

## **Better Jobs and Better Work**

### **1. How can Labour strengthen sectors that make up the everyday economy?**

In 2021 the Industrial Strategy Council was scrapped. This body had offered an important route to hold the government to account on industrial strategy and to measure forward progress across all sectors of the economy.

Community's General Secretary was proud to sit on the previous Council before it was scrapped and, in his role provided valuable trade union insight. The next Labour government should create a refreshed Council which brings together the voices of workers through their trade union representatives, employers and businesses, academics, training providers and regional authorities. We suggest a structure which features a national industrial strategy council to set national priorities and strategic direction, with a hub and spokes model so that regions can also determine the policy mix that suits their own locale the best.

Further to this, the next Labour government must strengthen our manufacturing sector, particularly steel. The next Labour government must deliver on its promised investment of £3bn into the decarbonisation of the steel industry, to support jobs and the green transition.

Community's research demonstrates that the benefits of steelmaking go far beyond those immediately affected and their households but also extend into the wider community. Policymakers must recognise the economic dependence of areas like Port Talbot on the steelworkers. Polling carried out by Community in steelmaking constituencies in 2022 showed that 91.5% of people agreed or strongly agreed that the steel industry makes an important contribution to their community. 88% agree/strongly agree that the steel industry is a source of pride for their community.

Our direct polling of steel workers shows similarly striking results. Steelworker feedback is clear in showing the importance of steel jobs to their communities: 52% had other family members working in the steel industry or the supply chain and 94% told us they were proud to be a steelworker. Finally, and most crucially, 90% told us they believed that "the future of my local community relies on the future of the steelworks".

### **2. How can Labour ensure its industrial strategy and other policies support creating good, secure work in the everyday economy?**

#### **Labour market policy**

Current Labour market legislation has not kept pace with rapid changes to the world of work. Strengthening individual and collective rights must be at the heart of Labour's plan to create good, secure jobs. In addition to policy within Labour and the affiliated union's through Power in the Workplace, the following changes are critical to ensuring that workers across the economy benefit from strong protections for all working people.

#### **Single Enforcement Body**

The long-promised, but never delivered employment bill promised by the Conservatives was expected to include a single enforcement body for employment law, which would allow bad practice to be challenged in court without the need for individuals to bring a claim.

The situation in the Leicester textiles industry has demonstrated the inadequacies of the current system in enforcing rights and standards. For several years, media reports and the work of

organisations such as Labour Behind the Label have detailed illegal practices in UK-based garment factories that are linked to big brands, and suggest wages are as low as £2-3 per hour.

Yet, workers often feel unable to speak out the existing issues of workers being paid below the minimum wage, breaches of health and safety practices.

Poor enforcement of regulation and labour standards will continue until there is a focus on delivering a joined-up approach to tackling these problems rather than relying on workers to raise these issues themselves.

### **Ban fire and rehire**

Another priority for the next Labour government must be to legislate to ban fire and rehire. The Conservative government is currently in the process of developing a statutory code of practice to prevent employers using fire and rehire tactics. This code will not go far enough. In our experience of fire and rehire, which we have shared with the department, employers can be scrupulous about following the letter of a code of practice, but unless there is a fundamental move to outlaw fire and rehire, employers are not doing anything legally wrong when they engage in the practice.

Increasing penalties at the employment tribunal would be a useful step in cracking down on this practice, although it is unlikely to act as a deterrent to employers, it would give employees facing a fire and rehire situation greater confidence that remedy is available.

### **Flexible working**

The pandemic has clearly demonstrated that the technology to facilitate different kinds of flexible working such as job-sharing, working from home or other locations, and staggered working times already exists, and has been successfully used to maintain service levels during the pandemic. This strengthens the resolve to make flexible working a day 1 right for all workers.

