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EUROPEAN SOCIAL CHARTER

41th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF THE UNITED KINGDOM

Articles 2, 4, 5 and 6

for the period 01/01/2017 – 31/12/2020

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THE EUROPEAN SOCIAL CHARTER

THE UNITED KINGDOM'S FORTY FIRST REPORT

DECEMBER 2021

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Article 2 - Right to just conditions of work

Devolved Administrations (DA) – Northern Ireland, Scotland and Wales

Public holidays, employment and industrial relations are in the main reserved competence and are therefore a matter for the UK Government. Where this is not the case, the applicable DAs have supplied the information and in some cases the steps they have taken to support their citizens, for example advice and guidance.

Paragraph 2 - Public holidays with pay;

a) No information is requested on this provision, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5).

United Kingdom

No special arrangements for public holidays with pay were made due to the pandemic.

Isle of Man

No special arrangements for public holidays with pay were made due to the pandemic.

Paragraph 2 - Public holidays with pay;

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion "**The Committee concludes that the situation in the United Kingdom is not in conformity with Article 2§2 of the 1961 Charter on the ground that the right of all workers to public holidays with pay is not guaranteed."***

United Kingdom

The legal position remains as previously described. The UK Government continues to believe that the Committee is incorrectly interpreting the legislation in the UK as being inconsistent with the requirements of Article 2 of the Charter.

A worker's statutory annual leave entitlement is 5.6 weeks, comprising 4 weeks of annual leave and 1.6 weeks (8 days for full time workers) of additional leave to reflect bank and public holidays. Both forms of annual leave must be paid at least as though the individual had worked. Many

contracts and collective agreements provide for additional pay rates for overtime, weekends or bank and public holidays.

Restrictions apply to the operation of some businesses on public and bank holidays. However, it is not the cultural norm in the UK for all business operations to cease on these days. Therefore, there cannot be a stand-alone right for workers not to work on these days. The restrictions on business activities and the norms of restricted opening hours on public and bank holidays do however mean that many workers in practice do not work on bank or public holidays.

Where a worker is contracted to work on a public or bank holiday, this does not reduce the amount of annual leave that worker is entitled to, or the pay to which they are entitled while on annual leave. Workers are therefore not at a disadvantage if they are contracted to work on a public or bank holiday. Indeed, many workers will prefer to work on these days potentially with an increased rate of pay.

There is currently a legal framework in place that grants all employees in Great Britain with 26 weeks' continuous service the statutory right to request flexible working. This includes requesting a change to their hours, working patterns, or working location. Employers must consider this request but reserve the right to refuse requests on specific business grounds. The burden is on the employer to demonstrate that the request cannot be accommodated in accordance with the specified grounds for rejection of a request.

The Right to Request Flexible Working is available to over 20 million (roughly 90% of) British employees. Flexible working practices are widely available across organisations, with 97% of employers offering some form of flexible working and 68% of employees for whom flexible working is available taking up this option[1]. It is therefore an option available to many employees to seek to amend their contracts to ensure they do not work on public or bank holidays, and to ensure that these are paid as annual leave. There will be restrictions where businesses need to ensure continuity of service on these days, a situation provided for in the jurisprudence of the Charter.

The UK Government wants to make it easier for people to work flexibly and in our manifesto, we committed to further encouraging flexible working and consulting on making it the default unless employers have good reasons not to. This consultation was launched on 23rd September 2021, closing on 1 December 2021. The consultation document can be found on the Government https://www.gov.uk/government/consultations/making-flexible-working-the-default.

While there is no prohibition against working on a public or bank holiday, where a worker works on one of these days, they will still be entitled to 5.6 weeks annual leave and so leave might be taken on an alternative day or

[1] https://www.gov.uk/government/publications/fourth-work-life-balance-employer-survey-2013 [pp26-28]

days. Employers must also ensure that these workers are paid the correct holiday pay. The rate of pay and circumstances in which work may be performed on bank holidays is a matter for individual contracts.

