

Unite response to 'Guaranteeing good work in the modern workplace' consultation

This submission is made by Unite, the major UK trade union with over one million members across all sectors of the economy including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, health, local government and the not for profit sector. Unite also organises in the community, enabling those who are not in employment to be part of our union.

Before addressing the specific questions in this consultation this response starts by highlighting some key elements of guaranteeing good work.

**Making all jobs good jobs, with higher incomes, greater security and stronger trade unions are at the centre of guaranteeing good work and repairing our economy.**

Increasing trade union access to workplaces and enabling trade unions to organise across the economy is crucial to arresting the trend in greater exploitation and to improving security, equality and achieving better employment rights and wages for all.

**Trade unions, and the ability of workers to collectively organise, are central to better jobs, a successful economic policy and achieving a more equal society.** Part of protecting people's lives and livelihoods – and a necessary part of delivering social justice – is ensuring that all jobs are decent jobs. This requires the strengthening of collective trade union freedoms and individual employment rights, including trade union rights to access to organise in workplaces and the roll out of sectoral collective bargaining.

Unite has condemned the Government's recent change in the law reversing a 40-year ban so that agency workers can now be used to replace striking workers. It is anti-worker, anti-union and likely to ruin industrial relations.<sup>1</sup>

**End the insecurity and 'fire and rehire' – make work pay and all jobs good jobs**

Insecure and precarious work accelerated after the financial crash and since 2010, with 1 in 9 workers estimated by the TUC to be in insecure work before the pandemic. Yet rather than learn from the mistakes made over the past decade we see a further surge in the growth and spread of insecure and precarious work that will damage our country for decades to come. **Unite is seeing the practice of 'fire and rehire' spread across sectors – employers are effectively trying to blackmail workers with the threat of losing their job into accepting devastating cuts in incomes.**<sup>2</sup>

As well as the deep wealth divide, Unite believes the Covid-19 crisis has exposed how inadequate the rights and protections of workers in this country are – with women, BAEM, disabled and LGBT+ workers the most likely to endure this. Unite is clear that people's ability to raise issues at work and to assert their rights at work is inextricably linked to their security at work.

We also know that women are over-represented in low-paid and insecure work. Workers in insecure, temporary, agency and zero and short hour contracts feel less able to raise health and

<sup>1</sup> <https://www.unitetheunion.org/news-events/news/2022/june/unite-s-sharon-graham-hits-back-at-the-latest-attack-on-the-right-to-strike/>

<sup>2</sup> <https://www.unitetheunion.org/news-events/news/2021/september/unite-welcomes-labour-backing-for-ending-brutal-fire-and-rehire/>

safety issues at work as their future income – and financial situation - is dependent on their compliance. Migrant workers in particular are at greater risk of not knowing their rights at work, as well as being in insecure work that makes it harder to assert their rights at work.

We need a strengthening of our individual employment and collective trade union rights. People are entitled to secure work and earnings. Our one sided ‘flexible’ labour market needs to stop.

Just some of the measures we need to take are banning ‘fire and rehire’, ending zero hours contracts, giving workers the right to a regular hours contract and compensation for cancelled shifts. Greater security can be delivered through measures including ending bogus self-employment and making ‘employee’ the default status of all workers unless there is proof of genuine self-employment.

**Sectoral collective bargaining – and the enforcement of national agreements in sectors where they exist – would effectively form a ‘floor’ across industries that would prevent bad and exploitative employers undercutting better employers in a sector, and set clear minimum standards of dignity and respect for people at work. This approach is strongly supported by Unite, and has been particularly in sectors such as hospitality, childcare, social care, warehousing/logistics, where there is fragmentation, low pay, insecure work and evidenced exploitation.**

Unite is also finding that the relatively weak employment protections for British workers is contributing to multi-national business decisions to shed jobs in Britain because it is easier and cheaper than in other countries of operations. A strengthening of employment rights and protections in Britain would remove this factor of consideration.