We believe that all roles should be deemed suitable for flexible working unless the employer can demonstrate that not making flexible working available would be a proportionate means of achieving a legitimate aim. The modification of flexible working rules, so that they no longer reference “business reasons” but instead “objective justification” would ensure that flexible working legislation aligns with the Equality Act 2010. Otherwise, less scrupulous employers may choose deliberately to reject applicants on the grounds that they intend to request flexible working. A worker treated against in this way wouldn’t typically have any recourse unless there was a direct breach of the equality act. To combat this possibility, the protection against detriment to job applicants could be extended.

### **Right to regular hours**

The next Labour government should legislate to ensure all workers to have the right to choose regular hours. Back at the start of 2020 there were expectations that the employment bill would include a right to request a more predictable contract. This would give workers on zero hours contracts more scope to request and get guaranteed hours. The Workers (Predictable Terms and Conditions) Bill that has recently received its second reading in the house of Commons. We would like to see this proposal implemented but also strengthened.

For those doing shift work, unpredictable and short notice hours are a significant cause of insecurity. Short-notice shift cancellations make budgeting and planning ahead difficult, but also come at a premium as workers face increased costs compared to workers with more traditional hours on

account of increased costs of out-of-hours or short notice childcare, or transport costs at unusual times.

### **Employment status**

With the growth of the platform economy and recent high-profile court cases, questions of employment status have understandably received increasing attention. We do not believe that the current system is fit for purpose and there is widespread confusion around the alignment of tax and employment statuses. Misclassification has been used to the detriment of workers in many situations, and in both directions.

We note the impact of IR35 reforms, which were designed to identify “disguised” employees, who were treating themselves as self-employed to avoid tax. In practice, genuinely self-employed contractors have in many cases suffered significant pay cuts as risk adverse engagers have wrongly classified them as employees, with the result that they have been unable to offset expenses incurred in the course of their work yet have typically not received any of the advantages of employment that would accrue if they were employees. Misclassified contractors often have no ability to challenge an incorrect decision made about their status. A review of IR35 legislation is clearly required.

A new review must carefully consider the diversity of employment and work structures in the UK, and the complexities within employment law, and there is a clear need to modernise our legal frameworks that are meant to be supporting worker’s rights that doesn’t encourage lower standards and wages.

### **Umbrella companies**

Recent changes to the IR35 rules have driven a rise in exploitative umbrella companies. Many self-employed people are being forced to work through umbrella companies by agencies or clients. There is no enforcement body to regulate umbrella companies, and they put self-employed workers at risk of exploitation. Community has supported the TUC’s report<sup>1</sup>, which calls for the ban on umbrella companies, arguing that they result in unfair and misleading deductions of pay, fragment the employment relationship, can envelop workers into tax evasion schemes with tragic consequences and serve no genuine purpose. The next Labour government should ban Umbrella companies.

### **Trade union legislation**

The next Labour government must reverse repeal anti-trade union legislation which removes workers’ rights, including the Trade Union Act 2016 and any further restrictions brought in by the current Government including the restrictions on the right to strike.

In particular it must reverse the Strikes (Minimum Service Levels) bill, which we believe to be unworkable and incompatible with human rights (as the Joint Committee on Human Rights has recently ruled). We believe this Bill restricts the right to freedom of assembly and association under Article 11 of the European Convention on Human Rights, as well as other recognitions of the right to strike which have been ratified by the UK Parliament. Workers could now be sacked for taking strike action that has been agreed in a democratic ballot, trade union reps could be forced to break the strikes they have organised, and unions could be forced to pay punitive fines.

---

<sup>1</sup> TUC, 2021, Umbrella Companies: why agencies and employers should be banned from using them, available at: <https://www.tuc.org.uk/sites/default/files/2021-07/UmbrellaCompanies.pdf>

Secondly, the next Labour government should ensure that an option for e-voting in industrial action ballots can be delivered as soon as possible. At the time of the 2016 Trade Union Act, an independent review of this was promised, but was not delivered.