The Labour Force Survey (2019) shows that around 88% of full-time employees who did not work on a public holiday[2] were paid at least their basic rate for some or all of those days. Of the remaining 13%[3]** who said they were not paid for bank holidays not worked, around 9% said they hadn't started their current job at the time of the relevant bank holidays and a further 32% received paid annual leave (excluding bank holidays) of 28 days or more. As stated above, if a worker does not work on a public or bank holiday and is not paid for that day, they receive a day of annual leave with full pay in lieu.

The UK Government notes the negative conclusions reached by the Committee about the UK's response to Article 2, paragraph 2. However, we remain of the view that we conform with the measures contained in this paragraph.

Isle of Man

The position remains as previously described.

Paragraph 3 - Annual holiday with pay, 4 weeks;

a) *No information is requested on this provision, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5).*

United Kingdom

In March 2020, the Working Time Regulations 1998 were temporarily amended to allow workers to carry over the four weeks of annual leave under Regulation 13, if the impact of coronavirus meant it was not reasonably practicable to take it in the leave year to which it relates. Leave carried over under this exemption can be carried forwards up to two years and must be paid.

The Coronavirus Job Retention Scheme was introduced in March 2020. Under this scheme, employers who could not maintain their workforce due to the impact of coronavirus could furlough workers and apply for a grant from the UK Government to cover a portion of their workers' usual monthly wage costs. Workers who were placed on furlough continue to accrue statutory

[2] In their current, main job and over the previous 12 months.
[3] Does not add to 100 due to rounding.

holiday entitlements, and any additional holiday provided for under their employment contract. If a worker on furlough took annual leave, employers were required to calculate and pay the correct holiday pay in accordance with current legislation. The principle prior to the pandemic remained: pay received by a worker while they are on holiday should reflect what they would have earned if they had been at work and working

Isle of Man

In June 2020, legislation was brought forward to allow employees to carry forward untaken annual leave into the following two leave years, because of the potential difficulties with taking leave during the coronavirus pandemic.

Paragraph 3 - Annual holiday with pay, 4 weeks;

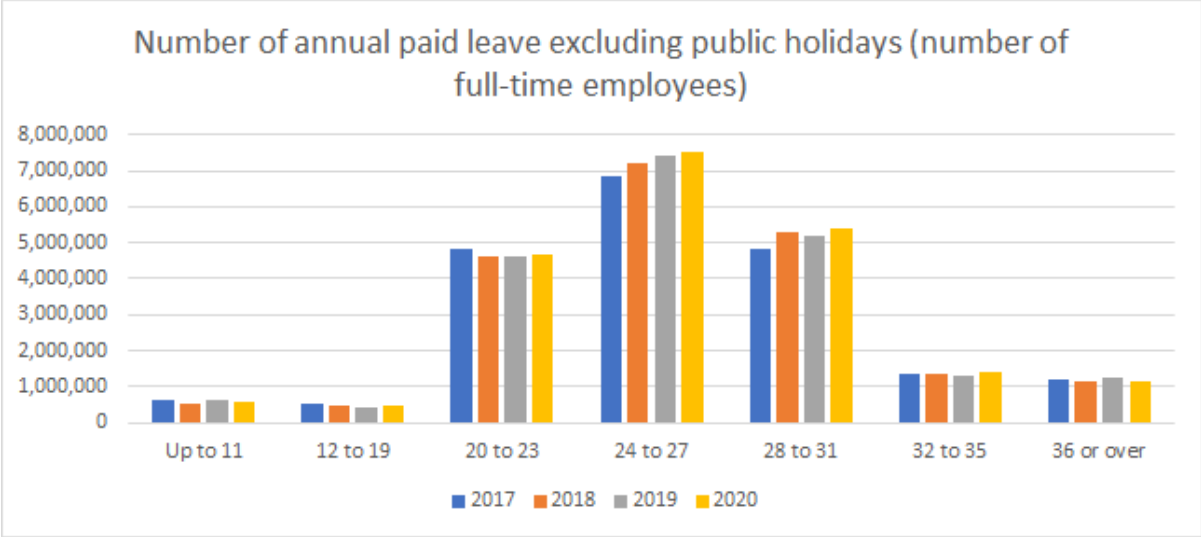
b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied.* ***The Committee concludes that the situation in the United Kingdom is in conformity with Article 2§3 of the 1961 Charter.***

