figure was static)¹¹³.

To an extent, aspects of this problem are recognised and admitted by some in the industry. ‘Sitting in a lorry for the majority of the day can be detrimental to a driver’s health and for many the food options on the road aren’t that great either’, observed a sectoral insurance specialist, writing for Logistics UK

Truck drivers on short haul journeys are able to take their food with them and exercise at night. But for the long distance lorry driver, sleeping in the cab, a healthy lifestyle isn’t so easy. Another unhealthy element can be spending a long time in isolation and away from home. The adverse effects of being alone for a long time away from loved ones are common knowledge. Dealing with mental turmoil only makes the other issues even more difficult to deal with¹¹⁴.

Job status: no respect at work

Researchers from the University of Nottingham’s Rights Lab presented a section of their report titled ‘General bullying culture’. This research (citing online discussion forums) referred to ‘Bullying tactics included drivers feeling as if they were treated as “objects” and not human beings, feeling “demoralis[ed]”, “spoke[n] to like crap,” “treat[ed]...like kids” and

¹¹⁰ Written evidence from Unite the Union (RHS0009), Transport Committee

¹¹¹ *Skills and workforce planning*, Transport Committee

¹¹² ‘Rising ill health a major factor in lorry and bus driver shortages’, Unite press release (6 September 2021)

¹¹³ DVLA Freedom of Information Request, ref: FOIR9302 (25 August 2021)

¹¹⁴ S. Cooke, ‘Daily issues for the modern lorry driver by Stuart Cooke of BMG Insurance’, Logistics UK (February 2016), at: <https://logistics.org.uk/blog/daily-issues-for-the-modern-lorry-driver-blog>

“like second class citizens””. An interview with a directly employed HGV driver acknowledged

...a certain amount of schadenfreude, which means to take pleasure in someone else’s misery, where you have these incidents are reported in the press and they’re seen as almost mirthful. They’re not quite bad enough to do anything about but it’s like saying “driving aren’t allowed umbrellas”, “oh look at him, you know, he’s been soaked, you know absolutely soaked out there and he can’t even have an umbrella”¹¹⁵.

Another directly employed HGV driver is quoted saying ‘You’ve got your boss on your case constantly, because he wants you to do more and more and more all the time’¹¹⁶. The matter was laid out bluntly in evidence presented to the Transport Committee, when a driver trainer advised the Inquiry that ‘Quite a number of [drivers] said that they are treated like scum’¹¹⁷.

Overdriven and underpaid

According to the Financial Times, ‘Supermarkets are promising UK truck drivers pay of £60,000 or more a year as they try to stem an exodus from the sector that is disrupting deliveries’¹¹⁸. The same article indicated that ‘Pay rates for HGV drivers, for example, had risen by more than 10 per cent’. However, the FT article continued, ‘Adrian Jones, national officer for the haulage sector at Unite, the union, said that rather than a permanent increase in the basic rate of pay, many employers were offering one-off bonuses or short-term increases’, while ‘the headline rates of pay cited in job ads were often unrealistic’¹¹⁹. Industry representatives initially seemed reluctant to say that pay was too low, but as the scale of the problem sets in they have begun to do so. The Chief Executive of the RHA in August 2021 accepted that lorry drivers in the UK ‘for a long time, have been underpaid’¹²⁰. Another RHA officer cited the pay-related comments on Twitter, ‘drivers underpaid and increases will need to be paid for by customers’¹²¹. Logistics UK have also observed that ‘retail and logistics industries are taking proactive measures’ to address the driver shortage, which they say includes ‘increasing pay rates, offering bonuses...’¹²².

¹¹⁵ Disposable workers? Experiences of work in road freight transport

¹¹⁶ *ibid.*

¹¹⁷ *Skills and workforce planning*, Transport Committee

¹¹⁸ D. Strauss, ‘UK wages are rising at last, but for how long?’, Financial Times (2 September 2021), at: <https://www.ft.com/content/e0c7a35e-9ebd-4a87-a842-1d044bf07947>

¹¹⁹ *Skills and workforce planning*, Transport Committee

¹²⁰ G. Gowens, ‘RHA chief admits HGV drivers have been underpaid for a long time’, Trans.info (2 August 2021), at: <https://trans.info/en/rha-chief-admits-hgv-drivers-have-been-underpaid-for-a-long-time-248847>

¹²¹ Rod McKenzie (Managing Director of Policy & Public Affairs, RHA), Twitter post, at: https://twitter.com/RHARodMcKenzie/status/1422099425229516802?ref_src=twsrc%5Etfw%7Ctwcamp%5Etwetembed%7Ctwterm%5E1422099425229516802%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Ftrans.info%2Fen%2Frha-chief-admits-hgv-drivers-have-been-underpaid-for-a-long-time-248847

¹²² Driver shortage crisis: UK business groups demand action, Logistics UK (22 August 2021), at:

<https://logistics.uk/media/press-releases/2021/august/driver-shortage-crisis-uk-business-groups-demand-a>

Box 4.
Drivers' earnings and national average earnings
2020 (and 2011)

ONS shows LGV drivers' pay rising steadily to £30,233 in 2020 (£24,890 in 2011).

This is **better than average earnings for all workers**, which was £25,780 in 2020 (£21,000 in 2011). But these comparator figures include women as well as men, and part-time workers as well as full-time workers. These are the lowest measure of 'average earnings' and are **the least appropriate comparator** figures for drivers, most of whom are men, and who tend to work not only full-time but particularly long hours.

Drivers pay is **below average earnings for full-time workers**, which were £31,461 in 2020 (£26,095 in 2011). The average for full-time drivers at £30,820 in 2020 is slightly higher than the overall average for all drivers, but given the demands of the job described in this report the shortfall from the cross sector full-time average seems significant and would go towards explaining why the job has not been attracting and retaining sufficient new drivers.

And drivers' pay is **very substantially lower than the average for male full-time workers**, which was £33,923 in 2020 (£28,367 in 2011). The average for male full-time drivers at £30,824 in 2020 is slightly higher than the overall average for all drivers, but remains well below the average for all male full-time workers (and this is the most appropriate comparator for a sector in which long hours are normal and 99% of workers are male¹²³).

Graph 1 (below) illustrates this disparity.

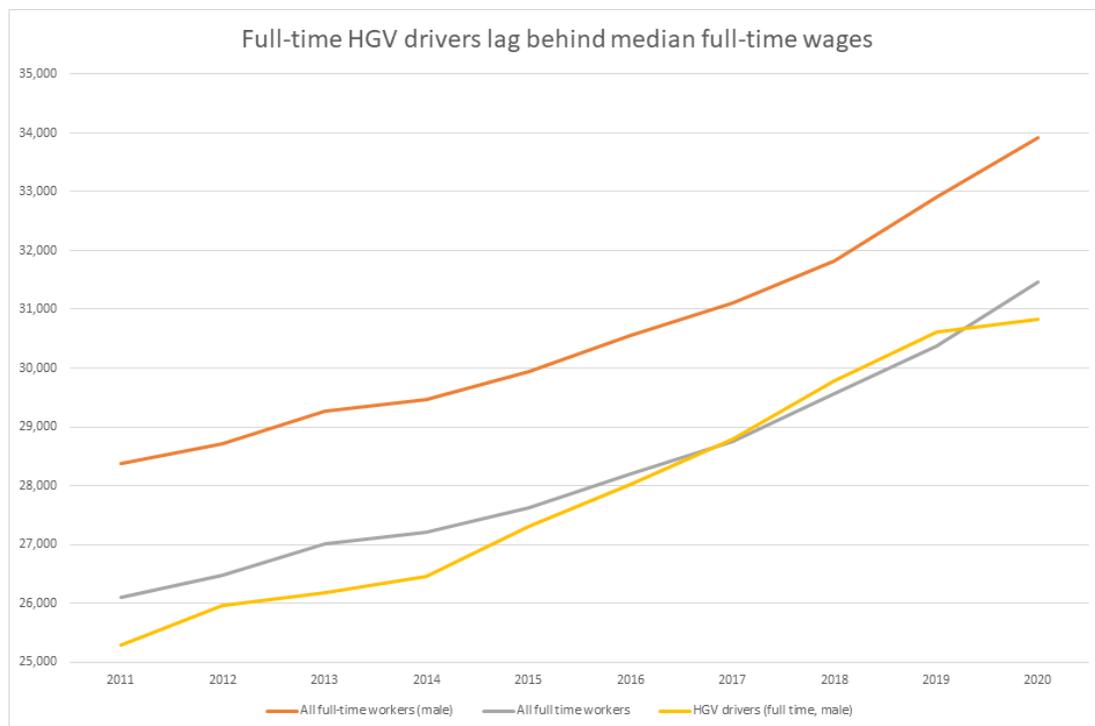
A pay rise of 10% would be required to bring drivers earnings into line with male full-time averages. Any increases to compensate for the many negative aspects of the job or to encourage rapid recruitment to solve the crisis ought presumably to be in addition to this.

Data from ONS¹²⁴

¹²³ The broader issue of equal pay and variance between earnings for men and women is beyond the scope of this report, but almost all HGV drivers are men and they have been earning significantly below the average for men in other work, which is likely a factor affecting recruitment and retention of drivers.

¹²⁴ ONS dataset: Earnings and hours worked, occupation by four-digit SOC: ASHE Table 14 (various years)

Graph 1.