Thirdly, the next Labour government must re-instate the ban on agency workers covering strikes. This change reduces the impact of strikes, making action more likely to continue for longer. It also threatens the exercise of democratic rights, and is, in our view incompatible with the exercise of freedom of association.

The next Labour government should also reverse the Certification Officer's levy on trade unions granted under the 2016 act, as it could be a punishing cost for smaller unions, and clearly encourages 'empire building' by the Certification Officer.

The next Labour government should reverse the "opt in" rules for unions' political funds and offering members who do not wish to contribute an "opt out" instead.

Finally, the next Labour government should reverse complicated balloting and notice rules that the 2016 Act implemented to make it more difficult for unions to organise and establish trade unions' right of entry to workplaces to organise, meet and represent their members and potential members, and to contact remote workers.

### **A safety net for the self-employed**

At Community we believe that a safety net needs to be put in place to ensure that self-employed work is secure, well paid, and good quality work. Community represents self-employed workers across the economy, and it is vital in policy making to ensure the self-employed are recognised as a diverse group and it is critical that the next Labour government understands this.

Among Community members polled in March 2023, we found that 66.67% were sole traders, 18.33% were set up as Limited Companies, 27.5% were freelancers, 6.67% acted as a sub-contractor, 1.67% were PAYE through an agency, 7.5% were fixed term contractors and 2.5% were partners. Of those who worked for a limited company, 92.59% were the director of their company while 7.41% were an employee of the limited company. The next Labour government should explore further policy solutions that support the diversity of the self-employed workforce.

Such solutions should include a review of the support needed to help self-employed workers thrive in good quality self-employment where there shouldn't be a trade-off between flexibility or a safety net. As part of our inquiry with Prospect trade union into the future of self-employment, 72% of self-employed workers believed the Government should have responsibility for providing a safety net for the self-employed. There should be sufficient support for self-employed workers whether setting up a new business, supporting disabled self-employed workers, to ensuring that there is an adequate safety net to support self-employed people through sickness, lack of work, and into retirement.

Community therefore calls on the next Labour government to coordinate cross-departmental policy innovation via a well-resourced government led Commission to explore such areas of support and beyond.

### **Sick pay**

One critical step is a safety net in the form of sick pay for all workers. Community's report 'Test Trace Forgotten' highlighted the devastating impact that covid-19 had on self-employed people in particular. We found that 1 in 5 applications for the self-isolation scheme came from the self-employed, and that the number of self-employed workers claiming Universal Credit increased by

270% during the pandemic. The high demand from self-employed workers for access to the Test and Trace Support Payment demonstrates the urgent need for government to deliver on sick pay and a safety net for the self-employed. Currently the self-employed are only entitled to ESA which excludes newly self-employed workers as it is conditional on a national insurance record, and simply does not suit the reality of self-employment with gaps between work and projects. Furthermore, ESA has insufficiently low payments, in many cases lower than Statutory Sick Pay, and is not designed for short-to-medium ill health.

There are innovative solutions to be explored when providing sick pay for the self-employed, whether that is extending Statutory Sick Pay, so they have the same protection as employees, to voluntary opt-in insurance systems as have been demonstrated across Europe. The next Labour government's review could also explore the option of bread funds, allowing self-employed people to manage the risk of unemployment between themselves.

#### Maternity pay, paternity pay and shared parental pay

For self-employed dads and partners there is, at present, no provision for any kind of shared parental pay to support their family after a birth. As a result, the entire burden of childcare is placed on the mother, who is also trying to maintain her business so she will still have clients to return to.

Self-employed mothers are not entitled to maternity leave and can only claim maternity allowance of between £27 and £156.66 a week for 39 weeks depending on their national insurance contributions in the 66 weeks before the baby was due and have none of the legal protections afforded to employees. This compares unfavourably to statutory maternity pay (SMP) which is available for 39 weeks, paid at 90 per cent of average weekly earnings for the first six weeks, then capped at £156.66 after that. Maternity allowance must be increased to bring it in line with SMP.