United Kingdom

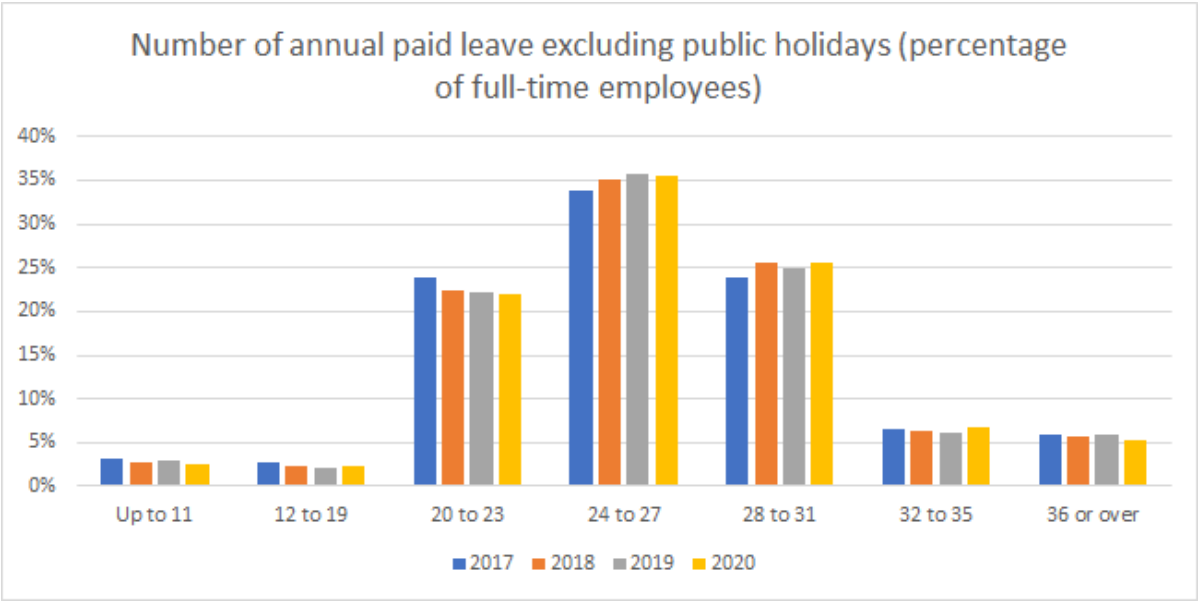
As noted in the Committee's conclusion, the situation in the UK regarding providing paid annual leave is in conformity with Article 2, paragraph 3. The position remains as previously described, with the following developments.

In April 2020, the holiday pay reference period was increased for atypical workers. Previously, where a worker had variable pay or hours, their holiday pay was calculated using an average from the last 12 weeks in which they worked, and thus earned pay. This reference period has been increased to 52 weeks in which they worked to ensure that holiday pay was more fairly reflective of a worker's actual earnings, particularly for those workers whose working patters fluctuated seasonally. In Northern Ireland, the 12 week holiday pay calculation period remains in statute.

The graphs below set out the current position on the annual leave entitlement in the UK. These demonstrate that the number and proportion of workers receiving in excess of the statutory minimum has increased.



Graph 1: Days of annual paid leave excluding public holidays (number of full-time employees) (Source: Labour Force Survey, 2017 – 2020)



Graph 2: Days of annual paid leave excluding public holidays (percentage of full-time employees) (Source: Labour Force Survey, 2017 – 2020)

Isle of Man

The position remains as previously described.

Paragraph 4 - Reduced working hours or additional holiday in dangerous or unhealthy occupations;

a) *No information is requested on this provision, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5).*

United Kingdom

No special arrangements were put in place related to the pandemic.