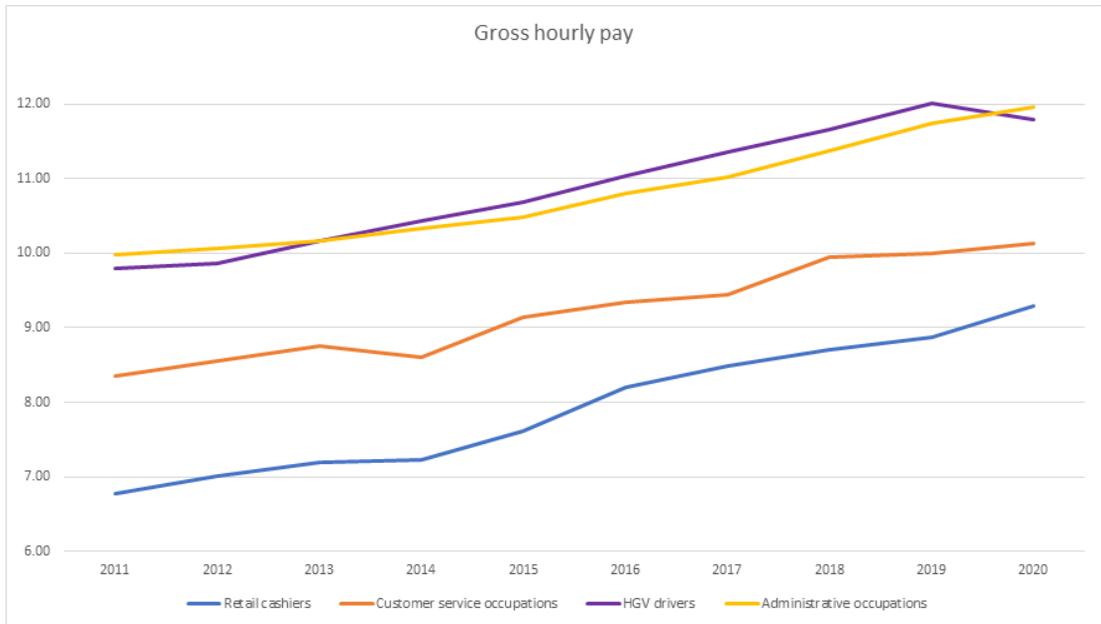


The above chart not only illustrates that rates for male full-time drivers (i.e. – most drivers) have for years lagged considerably behind all sector rates for male full-time workers, but also shows that the situation deteriorated in 2020 and falling below rates for all full-time workers. In the year 2019 to 2020 ONS figures actually show drivers pay falling when calculated on an hourly basis, with 2019 rates recorded at £12.02 (all drivers) and £12.09 (male, full-time drivers) and 2020 rates at just £11.80 (all drivers) and also £11.80 (male full-time drivers). The figures calculated on an annual basis show a modest increase of 0.3% (all drivers) and 0.7% (male full-time drivers - as illustrated in Graph 1, above), but even when assessed by this less pessimistic figure it is clear that drivers’ pay has failed over the past year to keep pace with the median rate for all sector pay¹²⁵.

Graph 2 further shows drivers’ pay overtaken in the period 2019 to 2020 by pay rates for the previously broadly equivalent pay rates for the ‘administrative occupations’ sector. While rates for customer service and retail occupations remain below those for drivers ONS did not report similar falls or levelling off of pay growth for either of these sectors, unlike the situation facing drivers in that period.

¹²⁵ All data ONS dataset ASHE Table 14 (various years)

Graph 2.



It is true that even at current rates there is some scope for driver’s earnings to be increased, and that the range of average incomes from across all bands in 2020 was calculated at £19,971 to £40,781¹²⁶. As Unite has indicated, drivers would generally be expected to work maximum hours and demanding shift patterns in order to achieve the higher level, which is only paid to the top 90th percentile of drivers, according to ONS. Unite’s representative continued

One of our members saw an ad for £62k as a driver. He applied — it turned out to get that, you had to work nights, weekends, overnight. Every possible minute you could work you’d have to work . . . To get that money you’d have to push very close to the edges of the law and max out everything¹²⁷.

Conversely, younger and less experienced drivers may find that their earnings are at the lower end of the scale, which at £19,971 is very substantially lower than average earnings for men full-time workers, for all full-timers, and even the much lower average for all workers.

Pay has not been static, and across the board it has risen at an average of around 2.2% over the past ten years or so. But it is low, and what is more it is clearly insufficient to compensate for the negative aspects of the job. As research from the University of Nottingham Rights Lab noted, ‘Another key issue raised by workers concerned the compensation for their labour.

¹²⁶ ONS tables Occupation SOC10 (4) Table 14.7a, Annual pay – Gross (years 2011 to 2020)

¹²⁷ *Skills and workforce planning*, Transport Committee

As the sectors are highly competitive with low profit margins, many workers believed that the cost of labour tends to be taken advantage of to reduce overall costs¹²⁸.

Summarising contributions from Unite the union, the Transport Committee observed that

employees in the road haulage sector have not had a cost of living increase for several years, there are no minimum pay standards (company or regional), and rates of pay for new starters were low [...] that pension provision across the sector was not adequate and there were no portable defined contribution schemes. This, along with closures of final salary schemes, were making a career in driving less attractive. Pensions, especially among the hundreds of small businesses (many of which are family owned), are basic and a number of schemes have closed¹²⁹.

Supermarkets and freight prices

Without any functioning form of sectoral standard setting in the early years of its operation, and with that pattern repeated since the late 1970s, competition has been a disruptive factor in the haulage industry. Tens of thousands of small businesses and a host of medium and large operators compete for contracts to move freight. Increasing competition between the big supermarkets over many years has intensified this downward pressure on haulage costs – companies that could offer low rates could win contracts in this environment, companies that have asked higher rates have struggled to secure work. The Transport Committee Inquiry heard that ‘the road freight market was characterised by a large number of hauliers, low barriers to entry and exit, extreme price competition, and clients passing off risk to logistics operators. They said this had created a downward pressure on freight rates’¹³⁰.

A Unite representative told the hearing that ‘hauliers face pressure from supermarkets and other retailers where transport costs are seen as on-costs and not core business’, while a representative of the Chartered Institute of Logistics and Transport agreed that ‘competition between the four large supermarkets [...] put enormous pressure on road haulage operators not to put up prices’. And as research from the University of Nottingham Rights Lab noted, road haulage is ‘highly competitive with low profit margins, many workers believed that the cost of labour tends to be taken advantage of to reduce overall costs’. The report quoted a driver interviewee saying ‘They all pay the same amount for their diesel, the fuel...for their tractor units and trailers. The only variable in that is the cost of labour...the short-term solution for them is keep the costs of labour screwed down as far as possible’¹³¹.

¹²⁸ Disposable workers? Experiences of work in road freight transport

¹²⁹

¹³⁰ *ibid.*

¹³¹ Disposable workers? Experiences of work in road freight transport

The present driver shortage has turned the dynamic around. Supermarkets and freight companies are now acutely aware that they are competing for a limited pool of drivers, while drivers and haulage companies are also aware of this, the result being upward pressure on wages and supermarkets being forced to raise prices, a reversal of the downward pressure that has been exerted previously. Where does this leave us? Drivers and unions have an interest in pursuing wage increases and haulage customers have an interest in keeping rates down, this much is clear. However, both sides to a certain degree share an interest in flattening the spikes and slumps and in establishing a well-regulated and properly functioning sector that works for all concerned. The question of how these shared interests might overlap and the extent to which they might be brought together is discussed in the following section.

IV) Regulating a ‘chaotic’ sector

The road haulage industry expanded rapidly after the First World War as thousands set themselves up in business, assisted by the sell-off of a large number of decommissioned military vehicles. There were ‘very few controls’ on this fragmented industry, comprising thousands of often very small businesses, and competition was fierce. Wages, hours and conditions of employment were in a chaotic state¹³². This was obviously a concern for those working in the industry, but as mechanised transport became more and more widespread, ‘public concern grew’, with fears for public safety at the hands of over-worked and fatigued drivers¹³³. Concerns were raised in parliament that dreadful wages, overworked drivers and a lack of regulation were a recipe for disaster. Low wages were intrinsically linked to drivers working long hours, and this caused ‘a horrific rise in accidents’¹³⁴.

Over the course of the 20th Century numerous regulatory frameworks were introduced in an attempt to bring order to the industry, and while the preferred model was adapted at various stages, with much controversy about whether a ‘joint council’, a ‘wages council’, or a ‘wage board’ model should be preferred, there was overall recognition that some form of sectoral level regulation was needed and that where this had been implemented it had dramatically improved the situation. The first important sectoral framework was the Trade Boards Act of 1909, which had established a basis for the setting of national minimum pay and conditions on a sectoral basis. Following the report of the Whitley Committee, the Trade Boards Act 1918 re-established the trade boards with additional pay setting powers. The Road Traffic Act 1930 imposed a limit on working hours and was bolstered by a Fair Wages Clause in 1933. A Joint Industrial Council was established, but the framework was reconstituted following the report of the 1936 Baillie Committee, to its new status as the Road Haulage Wages Board, established under the Road Haulage Wages Act 1938.

In the post-War years, politicians reflected on the various models that had been used to bring stability to a formerly ‘chaotic’ industry. There was general recognition of the importance of maintaining a sectoral body, with politicians from across the Commons recognizing the role this had played in improving conditions and safety for the public as well as for drivers.