Furthermore, they are only entitled to maternity pay if they take leave, therefore the limit of 10 keep in touch days which can be used whilst maternity allowance is being taken needs to be reviewed. Because of the nature of self-employment there is generally pressure for women to return to work quite quickly – make sure they have a business to come back to. They need the flexibility to manage their businesses without losing their entitlement to maternity allowance.

#### Universal Credit

One significant challenge for self-employed people is the reduction in benefits for those on the lowest earnings due to the minimum income floor which treats self-employed workers as if they had earned minimum wage for the number of hours they are expected to work, even if their true income is below this, when assessing the amount of Universal Credit they will receive. This discourages people from working to supplement their incomes and is particularly harmful to those for whom conventional employment is not possible, for example due to disability. The minimum income floor does not currently apply for the first 12 months of self-employment, and the fact that the Government were forced to suspend the Minimum Income Floor during the pandemic is a telling sign that the current Universal Credit system does not work for the self-employed. The minimum income floor should not apply for at least three years, as this is a more realistic estimate for the time it could take to set up a new business.

#### Late payments

The next Labour government should also explore how the model of “freelancing without fear” could be applied in the UK to tackle the challenge of late payments which is a significant problem for many self-employed people.

The Government should strengthen protection against late payments through a Right to a Written Contract. Late payments could be prevented early on in the client-supplier relationship by ensuring that both sides have a written contract in place, which clearly spells out deliverables, a timetable for payment and the best point of contact in the client organisation. A good example of this is the Freelance Isn't Free Act in NYC made such contracts mandatory for any engagement which amounts to more than \$800 over a four-month period. This move could be replicated in the UK and would address the problem of suppliers becoming unstuck in talks when no contract is surfaced. A Labour government should increase the interest rate that can be charged on late payments and create a right to a written contract for any supplier engaging in a transaction above a given size.

### Stronger rights at work

Section 44 of the Employment Rights Act (1996) protects employees from suffering detriment if they take reasonable steps to protect themselves and colleagues from dangerous situations at work, including removing themselves from the workplace. This right does not extend to self-employed workers, who could face a situation of termination of contract if they took similar steps to protect their own health. The situation with self-employed workers is clearly less straightforward for employees; we believe they should be equally able to avail themselves of this protection. We therefore propose that the next Labour government extends this right to self-employed workers, protecting them from termination of contracts if they take reasonable steps to protect their safety, and strengthen blacklisting provisions so that workers who raise health and safety concerns are not discriminated against when seeking contracts in the future.

In addition, the 1977 Safety Representative Regulations confers the right to appoint legally recognised health and safety representatives in the workplace who are able to investigate possible hazards and must be consulted on matters to do with health and safety. There is an exception in this legislation for members of Equity or the Musicians Union, recognising there are situations in which it would be appropriate for self-employed workers to have access to safety representatives. This exception should be extended to all situations in which large numbers of self-employed workers are regularly contracted by the same engager.

### Pensions

Pensions are another critical aspect of this safety net. When we surveyed self-employed Community members we found that just 33% were contributing to a pensions scheme, whilst 20% were saving for retirement in another way. 44% weren't saving for their future at all. Since 2012, when auto-enrolment rules came in, the proportion of people saving for the future has increased dramatically: 87% of eligible workers were in a workplace pension scheme in 2019 compared to 55% in 2012. However, over the same period when pension savings rate for employees skyrocketed, the numbers of self-employed people saving for a pension actually fell to record lows.

This is particularly critical in a context where pensioner poverty has been rising — since 2013-14. With the maximum new state pension just £9,627.80 a year, people will need to top this up to achieve an adequate standard of living in retirement. The Pension and Lifetime Saving Association has argued that 13.6 million people are at high risk of not saving enough to ensure sufficient retirement income.