Isle of Man

Health and safety legislation applicable on the Isle of Man concerning the elimination, reduction and control of risks in the workplace remains as per previous reports. Health and safety standards in the workplace are controlled by the Health and Safety at Work Act 1973 (as applied to the Isle of Man) and the Management of Health and Safety at Work Regulations 2003, which require employers and self-employed persons to manage health and safety risks in the workplace to levels defined as being reasonably practicable. This legislation applies to all workplace hazards including pathogens and diseases including Covid-19 and its variants.

No 'special arrangements' with regards to the control of risks associated with Covid-19 are believed to be required, current arrangements and legislation cover dangerous or unhealthy occupations, health assessments (including mental health) and reduced occupational exposure to pathogens.

Paragraph 4 - Reduced working hours or additional holiday in dangerous or unhealthy occupations;

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion "**The Committee concludes that the situation in the United Kingdom is not in conformity with Article 2§4 of the 1961 Charter on the ground that workers exposed to residual occupational health risks, despite the existing risk elimination policy, are not entitled to appropriate compensatory measures."**

United Kingdom

The position remains as described before. The UK Government, respectfully, continues to disagree with the Committee's conclusions on Article 2, Paragraph 4.

The UK Government is of the opinion that the current approach that was detailed in the 33rd report is explicitly focused on reducing exposure to occupational health risks in line with a set of principles enshrined in legislation.

Furthermore, the UK has a robust framework for reducing risk that is focused on reducing exposure under the established principles of elimination, reduction, assessment, and control of risk. Certain regulations also place a specific duty on duty-holders to prevent, or where this is not reasonable, to control a worker's exposure by reducing the time they are in contact with a material or substance. These specify Workplace Exposure Limits (WELs) to

control the amount of time the body is exposed to a substance and can thus absorb it. This reduction in the time somebody is exposed may result in a reduction in working hours. This is not compensation for overexposure, but a measure to prevent it. Examples include the Control of Lead Regulations 2002; the Control of Substances Hazardous to Health Regulations 2002; and the Control of Asbestos at Work Regulations 1987, and their equivalent Northern Irish regulations.

In the UK Government's continuing view, this goal-setting approach, based on the principle that those who create risk are best placed to control that risk, presents the potential for higher levels of risk control than simply aiming to reduce the time of exposure to the risk or by providing additional leave once the workers have been exposed to risks to their safety or health at work. The UK Government believes that this approach sufficiently reduces and mitigates risks to workers.

However, there are instances where workers become ill or suffer accidents with permanent consequences. The UK social security system operates an industrial injuries disablement benefit where workers who have suffered, are compensated, and supported. Also, under common law in the UK, duty-holders have a duty of care to those who may be affected by their activities. Where something goes wrong, individuals may, in some cases, sue for damages using the civil law if they are injured/exposed to risks as a result of another's negligence. The person must show that the defendant had a duty to take reasonable care towards them, and they have suffered the injury/exposure through a breach of that duty. The injured/exposed person must also show that the type of loss or injury for which damages are being claimed was a foreseeable result of the breach of the duty.

With respect to working hours specifically, as set out in previous reports, both Regulation 8 of the Working Time Regulations 1998 and Regulation 10 of the Working Time Regulations (Northern Ireland) 2016 include a requirement for employers to assess the risk to their workers of their pattern of work and to ensure that the worker is given adequate rest breaks. This Regulation applies where work is organised in such a way as to put health and safety of a worker at risk. This may particularly but not exclusively be the case where the work is monotonous, or the work-rate is pre-determined. In light of the overarching requirements on employers of the Health and Safety at Work Act 1974, the Health and Safety at Work (Northern Ireland) Order 1978, and associated regulations which require risks to be avoided or mitigated, this Regulation specifically is intended to concern residual risks in particular in relation to working time, as required by the Charter.

In addition to the broader health and safety at work framework, restrictions on working time and rights to paid annual leave provide for compensation and protection for residual risk faced by workers. The combination of the different rest breaks and annual leave rights mean that workers always have time to recover from work and any residual risks involved.