¹³² Hansard, Orders Of The Day ‘Wages Councils Bill’, Volume 457 (4 November 1948), at: <https://hansard.parliament.uk/Commons/1948-11-04/debates/2035f4fb-35fd-47f2-a884-6d672f137d5d/OrdersOfTheDay>

¹³³ *ibid.*

¹³⁴ *ibid.*

Debate prior to the 1948 re-configuration of the sectoral model indicated broad agreement that sectoral regulation of road haulage had yielded benefits for all concerned:

Gibson (Kennington, Labour)

The Road Haulage Board after long struggles, as many of us know, have succeeded in bringing some discipline into both sides of the industry, which is to the good of the industry and for the economic benefit of the country¹³⁵

Willams (Torquay, Conservative)

Sometimes I get complaints about time schedules which compel a driver to go too fast. I mention this not only from the point of view of the driver himself, or his company, but with the safety of the ordinary public in mind. It is right that Members of Parliament should say that it is part of the duty of the road haulage boards, or the new councils, to see that time schedules are so arranged as to cause no danger to the public by drivers, or to the health of the drivers¹³⁶

Awbery (Bristol Central, Labour)

The House is debating one of the most important industries in the country, one which is the lifeblood of the nation. The movement of goods throughout the country can be likened, in fact, to the flow of blood through the body and I am glad that the House is taking some time to discuss such an important industry. Until this industry became organised, it suffered absolute chaos. There was no machinery to negotiate wages or hours, and until after the last war, chaos existed in the whole of our transport industry¹³⁷

Following these deliberations, in which views were expressed in support of various models, the Board was transformed into the Road Haulage Wages Council by the Wages Council Act 1948. The Council thus formed continued its work under the reforms of the Wages Councils Act 1959, but was finally abolished by the Road Haulage Wages Council (Abolition) Order 1978 given by the Secretary of State¹³⁸. The dramatic changes of 1978 saw the sectoral standard setting framework dismantled in favour of a regional model of voluntary bargaining.

The rationale for the abolition of the Road Haulage Wages Council does not appear to have been motivated by any suggestion that the sector should return to a free-for-all downward spiral based on wage and hours competition, but rather by the view shared by both sides of industry, the Road Haulage Association and the trade unions, that the machinery needed to sustain voluntary bargaining was sufficiently developed. In 1975 it was the TGWU and URTU that jointly applied to ACAS for abolition of the Council as it was 'no longer necessary'¹³⁹. The assumption shared by both sides of industry seems to have been that voluntary machinery had reached sufficient maturity to no longer require any form of state intervention. This proved to be inaccurate. The industrial relations crisis of 1979 saw a

¹³⁵ Gibson (Kennington, Labour), Hansard (4 November 1948),

¹³⁶ Willams (Torquay, Conservative), Hansard (4 November 1948),

¹³⁷ Awbery (Bristol Central, Labour), Hansard (4 November 1948),

¹³⁸ under powers conferred by the 1959 Act (section 4(1) and paragraph 4 of Schedule 1)

¹³⁹ Smith, P. *Unionisation and Union Leadership: The Road Haulage Industry* (p79)

major strike in the sector, and over subsequent years, lacking the support of any proper national framework, collective bargaining in the industry has collapsed. Trade union organization in the sector remains substantial by UK private sector standards (see below), but with no significant national or regional bargaining what negotiation does take place is under the single employer model. This sees some employers (typically the larger actors) continue to meet and talk with trade unions, while most of the small businesses that comprise this fragmented industry are no longer regulated by any form of collective agreement, joint council, wages council or wages board.

Perhaps unsurprisingly, chaos has returned to the sector.

Unions in the sector today

Exact figures for trade union membership, ‘density’, and the extent of collective bargaining are notoriously vague. While the statutory recognition scheme generates information about recognition awarded through its procedures, these constitute only a minority of UK bargaining arrangements, and there is no centralized public record of the far greater number of voluntary recognition arrangements and collective agreements that exist. However, the UK government has tracked the situation over decades using data extrapolated from a wide-reaching survey, and does publish figures that give an estimated overview of the situation in each industrial sector. Overall, this shows that coverage by collective agreement in the private sector was 15.1% of employees. The figure is much higher in the public sector, but outside of that highly unionised group, the Transport and Storage industry had the highest proportion of union members, at 38.9%¹⁴⁰. Tending to support the view that union membership and collective agreement coverage are comparatively strong in the sector (relative to the overall private sector figures), a 2015 report from Eurofound (using 2013 data) indicated 150,506 ‘active members’ for Unite in the road transport and logistics sector¹⁴¹ and a ‘density’ of 16.2% (referring to those cases where collective bargaining was said to occur ‘on a regular basis’). Such bargaining as was reported was on a ‘single employer’ basis, rather than at sector level.

¹⁴⁰ *Trade Union Membership, UK 1995-2019: Statistical Bulletin 27 May 2020*, Department for Business, Energy and Industrial Strategy, at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/887740/Trade-union-membership-2019-statistical-bulletin.pdf

¹⁴¹ *Representativeness of the European social partner organisations: Road transport and logistics sector*, Eurofound (2015), at:

https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1506en.pdf

A Drivers' Manifesto

With respect to the current crisis, Unite has produced a drivers' manifesto, which includes seven key points to make the industry a better place to work and more attractive to new entrants. The union has identified low pay as the key issue, with drivers being underpaid for years, along with outsourcing, an unhealthy reliance on agency drivers and bogus self-employment being key factors in suppressing wages. Unite is calling for the government 'to undertake detailed research about what non-traditional groups think of the lorry-driving industry and the perceived barriers to joining it. There also needs to be an effort to reduce the average age of drivers'¹⁴². Unite's manifesto also calls for 'reforms to driving and working time regulations, better provision of parking and rest facilities and proper access to toilets'¹⁴³. The union further, 'firmly rejects any suggestion that the answer to the shortage is for the driving time regulations to be relaxed in order to allow drivers' to work for longer, as this will increase fatigue and will lead to an increase in accidents and lead to more drivers leaving the industry'¹⁴⁴, and adds that

Without exception, when we have asked drivers, the number one issue is the clash between driving and working time rules. Specifically the six-hour working rule. The level of regulation drivers must follow is almost unprecedented. We need to simplify the rules for UK drivers in order to maintain safety whilst applying common sense. Any derogation to rules is nothing more than a loophole. Currently the 10-hour night rule and reduced daily and weekly rest are seen as a target for employers rather than a legal maximum. These derogations need to be at the drivers' explicit agreement not simply implemented by the operator. We are proposing changes to the way the enforcement of driving and working time rules applies to drivers so that there is one standard rather than two for drivers to fall foul of. This would include the removal of Periods of Availability (POA)¹⁴⁵.

In order to work with industry to facilitate solutions to the problems identified, Unite is calling 'for the establishment of a national council to set industry standards and set pay rates to tackle the problem and drive rogue employers out of the sector'¹⁴⁶. In order to evaluate whether there might be some appetite among employers to rebuild some sort of national sectoral structure in order to resolve the situation it is useful to consider who are the main employer side bodies and what are their proposed objectives or strategies? Crucially, are there areas of overlap with union proposals?

¹⁴² Manifesto launched to end chronic UK lorry driver crisis, Unite (15 June 2021), at: <https://www.unitetheunion.org/news-events/news/2021/june/manifesto-launched-to-end-chronic-uk-lorry-driver-crisis/>

¹⁴³ Manifesto launched to end chronic UK lorry driver crisis

¹⁴⁴ Manifesto launched to end chronic UK lorry driver crisis

¹⁴⁵ Unite Drivers' Manifesto

¹⁴⁶ Manifesto launched to end chronic UK lorry driver crisis

Other unions

A number of other unions organise in the HGV sector, some of which are in demarcated sections such as postal services (CWU), while others also organise generally in the sector, specifically the GMB and the URTU. Outside of road haulage but playing a very significant role in the country's logistics chains ASLEF organises and is recognised 'in all of the train and freight operating companies which currently run trains on the network'¹⁴⁷, while Logistics UK members 'move 90% of rail freight'¹⁴⁸. ASLEF recently reported that during the pandemic it 'met with the heads of all the main freight operators, together, to solve the problem [...] jointly, it was solved. We want to keep the playing field as level as possible and work together in the interests of our industry. That joint approach needs to continue'¹⁴⁹. And USDAW has significant memberships at and (varying levels of) relationships with major supermarkets, notably Tesco, the Coop, Sainsbury's and Morrisons¹⁵⁰.

These relationships that these unions have with employers at various points in the logistics chain potentially provide further avenues that may assist Unite to engage with and to influence industry bodies, specifically the RHA and Logistics UK.

The employer organisations and their views

The two major employer-side organisations organising in road transport are Logistics UK (formerly known as the Freight Transport Association, FTA) and the Road Haulage Association (RHA). Broadly speaking Logistics UK is the bigger of the two – it has more members overall and many of its members tend to represent large freight customers and / or manage larger fleets of vehicles, while the RHA is more traditionally focussed on owner-drivers and represents those businesses that are purely involved with road haulage. So in many cases Logistics UK members may be the very customers who buy freight services from RHA members. While at the same time both organise businesses that own vehicles, employ drivers and move freight around the country. An outline of each provides more clarity about their different characters.

Logistics UK organises industry involved with rail, air and sea as well as road freight, and it includes both companies that operate their own in-house freight services and companies

¹⁴⁷ <https://aslef.org.uk/company/company-overview>

¹⁴⁸ <https://logistics.org.uk/about-us>

¹⁴⁹ <https://aslef.org.uk/company/company-overview>

¹⁵⁰ for example: <https://www.usdaw.org.uk/Campaigns/Co-op>, <http://www.usdaw.org.uk/morrisons>

(including some large retailers and supermarkets) that buy freight services. It also includes some ‘hire and reward’ or ‘contract hire’ hauliers of the kind more readily associated with the RHA, including notably the large haulage contractor Wincanton, which reports a revenue of £1.2 billion, claims 5100 drivers, and says that it is ‘responsible for’ 7700 vehicles¹⁵¹. In their own words, Logistics UK ‘represents all of logistics, with members from the road, rail, sea and air industries, as well as the buyers of freight services such as retailers and manufacturers whose businesses depend on the efficient movement of goods’¹⁵². The association claims to represent ‘50%’ of road logistics and say that its members: ‘operate more than 200,000 lorries – almost half the UK fleet’; ‘deliver over 90% of freight moved by rail’; ‘consign 70% of UK visible exports by sea’; and ‘consign 70% of UK visible exports by air’¹⁵³.