### **Britain needs a pay rise**

People need a pay rise and reversing the escalating income and wealth inequalities in this country is an urgent dimension to repairing the foundations of our economy.

A recent Unite report has exposed how it is corporate profiteering - not workers’ wages - that is driving inflation finding that in the last six months company profits are responsible for almost 60% of inflation.<sup>3</sup>

The government can directly deliver a pay increase for millions of people. Public service workers suffered a decade of real pay cuts – local government workers have seen up to 25 per cent wiped from the value of their pay, for example. The past few years have seen public service workers among the many that have worked through exhausting, difficult and often distressing circumstances.

As well as supporting a decent pay rise for NHS workers, Labour must be categorical and explicit with its support for a significant local authority pay rise across all three bargaining groups (Green, Red and Pink book) to reverse more than a decade of pay cuts.

This goes alongside supporting an increase in the statutory minimum wage for all to £15 an hour as soon as possible. Measures such as strengthening trade union rights and freedoms and individual employment rights will enable workers to achieve better pay, terms and conditions across the economy.

### **Build high quality universal public services and a strong infrastructure for all**

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<sup>3</sup> <https://www.unitetheunion.org/news-events/news/2022/june/new-unite-investigation-exposes-how-corporate-profiteering-is-driving-inflation-not-workers-wages/>

Our health, local government, social care and education members are all clear that our public services desperately need extra resources. After a decade of cuts and the pandemic our services are under enormous strain. They are a necessary part of repairing social fabric, improving people's everyday lives and a crucial part of creating a more equal and just society.

Unite believes there needs to be an end to privatisation and to instead insource our public services, making sure that the jobs we create are good jobs.

**There is a strategic role that needs to be played by public ownership of key sections of vital infrastructure**, alongside using an active industrial strategy and public investment and a public equity stake in the industries we need to develop – **including expanding our energy generation capacity through a balanced energy policy and keeping people and the economy moving through an integrated, safe, accessible and sustainable transport policy**. Unite supports the public ownership of energy, royal mail, public transport and water. This is in Britain's short term and long term interests and can ensure that jobs created are at a scale and of a quality we need and deserve as a country.

The country and our local communities would have been better equipped to meet the challenges of the pandemic if our public services, including the NHS, social care and local government were properly funded and integrated. We must not continue with this mistake; investment in our local services and integrating those services will be crucial in building a society that can meet the challenge of achieving social justice and climate breakdown and living with Covid-19.

The public health crisis and its economic impact demand universal access to public services such as health care, education, childcare and the importance of local government services. The short termism of ignoring of public health needs in particular has been tragically exposed – and the centrality that tackling wealth inequalities has to achieving economic and social justice. This has been tragically demonstrated by the pandemic with the ONS recording death rates of up to twice as high in poorer areas compared to wealthier areas. There has also been a correlation shown between care home death rates being higher in those that did not provide proper Statutory Sick Pay for workers.

Such funding provision must also be made with a view to delivering quality services – and that means ending the privatisation of services and retaining Labour's commitment to insourcing. The pandemic has demonstrated starkly the need for local government to be able to plan and deliver services and to shape local services to meet the needs of local communities.

### **Massive public investment to create good, green jobs for full employment**

Unite believes that delivering social justice with a more equal economy and society and tackling the climate crisis must be tackled as a joint challenge – and both require the transformation of our economy. The scale of the crisis we face is unprecedented and it has the potential to do severe and lasting damage to our social fabric, especially given the Government we have – a Government that is so far failing to take action on the scale required to meet this challenge or meet that of the existential threat the climate crisis poses.

We need to create good, secure jobs in every local community and transform our whole economy into one that is sustainable. This includes investing in the roll out of high speed broadband, building giga factories as part of transitioning to electric vehicles, and increasing our offshore wind capacity as part of a large-scale expansion of renewable and zero carbon energy generation.