Considered in full, the regulatory approach in the UK to controlling and minimising health and safety risk, including specifically in relation to working hours, provides protection and compensation against risks including residual risk.

Paragraph 5 – Weekly rest;

a) No information is requested on this provision, except insofar as they concern special arrangements related to the pandemic or changes to work arrangements following the pandemic: public holidays (Article 2§2), annual holiday (2§3), reduced working time in inherently dangerous or unhealthy occupations, in particular health assessments, including mental health impact (2§4), weekly rest period (2§5).

United Kingdom
No special arrangements were put in place related to the pandemic.

Isle of Man

No special arrangements were put in place due to the coronavirus pandemic.

Paragraph 5 – Weekly rest;

*b) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion "**The Committee concludes that the situation in the United Kingdom is not in conformity with Article 2§5 of the 1961 Charter, on the ground that there are inadequate safeguards to prevent workers from working for more than twelve consecutive days without a rest period."***

United Kingdom

The position remains largely as described before. The UK Government, respectfully, continues to disagree with the Committee's conclusions on Article 2, Paragraph 5.

The UK is multicultural country, with individuals valuing the flexibility of ways to work in the labour market. Requiring that workers do not work on Sunday, for example, would not be sensitive to the individual preferences of workers. Doing so and thereby forcing all workers to conform to a majority view of the day of rest is an outdated concept that acts against the need to ensure inclusion and equal opportunities in the workforce and labour market of those from minority faith or cultural groups. It would also be impractical to prohibit all work on a certain day of the week, as some services need to continue for the benefit of society. Indeed, it may be discriminatory in certain circumstances if the law or employer policy provided only for the cultural or religious beliefs of one group.

Sunday trading restrictions specifying a maximum of 6 opening hours between 10am and 6pm on a Sunday apply to most large shops in England and Wales, and between 1pm and 6pm in Northern Ireland. Certain shops are not subject to Sunday trading restrictions, such as airport shops, pharmacies and Jewish shops that close on the Jewish sabbath. These restrictions therefore have an impact on the total demand for labour on Sundays and allow for most workers not to work on Sundays. Further, there are currently statutory protections for employees allowing them to opt out of Sunday working, unless they are employed to work exclusively on Sundays. Provisions in the Sunday Trading Act 1994, now consolidated into the Employment Rights Act 1996 and extended to Scotland in 2004, and the Shops (Sunday Trading &c.) (Northern Ireland) Order 1997, protect shop workers from having to work on Sunday if they do not wish to do so. They have the right to refuse to work on Sundays and to be protected against dismissal or detriment for such refusal. Even if they have entered into a contractual agreement to do Sunday shop work, they can change their minds, for whatever reason, and opt out of Sunday working, subject to a three-month notice period, unless waived by the employer.

As demonstrated in the table below, the overwhelming majority - 87 per cent of employees in the most recent data - benefit from a Sunday off work and 89 per cent receive either Saturday or Sunday as days off work. Notably, the number of employees reporting that they work on Saturday or Sunday has been steadily decreasing over the past five years.

Table X: Employees who usually work Sundays, Saturdays, and both Saturday and Sunday

	Reporting usually working Sundays	As a % of employees	Reporting usually working Saturdays	As a % of employees	Reporting usually working both Saturdays and Sundays	As a % of employees	Total employees
Q2 2020[4]	3,556,755	12.8%	4,705,707	17.0%	3,118,811	11.3%	27,713,472
Q2 2019	3,845,568	13.9%	5,232,937	19.0%	3,402,125	12.3%	27,602,534
Q2 2018	3,923,841	14.3%	5,347,930	19.5%	3,450,510	12.6%	27,382,163
Q2 2017	4,053,247	15.0%	5,510,117	20.4%	3,571,260	13.2%	26,999,823
Q2 2016	3,888,370	14.6%	5,383,499	20.2%	3,445,266	12.9%	26,677,532

Source: Labour Force Survey

There may be exceptional cases, where the individuals may work more than 12 days between rest periods, however these are special cases spelt out under Regulation 21 of the Working Time Regulations (and 25 of the Northern Ireland Regulations), such as worker's activities that provide for the continuity of services or production in healthcare establishments, energy, gas and water production and supply, or apply in special or unforeseen circumstances. In such cases compensatory rest is due under Regulation 24 (and 28 of the Northern Ireland Regulations). The exceptions are in the public interest, in line with Article 31 of the Charter.