The association’s training and advice on compliance issues are an important asset for attracting and retaining members. Vehicle inspection services are also an important source of income, and this revenue is understood to outstrip membership income by a large margin.

Logistics UK reports the following broad areas of activities¹⁵⁴:

representing the business needs of the logistics industry to government at local, national and European level across road, rail, water and air, as well as the buyers of freight services such as retailers and manufacturers whose businesses depend on the efficient movement of goods

campaigns ... designed to highlight matters of strategic and commercial concern for our members; from climate change to Brexit, from rail freight costs, to issues around the 3rd London airport, from UK fuel duty to HGV driver shortages

inform and prepare members for the latest compliance requirements thus reducing risk and regulatory exposure

training courses improve the skills and knowledge of logistics professionals throughout the industry

counsel and advise members on matters both strategic and operational

logistics news

Logistics UK have on occasion published material suggesting that there is some sympathetic understanding of some the issues behind the crisis, which is not at all dissimilar to trade union analysis. A recent article stated, ‘the reasons for the decline in people taking their HGV

¹⁵¹ ‘Who we are’, Wincanton, at: <https://www.wincanton.co.uk/who-we-are/at-a-glance/>

¹⁵² ‘About us’, Logistics UK, at: <https://logistics.org.uk/about-us>

¹⁵³ *ibid.*

¹⁵⁴ *ibid.*

licence [are] long hours, poor facilities and poor sector image'¹⁵⁵, which is very similar to the union's analysis of some major underlying problems.

But it has broadly different solutions in mind to Unite, and places a very strong emphasis on the return of EU drivers as a main response to the crisis. Logistics UK has said that the 'Government must prioritise the granting of 10,000 temporary work visas to encourage EU drivers to return to support the UK's supply chain'¹⁵⁶. Logistics UK says that 'retail and logistics industries are taking proactive measures' to address the driver shortage, which they say includes 'increasing pay rates, offering bonuses, and implementing internal training schemes', but it insists that alongside this 'the government must take immediate action to support supply chains'¹⁵⁷.

Logistics UK are calling for the Government 'to adopt three policies immediately'. These are 'to increase DVSA's testing capacity permanently so the agency is able to process the backlog of driver tests', 'review its decision not to grant temporary work visas to HGV drivers from the EU' (again, the emphasis on migrant workers), and finally, the government has to 'ensure its skills and training schemes support the recruitment of HGV drivers, by reforming the National Skills Fund to fund HGV driver training and injecting flexibility into the Apprenticeship Levy'¹⁵⁸.

The increase in HGV driver testing capacity by a third is said to be 'very welcome, but these promises need to be implemented quickly', but it is significant that the association has expressed concerns about testing and licencing changes potentially impacting on safety, 'Logistics UK had strongly voiced our concerns about the proposed abolition of the B+E driver category, as this could pose a risk to road safety. However, Logistics UK has been assured that there will be a package of safety mitigation measures introduced; we will be working with government to ensure safety is prioritised'¹⁵⁹.

¹⁵⁵ S. Gilson Logistics Magazine Logistics UK (September 2019), p36

¹⁵⁶ Driver shortage crisis: grant 10,000 temporary visas to EU workers, says Logistics UK (20 August 2021), at: <https://logistics.org.uk/media/press-releases/2021/august/driver-shortage-crisis-grant-10-000-temporary-visa>

¹⁵⁷ Driver shortage crisis: UK business groups demand action, Logistics UK (22 August 2021), at: <https://logistics.org.uk/media/press-releases/2021/august/driver-shortage-crisis-uk-business-groups-demand-a>

¹⁵⁸ *ibid.*

¹⁵⁹ Changes to HGV driver testing process: measures a positive step forwards, says Logistics UK (13 September 2021), at: <https://logistics.org.uk/media/press-releases/2021/september/changes-to-hgv-driver-testing-process-measures-a-p>

The group has also called for ‘a dramatic improvement in driver facilities, such as safe places to rest, sleep and take refreshment breaks’, and urges the Government to take a lead role in this provision¹⁶⁰.

- ***There may be scope for cooperation with Logistics UK based around at least some shared understanding of the reasons for the crisis, while there is also recognition on their part that pay increases will likely be a necessary part of any recovery. Logistics UK has been vocal on the problem of poor provision of facilities, and also wants to see barriers to training reduced and subsidies to training costs improved, while it has expressed concern around issues that could affect road safety. All of these issues are potential areas for constructive engagement between Unite and Logistics UK, with other areas to be investigated.***
- ***Of the two industry bodies, Logistics UK represents the businesses with the greater capacity to unlock the finance needed for sector-wide improvements to pay and conditions by coordinating with its members to increase prices paid for road freight.***

By contrast, the Road Haulage Association organisation has something of an image as the representative body for small operators and owner-drivers. This is a characterisation it does not share, and the RHA insists that its membership also includes larger haulage companies. The RHA also offers its members advisory services, including business and employment advice and training, with pro-forma documents to assist members with regulatory aspects and compliance. Giving a summary of the current crisis, the RHA said ‘As has been long predicted by the RHA, the UK HGV driver shortage has now hit catastrophic proportions’. Seeking to explain what had occurred, the RHA blamed ‘the loss of about 12 months of driver training and testing’ due to the pandemic, ‘the long-term ineffectiveness of apprenticeships for lorry drivers and the general hostility from authorities and Government’ and noted that ‘The upturn in the economy since Covid-19 is increasing demand across supply chains and the reopening of non-essential retail outlets and parts of the hospitality sector is making the

¹⁶⁰ Logistics UK (2020) Skills and Employment Report 2020.
<https://logistics.org.uk/CMSPages/GetFile.aspx?guid=86764e99-6b36-4517-a93d-f567ebfa0ada&lang=en-GB>

situation even worse'. 'While we welcome the increase in HGV apprenticeship funding to £7000, this barely scratches the surface of the problem'¹⁶¹.

A recent BBC article cited the RHA as having referred to 'Historical problems in recruitment, work-life balance and the high cost of training' as contributing factors to the present driver shortage¹⁶².

The RHA's 12-point plan to tackle driver shortages¹⁶³ covers the following:

1. Include HGV drivers on Government's Skilled Worker Shortage Occupation List
2. Coronavirus recovery – a seasonal visa scheme for qualified HGV drivers
3. Continued priority driving tests for HGV drivers
4. Establish a 'Return to HGV Driving' scheme
5. Better promotion of the job and the sector as a whole
6. Apprenticeship funding gap for C+E drivers in England and Wales
7. Apprenticeships for Class C drivers
8. An SME-focused HGV driver training scheme
9. An independent HGV independent training loan scheme
10. Other training schemes – DWP pilots/Road to Logistics
11. Increase productivity of the road network
12. Improve site productivity and the treatment of drivers at collection and delivery points

A preoccupation for the RHA, as with Logistics UK, is to persuade the government to facilitate more EU drivers to return to work in the UK. The organisation lists a series of other recommendations that are not incompatible with Unite's preferred strategies, but only one of these recommendations really resonates as a shared objective, and this is RHA's goal to 'improve ... treatment of drivers at collection and delivery points'. Expanded on this point, the RHA continues,

businesses at collection and delivery points need to improve access productivity and the treatment of drivers. All drivers must have access to good quality, clean hygiene facilities at all sites at all times. Pro-driver attitudes need to be deployed by sites. Current practices around narrow collection and delivery slots, with fines for late or early arrival are unhelpful and should be modified or removed¹⁶⁴.

Another area of (some) shared concern is working time, further to the RHA press release 'General extension to Drivers Hours – Not recommended', in which the RHA 'opposes wholesale extensions to drivers' hours', while further saying that even 'A short-term general

¹⁶¹ RHA Gives The Government 12 Actions They Must Take As The Driver Shortage Hits 'Catastrophic Proportions', at: <https://www.rha.uk.net/news/news-blogs-and-press-releases/news-updates/detail/rha-gives-the-government-12-actions-they-must-take-as-the-driver-shortage-hits-catastrophic-proportions>

¹⁶² S. Miskin, 'HGV driver says 40% pay rise shows industry's desperate situation', BBC (1 September 2021), at: <https://www.bbc.co.uk/news/uk-england-coventry-warwickshire-58409277>

¹⁶³ RHA Gives The Government 12 Actions They Must Take

¹⁶⁴ UK Driver Shortage - RHA calls for action, RHA (7 June 2021), at: <https://www.rha.uk.net/Portals/0/News/Policy%20and%20Campaigning/Policy%20and%20Campaigning%20Documents/RHA%20Driver%20Shortage%20Actions%2004.06.21.pdf?ver=2021-06-04-172031-887>

relaxation of driver hour limits will be counter productive as it makes job less attractive’, and reminding government that ‘road safety is the reason HGV driver hours are limited. As always, selective Drivers Hours relaxations should be used with caution and to address short-term issues that need urgent resolution that cannot be addressed in other ways’¹⁶⁵.

The RHA has also expressed concerns that ‘The industry is undervalued and taken for granted’. This results in ‘ignorant approaches to road network management by local authorities through to a general lack of respect for drivers and haulage operators’. The RHA believes that there needs to be a ‘substantial and co-ordinated promotion of the sector to support all the recruitment and training activities needed’. And finally affirming that it is open to collaboration on this point ‘the RHA will work with Government and other trade bodies to further progress on promoting the sector’¹⁶⁶.

The RHA has also observed that ‘Obtaining a licence to drive a lorry and the associated costs of Driver CPCs and medicals is a significant impediment to joining and, in some cases, re-joining the profession’¹⁶⁷.