Retrofitting all of our homes and building many more council and genuinely affordable homes will create construction jobs in every area and help address our housing crisis – as would expanding, upgrading and transforming our public transport system. Rising insecure work is not inevitable – and in addressing the jobs challenge we can also meet our climate obligations. The TUC produced analysis in June 2020 showing how we can create 1.24 million jobs in green infrastructure. It has never been clearer what this country needs – we just need the government to act.

Unite welcomes the continued commitment from Labour to ensuring that the public procurement budget and public investment is proactively used to create jobs in this country; that companies that receive such contracts and public investment and spend have unionised workforces, provide quality apprenticeships which include equality targets to diversify the future workforce, implement equality best practices, are environmental and sustainable, and pay their taxes.

The Unite construction charter means that construction firms planning to work on GLA building projects will now need to meet the standards laid down in the charter. The charter commits to working with Unite in order to achieve the highest standards in respect of direct employment status, health and safety, standards of work, apprenticeship training and the implementation of nationally agreed terms and conditions of employment.

### **Education and training**

We need the structures in place to enable those who wish to re-enter education to do so, and to re-train. Labour has the policies to enable this through its commitment to removing the barriers to education at every stage in life through proper funding, free universal access and investment in the workforce that will make education a dynamic force that changes and improves all our lives and society.

Unite believes all educational routes should be equally available to all young people so they can freely choose between the range of options presented to them by Further Education (FE), Higher Education (HE), vocational training and apprenticeships. Unite welcomed the commitments to invest in FE and introduce free, lifelong education in FE colleges, enabling everyone to upskill or retrain at any point in life. Unite believes this requires significant investment in FE, which has suffered significant cuts since 2010. This must now urgently be maintained and built upon as a Labour commitment. The commitment to re-instate the Education Maintenance Allowance (EMA) and concessionary public transport fares for young people is a small, but necessary, part of ensuring educational opportunities are open to all.

Labour needs to develop and retain their commitment to funding being available through grants and bursaries for older people to access further and higher education who may otherwise be prevented by their other life commitments and responsibilities, or who may now need to retrain.

This is linked to our support for high-quality and recognised apprenticeships. We need high quality apprenticeships underpinned by technical knowledge and assessment of competence through colleges and work based learning in combination with nationally recognised qualifications and a guaranteed job at the end of the apprenticeship. Unite welcomes the commitment to increase the number of young people studying science, technology, engineering and maths (STEM), particularly amongst women and those from underrepresented minority groups as part of tackling inequality and breaking down gender occupational segregation.

This underpinning of apprenticeships is crucial, as is the link with free access to quality education through FE or HE. We cannot have a repeat of history where ‘apprenticeships’, ‘training’ and ‘re-

training' opportunities are no such thing, but are instead a badge that is applied to a low quality course that delivers no educational value and does not help the worker achieve new skills or gain employment. Unite has also had experiences of 'apprenticeships' being a badge applied to a job simply to pay people the lowest possible rate of the National Minimum Wage. Labour must instead put forward its alternative of a high quality, universal education system with high standards for all.

**1. How can we help all workers and businesses gain from new technologies and new ways of working?**

**2. How can we ensure that technologies don't become more intrusive and undermine workers' rights?**

Workers and their trade unions must play a central role in the implementation of new technology and share of rewards. As others have noted, an appreciation of the crucial role of labour bargaining power is missing from today's debate about the 'march of the robots'.<sup>4</sup>

**A modern economy should ensure that technology is only implemented when it is beneficial for all. While it is agreed that automation will change the nature of existing work, Unite does not accept that it must result in inferior work or unemployment or worsen existing inequalities. Trade unions are vital to ensure that automation does not worsen working life for millions.**

Unite is calling for:

- The extension of collective bargaining in the workplace to include the introduction of new technology;
- Trade unions must be involved in all decisions relating to the introduction of new technology in the workplace through collective bargaining;
- Trade union members at board level to be involved in all decisions relating to the introduction of new technology in the workplace;
- Regulation for how employee information can be gathered, stored and disclosed;
- Social and economic impact assessments to accompany government investment in new technology such as autonomous or electric vehicles;
- Equality impact assessment of changes to eliminate discriminatory algorithms and ensure opportunities to strengthen and advance equality, rather than deepen existing inequalities, gender-based occupational segregation and lack of progression opportunities for black & Asian ethnic minorities and disabled people
- A commitment to a programme of re-skilling and up-skilling existing workforces;
- The creation of new training and apprenticeship schemes reflecting changing job roles.
- New training and apprenticeship schemes.