[4] Note that the UK's furlough scheme implemented in response to the covid-19 pandemic may have impacted the reported figures for Q2 2020. However, we are unable to assess the degree of any impact.

These special cases are intended to be for exceptional situations and to apply to a very small number of workers. The right to weekly rest is enforceable by the worker at an employment tribunal. Workers also have the right not to suffer detriment as a result of exercising their working time rights. These two limbs of enforcement and protection against abuses of this right by employers ensure that there are sufficient safeguards in place.

The Working Time Regulations are clear that workers should not normally work for more than 12 consecutive days. Workers are usually entitled to one whole day off a week. There are some exceptions to this, for example to deal with emergency situations, but these are limited and subject to the condition that workers get compensatory rest. Days off can be averaged over a two-week period, meaning workers can take two days off a fortnight. Days off are taken in addition to the paid annual leave entitlement. Different rest break periods apply to young workers – for example, young workers are usually entitled to two days off each week. This cannot be averaged over a two-week period and should normally be two consecutive days.

In line with the European Committee of Social Rights' interpretation of the Charter, this cannot be replaced with financial compensation under UK law.

Isle of Man

The position remains as previously described.

Article 4 - Right to a fair remuneration

Paragraph 1 – Decent Remuneration;

a) *Please provide information on gross and net minimum wages and their evolution over the reference period, including about exceptions and detailed statistics about the number (or proportion) of workers concerned by minimum or below minimum wage. Please provide specific information about furlough schemes during the pandemic, including as regards rates of pay and duration. Provide statistics both on those covered by these arrangements and also on categories of workers who were not included.*

United Kingdom

Almost all workers in the UK are entitled to the statutory minimum wage, which is either the National Minimum Wage (NMW) or the National Living Wage (NLW). Workers of at least school leaving age are entitled to the NMW, and those 23 or over are entitled to the NLW. Further details on who is entitled and the very limited exceptions to entitlement are available here: https://www.gov.uk/national-minimum-wage/who-gets-the-minimum-wage

The minimum wage rates are set based on the advice of the independent and expert Low Pay Commission, who make their recommendations based on a remit provided by Her Majesty's Government and a significant amount of economic and stakeholder evidence.

In 2015, the UK Government announced its intention for the National Living Wage (the highest age band) to reach 60% of median earnings by 2020. Since 2015, the Government's annual remit to the Low Pay Commission has required them to recommend rate increases for the National Living Wage which reflect growth in median earnings. This concept of setting the minimum wage target in relation to median earnings was based on input from both the expert Low Pay Commission and key policy stakeholders and took into account short-term impacts on business and the economy as well as longer-term impacts on workers, businesses, and productivity.

When recommending minimum wage rates, the Low Pay Commission consider both the target set by Government, internal and external econometric analysis, evidence from Government on the state of the economy and the labour market, and a significant amount of stakeholder feedback from employers and from workers. Legislation stipulates the Low Pay Commission to be comprised of nine Commissioners, equally representing employer, worker, and independent backgrounds. This allows them to make recommendations which are sufficient for a decent standard of living and take business impact into account.