And finally, ‘for what appears to be the first time during the driver shortage crisis’ (as the website Trans.info put it), the Chief Executive of the RHA in August accepted that lorry drivers in the UK ‘for a long time, have been underpaid’¹⁶⁸. Another RHA officer cited the pay-related comments on Twitter, ‘drivers underpaid and increases will need to be paid for by customers’¹⁶⁹.

- ***Based on the above summary, there ought to be scope to engage with RHA around treatment of drivers, poor provision of facilities, issues of working time and work-life balance, and the general reputation of the sector (including specifically the treatment of drivers at collection and delivery points. Issues such as these, and improvements to training and licence costs, are all areas where Unite ought potentially to be able to engage with the RHA and find some common ground. If RHA maintains its recently adopted position on the need for pay rises then this too could be an area where some agreement is possible.***

¹⁶⁵ *ibid.*

¹⁶⁶ *ibid.*

¹⁶⁷ *ibid.*

¹⁶⁸ G. Gowens, ‘RHA chief admits HGV drivers have been underpaid for a long time’, Trans.info (2 August 2021), at: <https://trans.info/en/rha-chief-admits-hgv-drivers-have-been-underpaid-for-a-long-time-248847>

¹⁶⁹ Rod McKenzie (Managing Director of Policy & Public Affairs, RHA), Twitter post, at: https://twitter.com/RHARodMcKenzie/status/1422099425229516802?ref_src=twsrc%5Eetfw%7Ctwcamp%5Eetwembed%7Ctwterm%5E1422099425229516802%7Ctwgr%5E%7Ctwcon%5Es1_&ref_url=https%3A%2F%2Ftrans.info%2Fen%2Frha-chief-admits-hgv-drivers-have-been-underpaid-for-a-long-time-248847

- *The RHA and its members are in a complex position: they share a common interest with drivers and Unite in seeking higher prices for road freight, but many operate with low margins and are caught, to an extent, between meeting the costs of higher pay and improved conditions and the downward pressure for lower freight prices coming from supermarkets (and from some Logistics UK members). In dealing with the RHA Unite may find common positions with RHA on the need for higher rates to be paid for road freight generally.*

V) What would a modern sectoral framework look like?

Unite has indicated that its experience in working with industry on the area of mental health has been viewed positively by all concerned¹⁷⁰. The union is interested in the prospects for further sectoral work with employers and the prospects for some sort of sectoral framework to improve stability in the industry and to resolve some of the long-standing problems through negotiation and sector-wide cooperation. There are two fundamental models that have existed in the British industrial relations system at various times so far as the private sector is concerned, a National Joint Council (a voluntary bi-partite model for reaching sector-wide collective agreements between the union/s and employers association/s), and the Wages Council (a state body established by legislation, usually tripartite but in reality often with a leading role for government and employers).

- **A National Joint Council**

National Joint Council agreements are between employers or employers' associations and one or more union partners. The NJCs date back to the early 20th Century when they were established as voluntary bargaining committees, in some cases with statutory support, and emerging out of the Trades Boards. Several of these large NJC negotiating forums continue their work today with the support of unions and employers alike, and they set terms and conditions for millions of workers. Despite a tendency to over emphasise¹⁷¹ the decentralised and deregulated nature of employment in the UK, large-scale collective bargaining and national-level agreements remain overwhelmingly the dominant model in some large sectors, notably the National Health Service, local government and construction.

The NJCs that remain active today operate without any specific statutory framework underpinning their operation and are simply voluntary agreements between unions and employers to negotiate shared interests and to regulate sectors for the common benefit of all concerned. The NJCs typically have a formal constitution and procedures and – to varying degrees – may also have a secretariat or office support (usually provided by the relevant employers' association). The principles that an NJC reaches establish national sector-wide applicable terms that are agreed upon by both sides of industry, based on the outcome of complex and rigorous negotiations between those who most fully understand the processes

¹⁷⁰ As advised in the brief for this research

¹⁷¹ Some of the UK's leading modern employment law reference books don't even mention the existence of the vast National Joint Councils, or their associated agreements

involved and the needs of those involved. The agreements reached by this body are set out in a formal collective agreement. The terms and conditions in the collective agreement will not normally have binding legal force between the negotiating parties but they will be ‘incorporated’ into the contracts of employment of all those in the industry who are covered by the agreement (ie – members of the union working for employers in membership of the employers’ association/s). In practice this usually means the terms become a de facto industry standard, though unaffiliated employers are not bound by them. Should bargaining reach an impasse a properly drafted NJC constitution will provide for a dispute resolution process (such as to refer the matter to ACAS for conciliation). Both sides agree to participate in the process of conciliation and act in good faith.

Across various industries and in the public sector, NJCs continue to set terms and conditions for millions of workers throughout the UK and in various sectors and trades. Examples of existing agreements include:

- The pay and terms of conditions of employment for local government services' workers is determined by the National Joint Council for Local Government Services¹⁷². The Single Status Agreement sets conditions for more than 1.4 million workers.
- The Construction Industry Joint Council (CIJC) Working Rule Agreement¹⁷³ is the largest industrial agreement within the construction industry, covering approximately 500,000 workers and setting minimum pay rates as well as standards on travel and fare rates.
- The National Joint Council for the Engineering Construction Industry (NJC)¹⁷⁴ reviews and administers the National Agreement for the Engineering Construction Industry - sometimes referred to as the 'Blue Book', or the NAECI, an agreement that dates back nearly 40 years. The agreement covers approximately 15,000 workers.
- The Thermal Insulation Contracting Industry National Agreement¹⁷⁵ covers working rules and conditions for several categories of workers employed by members of the

¹⁷² Details available from Local Government Association, at: <https://www.local.gov.uk/our-support/workforce-and-hr-support/local-government-services>

¹⁷³ Copies of the ‘Working Rule Agreement, 2018’ are available from Construction Industry Publications at: <https://www.cip-books.com/2018-cijc-working-rule-agreement-and-updated-guide-now-available/#>

¹⁷⁴ <https://www.njceci.org.uk/>

¹⁷⁵ <https://tica-acad.co.uk/wp-content/uploads/2019/03/TICI-National-Agreement-2019-2021.pdf>

Association in the thermal insulation contracting industry. The agreement dates back to 1947 and continues to be revised and amended in the course of negotiation between the parties.

- The Electrotechnical JIB sets employment standards in the electrical contracting industry, and refers to ‘over 144,000 cardholders’¹⁷⁶.
- The UNITE- BESA agreement for the heating and ventilation contracting industry¹⁷⁷.
- The Joint Negotiating Committee (JNC) for Youth and Community Workers¹⁷⁸ sets the national framework used to grade and pay youth work jobs. The function of the JNC is to agree the salary scales, yearly pay increases and other terms and conditions of service.
- The Joint Negotiating Committee for Local Authority Craft & Associated Employees negotiates the ‘Red Book’ collective agreement bringing together the coverage of two predecessor NJCs and sees member bodies set minimum thresholds on pay and terms and conditions of service for all craft and associated workers employed by local authorities¹⁷⁹.
- The National Joint Council for Local Authority Fire and Rescue Services (NJC) negotiates over a range of matters, primarily pay and conditions for ‘all uniformed employees of Fire and Rescue Services in the United Kingdom’, its activities facilitated by a secretariat provided by the Local Government Association¹⁸⁰.

Unite is party to several of these agreements and the union therefore has direct access to first hand experience from those involved in the work of contemporary NJC councils: the advice of those involved will be uniquely valuable in considering how any form of NJC might be established for the HGV sector. The relevant employers associations might also be approached to obtain their views on the positive impact that the NJCs have had in their industries, which could be influential for discussions with employers associations in the HGV

¹⁷⁶ <https://www.jib.org.uk/>

¹⁷⁷ <https://www.thebesa.com/employment-affairs/national-agreements/>

¹⁷⁸ [https://www.nya.org.uk/youth-work/jnc/#:~:text=The%20Joint%20Negotiating%20Committee%20\(JNC,professional%20youth%20worker](https://www.nya.org.uk/youth-work/jnc/#:~:text=The%20Joint%20Negotiating%20Committee%20(JNC,professional%20youth%20worker)

¹⁷⁹ <https://www.local.gov.uk/our-support/workforce-and-hr-support/local-government-services/green-book-payscales-and-other-2>

¹⁸⁰ National Joint Council for Local Authority Fire and Rescue Services (‘NJC for Fire’), at: <https://www.local.gov.uk/national-joint-council-local-authority-fire-and-rescue-services>

and logistics sector. Certainly there are employer organisations in some sectors who are happy publicly to celebrate the successful operation of the NJCs to which they are party.

- **Wages Council**

The Wages Councils have their origins in the 1909 Trade Boards Act, which established what were essentially industrial committees in sectors and trades lacking sufficient levels of organisation through trade unions and employers associations. The understanding was that these would be temporary measures ‘pending the development of such a degree of organisation as would justify the establishment of a joint industrial council’¹⁸¹. The trade boards were said to have ‘improved working conditions and wages, and prevented the undercutting of the decent employers’¹⁸². In time many were surpassed and replaced by National Joint Councils as the level of unionisation grew in particular sectors. At their peak in the post-War period there were around 60 such boards (re-named and re-modelled as Wages Councils). Legal reforms in 1986 and 1993 reduced the powers of these Councils and ultimately led to their abolition.

Only the Agricultural Wages Board survived, but it too was abolished in England in 2013 under the (UK) Enterprise and Regulatory Reform Act 2013. Scotland and Northern Ireland preserved their equivalent agricultural bodies, and Wales introduced its own legislation to establish a Welsh agricultural wages board. The UK government attempted to prevent this, but failed in the Supreme Court, which determined that regulation of the sector was an agricultural matter and therefore a matter of devolved government¹⁸³. Although the three agricultural boards differ slightly, instructive reference may be had to the Scottish Agricultural Wages Board as an indication of how this model continues to regulate minimum standards for pay and conditions in the agricultural sector in Scotland, Wales, and Northern Ireland.