Unite is also keen to explore the potential for a shorter working week without a reduction in pay. This would allow workers to share in the gains in productivity which could be made possible by automation. This would greatly improve work life balance and leisure time for UK workers, and be an

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<sup>4</sup> *Fear of the robots is founded in the messy reality of labour*, Duncan Weldon, Financial Times, 17<sup>th</sup> April 2016, [URL](#)

economic boon for consumer, tourism and creative industries. Such a change in working patterns would also allow working people to meet their increasing family and care obligations which result from the demographic changes to the UK population.

Attention should also be given to the potential of a Universal Basic Income although any social security system that incorporates a UBI system must work in tandem with stronger employment rights, public services, housing, childcare and continue to have extra payments for disabled people.

Similarly, rather than continuously raising the pension age, the productivity gains of automation could allow workers to share jobs without loss of pay. This would allow for phased retirement which would allow an older worker to 'job share' with a new entrant as part of a high quality apprenticeship.

Unite notes the increased use of robots and 'cobots' in sectors such as automotive and aerospace.<sup>5</sup> In Germany cobots were first introduced in the Ford factory in Cologne and the Volkswagen factor in Wolfsburg for handling ergonomically unfavourable production tasks, such as overhead assembly<sup>6</sup>. Such technology is now commonplace across UK automotive plants. In the United States automotive employers spent over \$718 million<sup>7</sup> on cobots in 2015 and 2016. Any industrial strategy must acknowledge the potential market for building and maintaining both robots and cobots.

It is Unite's view that we need an industrial strategy with the ambition of making the UK a global leader in the 'Industry 4.0' revolution. This must include:

- an examination of the potential for current manufacturing capabilities to diversify through automation;
- sector-by-sector study into viability of future investment in R&D;
- government investment in R&D to make the UK a leader in robotic production and maintenance.

The impact of automation is not limited to manufacturing. Unite members working in the transport sector will be seriously affected by the development of automated/driverless vehicles, particularly in logistics and bus and taxi drivers.

Unite is concerned that the ongoing labour and skills shortage in road haulage could provide the incentive for the industry to automate rather than tackling issues such as low pay, under investment and under appreciation of drivers.

In road transport new technology has included telematics and the so-called 'spy in the cab,' an increase in monitoring and surveillance which has raised the issue of entitlement to privacy at work.

Across industry, digital technology, including online platforms, offers employers new methods of surveillance and monitoring, allowing the breakup of work into smaller tasks, and contract workers on a piece work basis.

When new technology goes unchecked and unregulated, it is inevitable that it will be used in this way. We need to ensure automation does not merely exacerbate a 'race to the bottom' of wages, terms and conditions.

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<sup>5</sup> Meet the cobots: humans and robots together on the factory floor, Financial Times, [URL](#)

<sup>6</sup> Human-robot collaboration—co-worker made of steel, Automica Munich, [URL](#)

<sup>7</sup> Man and machine: The new collaborative workplace of the future, CNBC [URL](#)

While automation will change the nature of existing work, Unite does not accept that it must result in unemployment. Unite is calling for employers to create new training and apprenticeship schemes which reflect changing job roles, and also to commit to a programme of re-skilling and up-skilling existing workforces.

Unite's National Policy Conference 2021 agreed that any automation or technology which would increase stress or workload, or which would, directly or indirectly, result in a reduction in employees' terms and/or conditions or otherwise adversely impact the worktime quality of an employee, whether intentionally or not, will not be acceptable. It also agreed that there should be a commitment by a future Labour Government to support the introduction of national and regional workplace technology agreements as part of its broader industrial strategy, addressing the challenges that automation and digitalisation bring to the workplace.