The commitment for the National Living Wage to equal 60% of median earnings was achieved in 2020 when the National Living Wage increased to

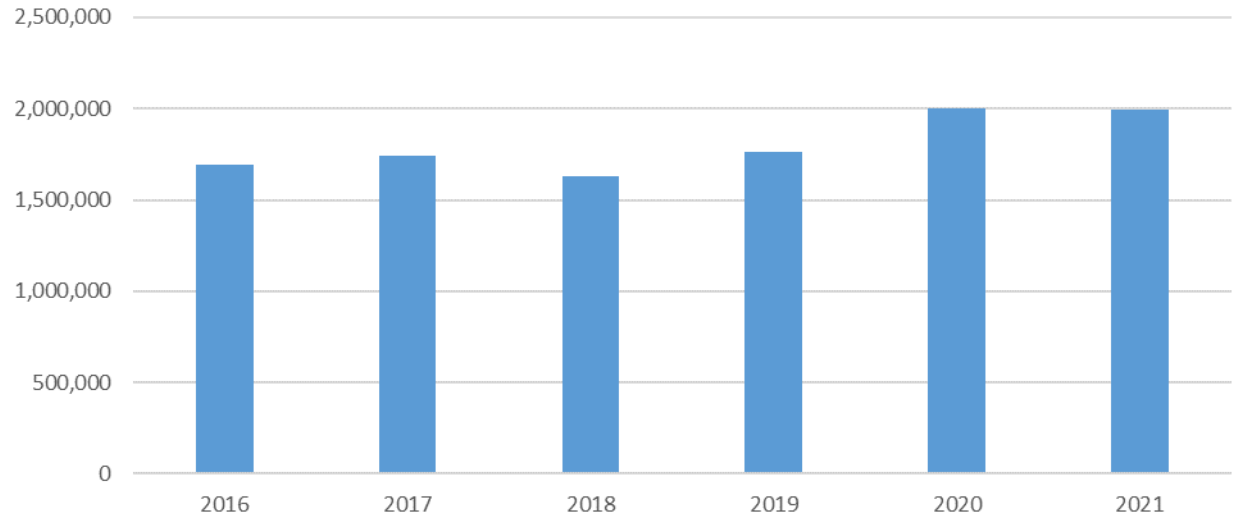
£8.72, equalling 62.6% of median earnings in 2020. Following this, the Government set new remits to the Low Pay Commission based on the previously announced intention for the National Living Wage to equal two-thirds of median earnings by 2024, provided economic conditions allow.

Over the reference period there has been strong increases to all minimum wage rates:

UK NMW / NLW rates 2017 to 2021 UK NMW rates					
	NLW (25/3+)	**Adult Rate** (for workers aged 21-24/2)	**Development Rate** (for workers aged 18-20)	**Under 18 Rate**	**Apprentice rate**
01-October-2016	£7.20	£6.95	£5.55	£4.00	£3.40
01-Apr-2017	£7.50	£7.05	£5.60	£4.05	£3.50
01-Apr-2018	£7.83	£7.38	£5.90	£4.20	£3.70
01-Apr-2019	£8.21	£7.70	£6.15	£4.35	£3.90
01-Apr-2020	£8.72	£8.20	£6.45	£4.55	£4.15
01-Apr-2021	£8.91	£8.36	£6.56	£4.62	£4.30
% Increase: 1 Jan 2017 - 31 Dec 2020	21.1%	18.0%	16.2%	13.8%	22.1%