The Scottish Agricultural Wages Board persists under the original 1949 legislative framework and it is established as ‘an Executive Non-Departmental Public Body’¹⁸⁴. The Board meets twice a year to determine minimum rates of pay, holidays, absence due to ill-health, benefits, and the ‘stable income arrangement’ (which provides for regular payments made to a

¹⁸¹ Minister of Labour (Isaacs), Wages Councils Bill, Hansard (4 November 1948), at: <https://api.parliament.uk/historic-hansard/commons/1948/nov/04/wages-councils-bill>

¹⁸² *ibid.*

¹⁸³ Agricultural Sector (Wales) Bill - Reference by the Attorney General for England and Wales [2014] UKSC 43

¹⁸⁴ Agricultural Wages (Scotland) Act 1949, and see <https://www.gov.scot/groups/scottish-agricultural-wages-board/>

specified formula for workers who would otherwise experience large fluctuations in pay due to seasonal variations in agricultural work). The Board also has a role in relation to working time and more esoteric aspects of the sector such as setting terms for the ‘dog allowance’ (paid to workers who are required to keep and feed a dog further to their work)¹⁸⁵.

The standards are given binding legal force by means of an Order. The standards set the *minimum* rates of pay and other conditions to which workers are entitled by law. Employers may, at their discretion, pay more than these minimum rates or offer better conditions of service. Any such rates and conditions agreed by the employer and the worker will be due as a matter of contract law¹⁸⁶. The board does provide for union participation but the level of union involvement is much weaker than the NJC model and there are significantly more members appointed by government and employers.

Sectoral regulation in practice: examples from Europe

The condition of the road haulage sector around Europe is varied; in some countries the situation is as poorly regulated as the UK has become; while in others sector wide regulation along lines similar to that which existed in the UK for most of the 20th Century still exists and is widely recognised as playing a constructive role. Several of the brief outlines presented below are based on European Union-funded sector level research into collective bargaining commissioned by Ver.di and the European Transport Workers Federation that was carried out by Katrin Vitols and Eckhard Voss of WMP Consult (Wilke Maack GmbH) and published by Europäische Akademie für umweltorientierten Verkehr GmbH as *Social Conditions in Logistics in Europe: Focus on Road Transport: Final Report*¹⁸⁷.

- **Netherlands**

Almost 60% of professional drivers are affiliated to a trade union in the Netherlands¹⁸⁸. Two transport sector unions FNV Transport en Logistiek and CNV Vakmensen jointly organise around 90,000 drivers and together with de Unie they represent workers interests in sectoral bargaining opposite two employers associations Transport en Logistiek Nederland and Vereniging Verticaal Transport. A recent bargaining round saw some intransigence but

¹⁸⁵ <https://www.gov.scot/publications/scottish-agricultural-wages-board/pages/8/>

¹⁸⁶ <https://www.gov.scot/publications/scottish-agricultural-wages-board/pages/2/>

¹⁸⁷ *Social Conditions in Logistics in Europe: Focus on Road Transport: Final Report*, Europäische Akademie für umweltorientierten Verkehr gGmbH (May 2019), at: https://www.wilke-maack.de/wp-content/uploads/2020/07/report_social_conditions_in_logistics.pdf

¹⁸⁸ *ibid.*

was eventually settled and included ‘a wage increase of 3.5%, an arrangement that would allow staff with heavy workloads to retire earlier, as well as a requirement for all trucks to be equipped with air conditioning and heating that continues to run when the engines are switched off’¹⁸⁹. As an FNV representative explained to the Financial Times, the system ‘gives transport suppliers the ability to say to their customers: this is law, so I can’t go cheaper than this’¹⁹⁰. In addition to the generally binding collective bargaining agreement company level bargaining can adopt clauses that are more favourable to the driver¹⁹¹.

- **Sweden**

Almost 50,000 drivers are set to receive extended contracts and pay rises under an agreement negotiated between the Transportföretagen union and the employers association Biltrafikens Arbetsgivareförbund (BA)¹⁹². The agreement delivered ‘salary increases of 5.4% and contract extensions of 29 months’¹⁹³. The CEO of BA has said that the new agreement ‘gives our member companies peace of mind in a troubled time. As the agreement runs over a period of 29 months, our member companies have stable conditions for a longer period of time. It is of great importance as well as necessary because the corona pandemic has hit society hard and is affecting the industry’¹⁹⁴. The agreement also allowed unions and employers to agree strategies intended to ensure that the Swedish transport sector ‘will achieve high climate goals by reducing its emissions by 70 percent by 2030’¹⁹⁵.

- **Austria**

The vilda trade union (road section) represents the interests of all professional drivers in Austria, including in collective bargaining the interests of around 70,000 dependent employees in the road freight sector, who are employed by around 11,000 companies¹⁹⁶.

¹⁸⁹ ‘Union officer wants UK to follow EU country’s lead on lorry driver salary negotiations’ (Trans.info) (26 August 2021), at: <https://trans.info/en/union-officer-wants-uk-to-follow-eu-country-s-lead-on-lorry-driver-salary-negotiations-251932>

¹⁹⁰ *ibid.*

¹⁹¹ *Social Conditions in Logistics in Europe: Focus on Road Transport: Final Report*, Europäische Akademie für umweltorientierten Verkehr gGmbH (May 2019), at: https://www.wilke-maack.de/wp-content/uploads/2020/07/report_social_conditions_in_logistics.pdf

¹⁹² G. Gowens, ‘Thousands of Lorry drivers in Sweden offered extended contracts and 5.4% pay rise’, Trans.Info (3 December 2020), at: <https://trans.info/en/50-000-lorry-drivers-in-sweden-offered-extended-contracts-and-5-4-pay-rise-211805>

¹⁹³ *ibid.*

¹⁹⁴ *ibid.*

¹⁹⁵ Computer translation of R. Andersson, ‘Avtal klart för chaufförer’ (27 November 2020), original at: <https://www.trailer.se/artikel/avtal-klart-for-chaufforer>

¹⁹⁶ *Social Conditions in Logistics in Europe: Focus on Road Transport: Final Report*, Europäische Akademie für umweltorientierten Verkehr gGmbH (May 2019), at: https://www.wilke-maack.de/wp-content/uploads/2020/07/report_social_conditions_in_logistics.pdf

Around 100% of all companies in the transport and logistics sector are covered by a collective agreement. The trade union negotiates with the respective employer organisation on a national as well as regional or local level, with collective agreements covering different sections of road transport and logistics¹⁹⁷.

- **Belgium**

Working conditions for workers of the transport sector are negotiated in a national joint committee for road transport of freight and passengers. Within the joint committee, sub-sectorial committees exist for different groups of transport workers¹⁹⁸. Sector level agreements are then issued by the joint committees, which are typically ‘extended’ (given force of law throughout the sector) by the Ministry of Labour¹⁹⁹. Belgium has the highest degree of bargaining centralisation and coordination in Europe. The current collective agreement for the road transport sector and logistics on behalf of third parties stipulates weekly working time, minimum wage scales, and various premiums. Within the agreement ‘wages are set, in the form of hourly gross wages, for five wage categories of road freight transport workers’²⁰⁰.

- **Czechia**

Odborový svaz dopravy (OSD) organises around professional drivers and other transport workers. The union has around 8000 members²⁰¹. Organisation of employers is similarly limited, and there is said to be a ‘widespread reluctance to conduct collective bargaining and conclude contracts’²⁰². Employers’ associations ‘often see themselves as exclusively economic interest groups and not as social partners or collective bargaining parties’²⁰³. However, despite these apparent challenges, road transport is comparatively well organised, and the OSD’s negotiating partner Svazem dopravy CR, sekci silniční dopravy ‘represents 143 transport operators employing over 140,000 employees’²⁰⁴. A sector level agreement for road freight transport was negotiated in 2016, following which ‘both social partners filed an

¹⁹⁷ *ibid.*

¹⁹⁸ *ibid.*

¹⁹⁹ *ibid.*

²⁰⁰ *ibid.*

²⁰¹ *ibid.*

²⁰² *ibid.*

²⁰³ *ibid.*

²⁰⁴ *ibid.*

application with the Ministry of Labour and Social Affairs for general applicability of the collective bargaining agreement ... [it was] declared generally binding²⁰⁵. OSD estimates that the agreement covers 1100 transport companies and around 80,000–100,000 of 121,100 employees in the sector (the agreement does not apply to small hauliers with few employees)²⁰⁶.

- **Denmark**

The United Federation of Danish Workers (known as FFF or ‘3F’) organises in the transport sector and claims ‘around 60–65 % of the workforce’ across 30,000 drivers working in road freight transport. Dansk Transport og Logistik (DTL) is the employers association for 2300 urban, logistics and road transport companies²⁰⁷. The collective agreement in the transport sector covers all workers in the sector²⁰⁸. It includes subjects such as normal daily working time, rates for overtime, sickness pay, additional (non statutory) leave, inclusion in the sectoral pension scheme, support for workers with children, as well as provisions on continuous learning²⁰⁹. It also covers basic wages and premiums that set a sectoral floor, which company level agreements may exceed²¹⁰.