Yet, the self-employed aren't eligible for auto-enrolment and nor are their retirement savings boosted by employer contributions. This makes it less attractive and less cost-effective to save for retirement. And the self-employed also struggle with irregular income, setting aside money to pay



an annual tax bill, and investing in the future of their businesses, making it harder to prioritise pensions.

The Work and Pensions Committee has recommended<sup>2</sup> that strategies to increase pension savings by the self-employed group should begin with a trial to consider how to default self-employed people into pension savings. They also recommended consulting on a proposal to increase the rate of National Insurance paid by self-employed people by 3% with the option to have the increase paid into a pension if the self-employed person also contributes 5% of their own, inclusive of tax relief. Finally, the committee recommended further action to promote pension saving to self-employed people.

The government response to this consultation<sup>3</sup> did not make any firm commitments. It reiterated that the results of NEST trials had shown that a one size fits all solution would be unlikely to be successful among the self-employed. They also suggested that flexible autosaving mechanisms could increase self-employed people's engagement with pensions, although it would increase savings to a more limited extent. The government said it advocated further work on how to incentivise long term savings and to integrate these benefits into touchpoints like the tax system. The government also stated that it had no plans to increase automatic deductions through making tax digital although software providers could do this. They noted that DWP is working with business software developers to explore options in the market.

HM Treasury also noted that they would not consider auto enrolling the self-employed via the NICs system because the system is not designed to collect or administer pension contributions.

To this end we recommend that the next Labour government conducts a thorough review into the practical challenges of enrolling self-employed people through the tax system, as well as explore all solutions to solve this pensions crisis for the self-employed. Other options could include offering a sidecar pension, where a savings pot sits alongside a pensions pot to ensure flexibility for the self-employed when saving to account for fluctuating incomes. These options must be investigated thoroughly to ensure that they are fit for the self-employed, listening to the voices of the people who are most effected.

Community's self-employed members are clear that they shouldn't have to pay for flexibility with insecurity. Ensuring that retirement solutions are suitable for self-employed people is a critical part of the desperately needed safety net. A thorough review would be a powerful way for the next Labour government to ensure that it supports these critical workers.

#### **Four-day week**

The next Labour government should explore how the four-day week could ensure that workers are better able to manage their lives and responsibilities. To this end, further trials of the four-day week should be supported, including consideration of how the four-day week could work for the millions of shift workers in the UK.

### **3. How can we support businesses and workers in the everyday economy through skills, technology and competition policy?**

#### **Skills and training**

---

<sup>2</sup> <https://publications.parliament.uk/pa/cm5803/cmselect/cmworpen/126/report.html#heading-4>

<sup>3</sup> <https://publications.parliament.uk/pa/cm5803/cmselect/cmworpen/1057/report.html>

Community and the Fabian Society jointly produced a report<sup>4</sup>, Equipped for the Future, which sets out a vision for adult skills and training in the UK. This report stresses how critical it is that lifelong learning is supported to ensure that those who are currently in the workforce are able to adapt to the rapidly changing labour market around them. We have called for a “right to retrain”, ensuring that people can transition into growing industries and develop new skills. Such initiatives should be focused on upskilling workers to better paid and better-quality jobs.

It’s also critical that people are supporting to retrain whilst working, including through removing barriers such as the costs of taking time away from work, and fitting time spent on training around other commitments. Training provision must be targeted to pre-emptively retrain workers whose jobs are likely to change.

The government and employers must provide information about the key skills the workforce will require in the future to help individuals to plan ahead and provide clear information on the pathways available between different roles. It is important that workers can upskill for future jobs as well as the jobs that they currently work in.

For example, one employer that we work with, the insurer Zurich, mapped out the skills profiles of their current workforce, and future skills needs identifying roles that could go unfilled, and invested in “automation academies” to upskill existing employees and retrain them into new areas such as data science robotics and cyber security<sup>5</sup>.