Unite's National Organising & Leverage Department has produced a draft New Technology Agreement.<sup>8</sup>

It outlines principles for the potential introduction of new technology which are:

- *The introduction and control of New Technology on the shop floor will only be made with agreement of the Employer and the Union on behalf of its affected members;*
- *The Employer will reinvest cost savings from any introduction of New Technology into areas that promote and provide more and better jobs within the organisation;*
- *New skills or responsibilities will be recognised through negotiated pay increases.*

The draft agreement also states that to this end it is agreed that new technology will only be introduced if:

- *The overall number of jobs are protected;*
- *It does not benefit one group of workers at the expense of another;*
- *Workers are ensured proper training;*
- *Workers are compensated for new skills;*
- *It doesn't include monitoring and/or surveillance functions without agreement;*
- *There are clear and fair rules on any personal use;*
- *There are no negative health and safety issues;*
- *It will be introduced in a fair and equal manner.*

*It is further agreed that wherever relevant new technology will be used to:*

- *Reduce working time, not pay; and*
- *Create new jobs.*

### **3. What does 'flexible working' mean for the UK's varied industries and how can it support growth in local economies and for different workers?**

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<sup>8</sup> <https://www.unitetheunion.org/media/1236/draft-new-technology-agreement-october-2016.pdf>

All too often 'flexible working' has been one sided in favour of the employer without workers being able to shape what it means in practice. Genuine flexible working requires the involvement of workers themselves and their representatives.

Unite rejects any assertion that productivity growth will miraculously rise by trying to squeeze 'more for less' out of workers, making the labour market more 'flexible' or making work less secure.

Unite agrees with the introduction of a requirement on employers to publish their flexible working policies to achieve greater transparency. However, we have been calling for publishing and reporting to be required of all employers with 50 or more employees in the public and private sectors. This is in line with the European Commission Recommendation on strengthening the principle of equal pay between men and women through transparency. Therefore, the government should require employers with at least 50 employees to publish detailed data on flexible working in the past 12 months, and also inform trade union representatives.

We believe transparency is part of the solution and does not address the full problem. For many workers access to flexible working means that they can get into and remain in work. To ensure flexible working there should be more and stronger requirements on employers to ensure flexible working is offered to all staff from day one. This is vital for equality as it will give families a greater opportunity to fulfil and share their caring responsibilities. It would also help to address some of the barriers disabled workers face in the workplace.

Unite will also continue to call for the right to flexible working instead of the right to request it. Adoption of a 'flexible by default' approach to job design and recruitment in the public, private and voluntary sectors ensuring that all jobs are advertised on a flexible basis except in very specific circumstances. Additionally, the current right should include a requirement on employers to objectively justify any refusal, as without this, flexible working opportunities can be denied on a generalised basis. The right should also be extended to all workers with the use of one definition for all who are engaged in work. This will eliminate the existing divisions within the workforce and would encourage an equal and fair environment where everyone is respected and treated equally.

Government should require employers to provide a link to the relevant policies on their website whether their offer exceeded the statutory minima or not. Where the offer does not exceed the statutory requirement, there should be a statement outlining the reasons why, and future actions and timelines for achieving this. Furthermore, the information published should be clear, understandable and accessible to existing and potential employees. Government should also require employers to develop a policy in consultation with trade unions. This should ensure a commitment to consider flexible working positively, and only refuse in exceptional circumstances; to consider request for flexible working more than once a year; flexible working for short periods of time; and not make the change into a permanent working arrangement unless it is specifically asked by the employee.

#### **4. How can we ensure that innovation contributes towards good work?**

As with new technology and 'flexible working', ensuring that innovation contributes towards good work will require recognising the important role of worker voice and trade unions which must be seen as 'partners in productivity' and a frontline resource to help drive up skills, empower workers and boost productivity.