- **Germany**

The service sector trade union Ver.di is the main organization for professional drivers, alongside Deutsche Speditionen und Logistikverband as an umbrella organisation for the freight forwarding and logistics industry representing around 3000 businesses responsible for ‘90 % of the sector’s turnover’²¹¹. Another industry body is the Bundesverband Güterkraftverkehr Logistik und Entsorgung, ‘which has around 7,000 members’²¹². As Social Conditions in Logistics in Europe notes these ‘federal trade associations are not employers’ associations and therefore cannot negotiate collective agreements. Instead, they represent economic policy interests vis-à-vis the political system and pursue a coordinating function at

²⁰⁵ *ibid.*

²⁰⁶ *ibid.*

²⁰⁷ *ibid.*

²⁰⁸ *ibid.*

²⁰⁹ *ibid.*

²¹⁰ *ibid.*

²¹¹ *ibid.*

²¹² *ibid.*

industry level'²¹³. There are also 'a large number of very small companies in Germany, which are generally not organised in associations'²¹⁴

Collective bargaining in the road haulage sector takes place between Ver.di and regional employers associations and is based at the level of the federal States, 'which leads to differences in pay of professional drivers between the federal states'²¹⁵. The WMP report noted that 'the lack of qualified drivers had a positive effect on the wage development in the past. Due to the shortage of professional drivers, actual pay often exceeds the wage levels in the collective agreements'²¹⁶. But due to a lack of clarity about employer association membership structures 'it is not clear to the trade union which companies are being negotiated for'²¹⁷. And 'with less than 20 % of the employees covered by an agreement, collective bargaining coverage in the road haulage sector is generally low'²¹⁸.

- **Poland**

Union membership among road transport workers in Poland is very low. The OPZZ confederation does not list a road transport union and the largest union in the sector is KSTD NSZZ Solidarność, with just 2000 members, while the smaller NZZK (affiliated to the FZZ confederation) has only about 350 members²¹⁹. There are no sectoral agreements and 'collective bargaining does not play any regulatory role for the social and working conditions of Polish truck drivers. ... Wages ... are negotiated individually between the company and the driver'²²⁰. And according to the WPM research 'about 80%' of companies in the sector are one-person businesses²²¹, which is likely a contributing factor to the very low level of union organization.

Conclusions of the WMP report

The WMP research concludes that 'collective agreements at sectoral level clearly make a difference', citing an improved level of detail of regulation concerning 'aspects that go

²¹³ *ibid.*

²¹⁴ *ibid.*

²¹⁵ *ibid.*

²¹⁶ *ibid.*

²¹⁷ *ibid.*

²¹⁸ *ibid.*

²¹⁹ *ibid.*

²²⁰ *ibid.*

²²¹ *ibid.*

beyond wage related issues'²²². The rate to which collective bargaining functions in the sector was quite diverse, with WMP noting 'nearly 100% coverage of companies and workers in the sector in countries such as Austria, Belgium and Denmark to very low rates in countries such as Poland, the Czech Republic or Germany'²²³. High membership of trade unions and employers associations also tends to be associated with high levels of collective bargaining coverage²²⁴. And in some countries, notably Belgium and the Netherlands, the state plays an important role in facilitating the 'extension' of collective agreements to give them binding legal force²²⁵. Returning to the role that collective bargaining can play beyond merely the setting of pay rates, the WMP research emphasised again that the issues covered went 'far beyond wages: Collective agreements define different wage groups depending on qualifications or seniority, set minimum requirements as regards overtime, working at unusual hours or at weekends, regulate different categories of working time, regulate benefits and allowances for dangerous, heavy or dirty work, holiday pay or end of the year premiums and other aspects. And beyond remuneration, collective agreements also play a strong role in shaping social and working conditions of apprenticeships, specific health and safety standards, workers' rights to initial and further training and qualifications and even infrastructure requirements such as those regarding parking areas'²²⁶.

²²² *ibid.*

²²³ *ibid.*

²²⁴ *ibid.*

²²⁵ *ibid.*

²²⁶ *ibid.*

VI) Collective bargaining: Obligations under international law

The UK Government has accepted binding international obligations under many treaties and instruments over many years. These obligations form a crucial pillar underpinning the UK's position in the world. They range from the most fundamental aspects governing world peace and respect for fundamental human rights to the sectoral, practical and esoteric matters.

Among these treaties and the legal regimes that govern their application and implementation are many that deal with aspects of the world of work, and among these is a recurring theme, arising under international and European sources: - the obligation to take active steps to promote collective bargaining. This concept elaborates the principle that workers, through trade union representation, should be able to bargain collectively with relevant employers.

It is a principle that the UK helped to negotiate and has agreed to be bound by on terms expressed under three specific frameworks with the treaty systems of the International Labour Organisation (Convention No. 98) and the Council Europe (the European Convention on Human Rights and the European Social Charter). A basic account of the Government's fundamental obligations under each of these frameworks is outlined below:

The International Labour Organisation

Article 4 of International Labour Organisation (ILO) Convention No. 98 of 1950, the second most ratified of the ILO's Conventions (and of which the UK was the first signatory) states that

‘measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements’.

European Convention on Human Rights

Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, states:

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

Article 11 does not explicitly refer to ‘collective bargaining’ but the right to bargain collectively is now confirmed as an essential element of freedom of association, arising from the notion that freedom of association must be meaningful. The view of the Court is expressed in the *Demir*²²⁷ case, at [154], where it was held that:

the right to bargain collectively with the employer has, in principle, become one of the essential elements of the ‘right to form and to join trade unions for the protection of [one’s] interests’ set forth in Article 11 of the Convention, it being understood that States remain free to organise their system so as, if appropriate, to grant special status to representative trade unions.

The European Social Charter

The obligation to promote collective bargaining is similarly outlined in the European Social Charter of 1961, which under Article 6 says that

With a view to ensuring the effective exercise of the right to bargain collectively, the Contracting Parties undertake:

1 to promote joint consultation between workers and employers;
2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements ...’.

The European Committee of Social Rights has expanded on what is meant by this concept of ‘if necessary’ contained within Article 6(2), ‘if necessary and useful, i.e. in particular if the spontaneous development of collective bargaining is not sufficient, **positive measures should be taken** to facilitate and encourage the conclusion of collective agreements’ (Digest of the Case Law of the European Committee of Social Rights, December 2018, Article 6.2, p99, emphasis added).

The Committee’s explanation is instructive: - where such mechanisms do not develop ‘spontaneously’ then the State is under an obligation to act; it has a responsibility ‘to take positive measures’ to promote conditions under which the necessary machinery may develop.

²²⁷ *Demir and Baykara v Turkey* (2009) 48 EHRR 54, [2009] IRLR 766

The UK / EU Trade and Cooperation Agreement

Though the UK has now left the European Union so that EU law no longer applies, the UK has voluntarily accepted a further recent commitment to continue to uphold this obligation to promote collective bargaining with the adoption of the Trade and Cooperation Agreement, ratified 30 April 2021. The Agreement provides for its own mechanism for enforcement by the other party.

Article 399(2) provides:

In accordance with the ILO Constitution and the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted at Geneva on 18 June 1998 by the International Labour Conference at its 86th Session, each Party commits to respecting, promoting and effectively implementing the internationally recognised core labour standards, as defined in the fundamental ILO Conventions, which are:

- (a) freedom of association and the effective recognition of the right to collective bargaining;

...

Article 399(5) provides that:

Each Party commits to implementing all the ILO Conventions that the United Kingdom and the Member States have respectively ratified and the different provisions of the European Social Charter that, as members of the Council of Europe, the Member States and the United Kingdom have respectively accepted ...

Article 399(6) provides:

Each Party shall continue to promote, through its laws and practices, the ILO Decent Work Agenda as set out in the 2008 ILO Declaration on Social Justice for a Fair Globalization (the "ILO Decent Work Agenda") and in accordance with relevant ILO Conventions, and other international commitments, in particular with regard to:

- (a) decent working conditions for all, with regard to, inter alia, wages and earnings, working hours, maternity leave and other conditions of work;
- (b) health and safety at work, including the prevention of occupational injury or illness and compensation in cases of such injury or illness; and
- (c) non-discrimination in respect of working conditions, including for migrant workers.

Article 399(7) provides that:

Each Party shall protect and promote social dialogue on labour matters among workers and employers, and their respective organisations, and with relevant government authorities.

VII) Summary and conclusions

This report draws the following conclusions concerning the broad economic background and structural problems underlying the driver shortage crisis:

Economic background

- There is a recurring problem of drivers being forced out of the industry after economic shocks and difficulty recruiting when the economy recovers.
- The 2008 global financial crisis forced many drivers out, but recruitment failed to keep pace as the economy recovered, creating a substantial shortage of drivers.
- The government and industry knew about this problem years ago, what caused it, and that the shortfall was projected to keep growing.
- The sector had not fully recovered from the post-2008 shock, even by 2019.
- The twin shocks of Covid and Brexit forced more drivers out of the industry as these shocks temporarily impacted on demand for freight, and:
 - Brexit also pushed out EU nationals
 - Covid also halted training of new drivers
- Again the economic recovery has created a demand for drivers that exceeds the number of those ready and willing to work on present terms and conditions, further exacerbating what was already a long-standing problem.
- Recent changes to 'IR35' rules have brought pressure to end disguised employment and increased awareness of and responsibility for tax and national insurance payments. This is placing further pressure into the system in both directions both pushing up freight costs and pushing down potential take home earnings (which were artificially 'high' prior to moving to PAYE because of tax minimisation or avoidance measures).

The workforce and pool of potential drivers

- There are already far more qualified drivers in the UK than the sector needs – these qualified drivers have left and failed to return because the job (under prevailing pay and conditions) is not appealing to them.
- If these qualified drivers are offered sufficiently appealing terms and conditions (including, but not limited to pay), it should be possible to persuade some to return.
- Asking them to work despite the same old problems and with stop-gap measures such as even longer working hours (which both unions and the employer associations dismiss as useless and dangerous) is not the answer - when fatigue is already a widely cited problem in the sector.
- The use of EU nationals to fill driver vacancies helped to mask the problem, but shortages persisted and this strategy did not ‘fix’ the problems - the recent departure of EU nationals is only a part of a much wider picture.
- The industry is massively lacking in diversity:
 - the aging workforce presents an imminent further shock to the industry and there is an urgent need to recruit younger drivers.
- There is difficulty recruiting which was exacerbated by Covid but which is more significantly due to training costs and a view that the profession is insufficiently attractive (pay, conditions, etc) compared to comparable careers, such as van driving.