We want to see employers across the UK investing in their existing talent and ensuring that nobody is left behind as the skills and attributes needed evolve rapidly over time. Individuals may need to reskill many times over the course of their careers, and the skills system should be equipped to support them to do that.

To support these ambitions, the apprenticeship levy must be made more flexible. This includes ensuring that apprenticeship levy funds can be used to supply training for future jobs not just existing roles, and to fund more flexible types of courses including shorter courses.

There is a notable gap in the amount of training and skills support the self-employed are entitled to compared to those who are employed, particularly in relation to the co-funding of training and skills support in workplaces for the self-employed. Our joint inquiry into the future of self-employment identified the Government’s skills and apprenticeships system has traditionally been overly focused on traditional employees and does not account for the training needs of the self-employed. Research shows only 12% of the UK’s solo self-employed have received job-related training in the last three months, compared to 26% of employees.

The next Labour government should prioritise a skills offering for the self-employed. This group is underserved but due to the nature of self-employment a broad skill set is required. Currently the self-employed can only claim training against tax when it relates specifically to their current business, but if they want to expand their skills development beyond that remit they are unable to deduct the costs of the training. One way in which this can be achieved is to make the cost of training and skills development tax deductible for the self-employed. This would enable freelancers, particularly in sectors where demand has slowed or disappeared, to gain new skills and adapt their business offer to new markets.

---

<sup>4</sup>Community and the Fabian Society, 2022, Equipped for the Future, Available at:

<https://fabians.org.uk/publication/equipped-for-the-future/>

<sup>5</sup> <https://www.zurich.co.uk/media-centre/zurich-sets-out-to-future-proof-3000-uk-workers>



## **5. How can we ensure the Government's buying power supports good jobs, small business and the self-employed?**

Procurement rules need to ensure that they support social, economic, and environmental rules rather than simply securing contracts at the lowest price. Recent procurement reforms have made some progress towards this goal, emphasising that the MEAT (most economically advantageous tender) is not the only way for decisions to be made. However, we are still concerned that too often public contracts do not use UK steel which would support social, economic, and environmental goals. One of the reasons for this is that steel tends to be a downstream input into a project rather than a first level supplier. Obligations should be placed on first tier suppliers to use UK produced steel in their construction. The government's steel pipeline shows that millions of tonnes of steel will be required over the next five years, and this must be used to support UK steel producers, steel workers and steel communities.

The next Labour government should also ensure that procurement processes are straightforward and clear. This would particularly facilitate SMEs from being able to access these opportunities.

The government should have due consideration of the impact that procurement makes in setting standards. For example, care providers are often forced to undercut one another in order to win council contracts. However, this is not sustainable. Fair pay should be embedded in procurement rules in order to ensure that workers in the companies that win these contracts are treated fairly.

At Community we pioneered a self-employed charter, a way for councils to signal that they are running their procurement processes in a way which supports the self-employed accessing these opportunities, for example, by making guarantees about timely payments. The next Labour government should seek to embed these standards into all public bodies which contract services from other organisations.

## **6. What are the specific implications of policy proposals in this area for (a) women, (b) Black, Asian and minority ethnic people, (c) LGBT+ people, (d) disabled people and (e) all those with other protected characteristics under the Equality Act 2010?**

One key issue we have identified is a gender pay gap in self-employment, affecting a group of people who do not benefit from the protections of the equal pay gap. However, the current sources of data for gender pay gap reporting exclude data on the incomes of the self-employed. This lack of data makes it difficult to understand the scale of this issue or explore its causes. It will also make it harder for the next Labour government to explore how they can support self-employed women through their policy.

We further note that it can be difficult to understand the distribution of earnings through self-employment. Whilst understanding the median salary in self-employment does provide some insights, we do not know the distribution of earnings, and could disguise low pay.

The next Labour government should ask the ONS to produce a new data source which collects hours and earnings data for the self-employed.

**March 2023. Please contact [research@community-tu.org](mailto:research@community-tu.org) for further information.**