#### **5. How can we help the genuinely self-employed achieve greater security, prosperity and respect?**

There is a need to distinguish between genuine self-employment and false or bogus self-employment. While there are many who make a positive choice to be self-employed, and we also know that people have been forced into 'self-employment'. Unite represents workers in a number of sectors who are 'self-employed' – including taxi drivers, lorry drivers and construction workers.

Bogus 'self-employment' means that workers are deprived of their basic employment rights and protections, such as sick pay and maternity pay. It also means they do not have a vital safety net for periods when they cannot work. In the construction industry, where the practice is particularly widespread, it places people outside of the industry-wide collective agreements.

Other industrial examples of bogus self-employment include in the agricultural sector where we have heard experiences of farm workers being employed through agencies and being designated as 'self-employed' when they are permanent full-time workers. Unite has heard from a union rep working on a farm where a series of workers were employed through an agency for the role of 'cowman's assistant'. Those working full time were deemed to be self-employed. They were expected to work on the farm every day, every week, for 60 hours a week. Timesheets went to the agency; the agency issued pay slips. The justification given by the employer was that they wanted to avoid paying pensions by avoiding the threshold of number of employees before becoming liable to pay pensions. After the law changed and they were required to pay pensions they continued to use a worker on a self-employed basis in order to avoid paying holiday and sick pay. One of these workers continued in a single role of 'cowman's assistant', for at least three years. There is a high turnover of workers and our rep says this employer is not the only farmer employing people in this way.

A simplification of the law so that employment rights cover all workers and not only employees would end this problem. It is already the case that if a person is subject to direction and control in relation to their work then that person is regarded as an employee of the person or organisation who is doing the directing and control, regardless of what contractual arrangements may be in place. However, the monitoring and enforcement is non-existent leaving the worker themselves to challenge their own employment status, and in doing so, very often lose work.

Unite is clear that no worker should be stripped of their rights simply because they do not work in a traditional workplace. There needs to be a lifting of the universal level of employment rights by extending existing rights to all those in work, not only those who qualify for 'employee' status. This includes family-friendly rights, protection from unfair dismissal and the right to redundancy pay.

The legal default should be for all workers to have employed status with the onus on the employer to prove a person is genuinely self-employed. All workers should be entitled to trade union and employment rights granted to employees.

Any new definition of a self-employed worker should not be limited to tax and National Insurance liabilities. There must be joined-up government and it must be accompanied by a new definition in employment law. Within the construction industry the Construction Industry Scheme should be abolished making genuinely self-employed workers responsible for their own tax affairs. HMRC should be provided with sufficient resources to ensure company compliance with tax and National Insurance obligations.

Unite is also aware of reports of agencies attempting to force workers into so-called 'umbrella companies', particularly in the construction sector, to off-load National Insurance Contributions and

other benefits to the detriment of the worker and has called for them to be outlawed along with other forms of bogus self-employment.<sup>9</sup>

Unite opposes the continued use of umbrella companies as a means of employment of workers across all sectors of the labour market and calls for legislation to outlaw them. Agencies and employers must be prohibited from using umbrella companies.

Our members' experiences of working through umbrella companies include:

- misleading and unfair deductions from workers take home pay;
- undermining the expected pay rate advertised by the agency and industry wide rates for the job;
- deductions of umbrella company operating costs from a workers' pay;
- payslips that are difficult to comprehend and intentionally ambiguous;
- breaches of holiday leave and pay entitlement with umbrella companies preventing workers from taking their holiday;
- large proportions of agency workers working under umbrellas not receiving the Key Information Document (KID) they have been entitled to since April 2020;
- fragmentation of the employment relationship and workers unsure who their employer is weakening employment rights;
- undermining of national collective bargaining agreements and sectoral pay rates;
- workers caught up in tax evasion schemes operated by the umbrella companies.

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<sup>9</sup> *Unite demands government outlaws umbrella companies*, [URL](#)