Barriers to recruitment and retention

- There is wide agreement that facilities (for rest, toilet and washing) are very poor.
 - This is a particularly acute issue for women drivers, but also a problem cited widely by all drivers.

- The lack of diversity creates perceived barriers to those outside of the typical demographic (overwhelmingly male, white, and over the age of 50).
- Working time is a major factor:
 - drivers work very long shifts, up to the maximum permitted by law, and frequently report that these schedules are too demanding.
 - When so-called ‘periods of availability’ are added into the equation overall working time can be far in excess of what would be a safe maximum.
 - Overwork leads to dangerous situations, including drivers falling asleep at the wheel – this has been a recurring problem over more than a century of mechanised road haulage, solved most effectively by sectoral regulation.
 - Extension of working time as a means to solve the crisis has been condemned by both sides of industry as futile and dangerous.
- An increasing surveillance at work culture has created an environment that drivers feel robs them of autonomy and leaves them feeling micro-managed, lacking privacy, and overly controlled – that is not an environment people want to work in.
- The costs of entry and on-going qualification costs are a factor:
 - Licence acquisition and renewal of qualifications is a factor deterring new applicants and increasing attrition of the existing workforce.
 - Many feel that the costs of training and renewal should be born by the government and / or industry and that drivers should not have to take unpaid leave to renew their qualifications.
- The van sector has grown massively, tempting many drivers to a career involving less training, less expense, and viewed as easier to fit with a reasonable work-life balance.
- A more health conscious society is less inclined to take-up sedentary work with few opportunities for exercise, limited healthy food options, and ‘endemic’ fatigue.

- An overall culture has developed in the transport, warehousing and logistics sector that sees HGV drivers treated poorly, which is an unpleasant work environment.
- Pay is below average for full-time workers and is very significantly below the average for male full-time workers.

Organisation of the sector

- This is a highly fragmented industry in which competition has traditionally driven wages and conditions to unsustainable and even dangerous levels.
- For most of the 20th Century the industry was regulated by sectoral bodies (either a wages board or joint industrial council), which were widely regarded as successful.
- Prior to sectoral regulation ‘chaos’ was widely reported in the industry.
- From the mid-1970s sector wide regulation began to be dismantled, with bargaining moving to a voluntary regional model, and ultimately to its current state of a patchwork single employer model.
- Unionisation remains comparatively high by UK standards but due to the fragmented nature of the industry a single-employer model can do little or nothing to influence poor standards among many thousands of small operators.
- Under the present model, competition between freight customers (including the major supermarkets as a major factor) as well as competition between haulage contractors has again pushed wages and conditions down.
- Outsourcing and agency working have further contributed to a precarious employment environment.

Organisation of the sector in Europe

- Sectoral regulation through some form of collective bargaining is widespread in Europe (though there are also examples of countries in which bargaining is fragmented or almost non-existent).
- Where sectoral collective agreements exist they are shown to play a strong role not only on pay and working time but also in shaping social and working conditions of apprenticeships, health and safety standards, training and qualifications, infrastructure requirements such as those regarding parking areas, and even helping to adopt environmental initiatives in the sector.
- Employers' organisations are on record for countries with the highest levels of sectoral regulation celebrating the value of these arrangements for contributing to stability and predictability in the industry.

Shared interests and common ground?

Broadly speaking there is scope for engagement around the following concerns that have been expressed publicly by the employers' associations, where there are shared interests. The weight and proposed solutions to these issues may differ, but they outline a basic framework around which sectoral communication might be initiated:

- Improving stability of the industry
- Reducing barriers to training, including costs
- Road safety
- Treatment of drivers
- Improvement to facilities
- Working time and work-life balance
- The general reputation of the sector
- Pay has been pushed down and is too low

There is an existing model of successful cooperation:

- The sectoral work already undertaken on mental health, which work has been viewed positively by both sides of industry.

And there are likely further issues around which constructive engagement may be beneficial to both sides of industry and useful reference may be had to experiences in Europe, for example:

- Environmental strategies
- Pensions
- Holidays
- Parental leave
- Career advancement paths, etc.

The responsibilities of the Government

- The government has obligations under ILO Convention No. 98, the European Convention on Human Rights, and the European Social Charter not only to permit but also to take steps *to promote* conditions under which collective bargaining machinery may develop.

A sectoral solution

- Sectoral regulation by the industry and unions has long been key to achieving sustainable and effective operation of this fragmented and difficult sector.
- Unite's proposal that improvements to the sector must be developed through better sectoral coordination and the establishment of a national council is sensible, coherent, and in line with how the sector's reputation for 'chaos' has previously been resolved to the satisfaction of all parties.

The following section of this paper outlines a series of recommendations to further develop this proposal.

VIII) Recommendations

To Unite

By way of preparation: -

- To pursue cooperative engagement with both employer associations, recognising that each has different interests and serve diverse memberships, and that each will have different priorities for sectoral cooperation.
- To initiate outreach to other unions throughout the logistics industry and related sectors, specifically GMB, CWU, URTU (various aspects of road freight), ASLEF (rail freight), USDAW (supermarkets). To investigate the appetite across these organisations for cooperation with a view to influencing key actors in the industry.

To investigate, first and foremost, the potential for a National Joint Council: -

- For officials from the sector to meet with Unite representatives involved in the day-to-day activities of existing National Joint Councils and to solicit their advice on practical matters such as effective working practices, strategies for reaching agreement with employers, and on the outline powers and procedures that they believe are required for an effective NJC.
- To develop internally a draft framework of clearly delimited aims, objectives, and powers appropriate for an NJC clearly directed to the resolution of specific problems (such as an intention to negotiate minimum rates of pay, sector-wide approaches to working time and POA, and possibly also establish processes for setting minimum rates for freight), to identify areas for joint union-employer lobbying of Government (on provision of roadside facilities, for example), and to anticipate a clearly defined scope for the joint committee (whether that be ‘road haulage’, ‘road freight transport’, the ‘HGV sector’, or some other formulation).
- To develop this draft working document rapidly by relying on existing NJC agreements from other sectors as templates for a range of proven workable models.

- To meet with employers for preliminary discussions to scope areas of mutual concern with a view to drafting a statement of shared priorities for the industry.
- To co-sign, with employer associations, a voluntary agreement to establish a National Joint Council, with powers, areas of competence, composition and procedure to be agreed between the parties (using existing NJC agreements from other sectors as potential models to follow).
- To seek a first agreement on core matters directed to solving the long-term recruitment and retention problems.

Secondly, in the alternative, to propose the establishment of a Wages Council: -

- To solicit the advice and assistance of the Unite representatives who sit on the existing agricultural wages boards in Scotland, Wales and Northern Ireland.
- To draw up a list of key matters over which the union would want such a council or board to have authority over (pay, working time, etc) and the powers that the union would wish to see granted to the council. (The competencies and powers of the existing agricultural wages bodies of Scotland, Wales and Northern Ireland would be relevant templates, as would the competencies and powers of the historic Road Haulage Wages Council established under the Act of 1948, modified in 1959, and dissolved in 1978).
- To discuss the prospects for industry participation or support for such a model with Logistics UK and the RHA.
- To reach out to parliamentary contacts to investigate the appetite that might exist at the Department for Transport, or in any section of the Government, or among any significant group or faction of MPs for a wages board or council as a means to resolve the present crisis and to prevent its recurrence.
- To pursue such avenues as may appear possible following this outreach (as a process reliant on Government action the establishment of a Wages Board or Council would be outside of the control of either the unions or industry bodies).

To employer associations

- To meet with Unite for preliminary discussions to scope areas of mutual concern with a view to drafting a statement of shared priorities for the industry.
- To consult employer organisations from other sectors that do have functioning National Joint Councils and from the Agricultural sector concerning the value that they see from the NJC and wage setting structures operating in their sectors.
- To co-sign, with Unite, a voluntary agreement to establish a National Joint Council, with powers, areas of competence, composition and procedure to be agreed between the parties (with existing NJC agreements from other sectors as potential models).
- In the alternative, should an NJC not be established, to participate in joint approaches with Unite to the Government or to groups of MPs with a view to promoting the establishment of a Wages Council or Wages Board or some similar formulation of state-backed body to introduce minimum sector-wide standards to the industry aimed at resolving the present crisis and addressing the long-standing problems of recruitment and retention in the industry.

To government

- To recognise that there are systemic problems with the industry based around recruitment and retention and that these are long-standing and arise because the terms and conditions under which drivers are asked to work are not sufficient to attract and retain a skilled workforce (as per the conclusions of the Transport Committee Inquiry).
- To recognise that this situation is exacerbated by a systemic susceptibility to economic shocks that are the characteristic of a fragmented and under-regulated industry, forcing many thousands of drivers out of the industry with each (temporary) fall in demand, and that the sector lacks proper mechanisms for managing this.
- To recognise that in the specific context of this industry – vital to the economy and to the life of the nation, heavily fragmented, and susceptible both to runaway

competition, and to economic shocks – that there is a role for sectoral standard setting as a means of regulating ‘chaos’ and of controlling the cycling waves of disruption and their impacts which are upsetting the economy and the country at large.

- To fulfil the Government’s responsibilities under international law to ‘encourage and promote’ initiatives aimed at achieving voluntary negotiation by workers and employers in either a National Joint Council or a Wages Council as a means of:
 - regulating this critical and volatile sector
 - ending a high profile crisis and preventing or managing its re-occurrence

Daniel BLACKBURN,
SEPTEMBER 2021



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