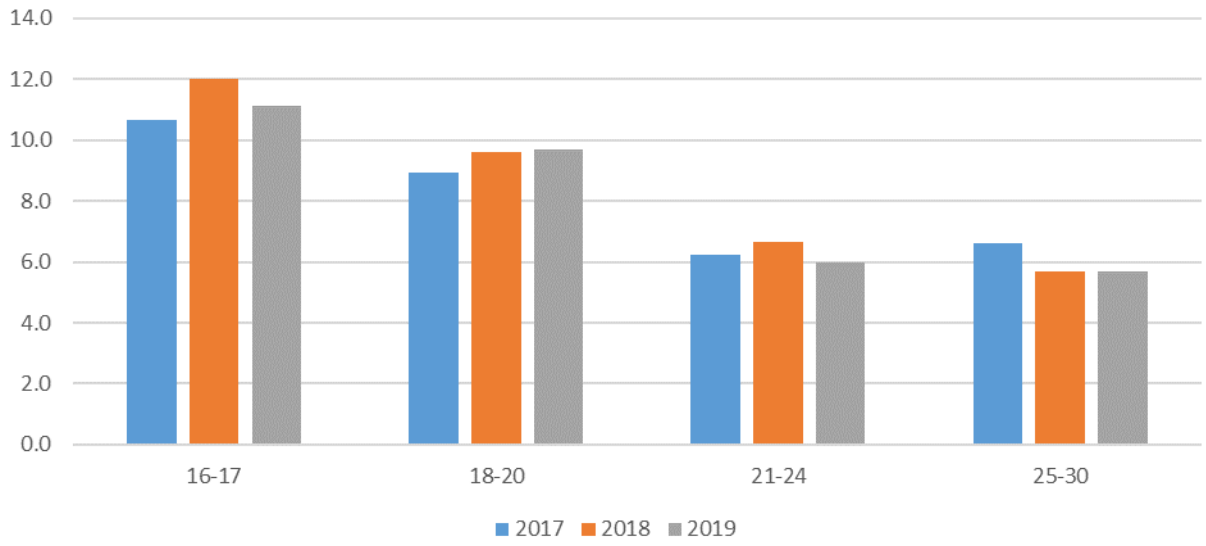
In the period 2017-2020 National Living Wage (NLW) coverage increased by c.310,000, despite consistent wage growth in the economy (see chart 1). Coverage rates between 2017 and 2019 for the NLW declined slightly from 6.6% to 5.7% despite steady absolute levels of coverage among workers aged 25+. Coverage rates for National Minimum Wage (NMW) workers have tended to be higher, particularly for 16-17 year-olds who experienced a slight increase in coverage between 2017-2019 from 10.7% to 11.1%.

Chart 1: NLW coverage in April (2016-2021)



Source: BEIS analysis

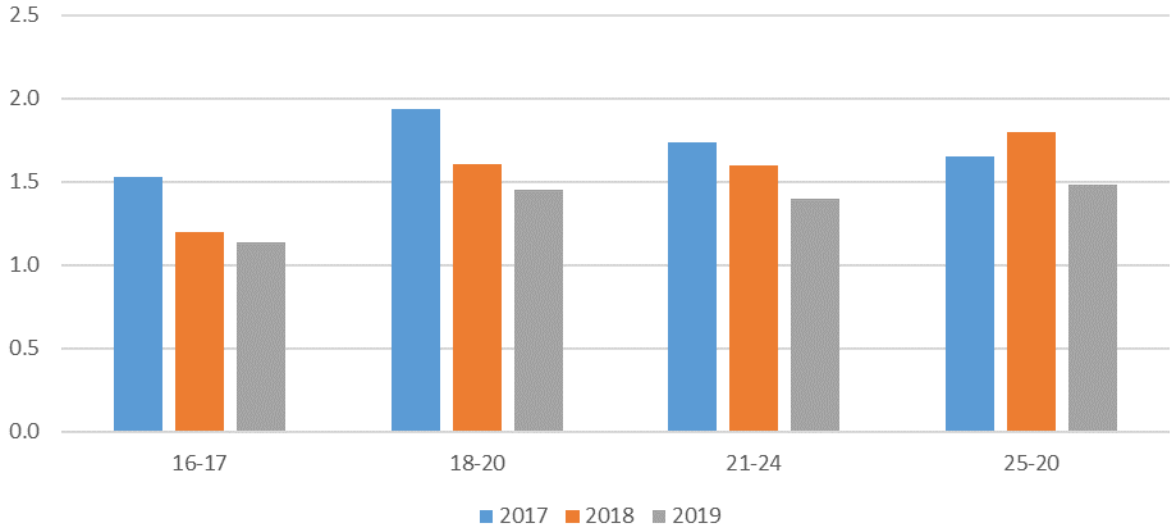
Chart 2: NLW/NMW % coverage rates by age (2017-2019)



Source: BEIS analysis

Despite higher than inflationary annual increases of the NLW/NMW rates the rate of underpayment across all age groups has fallen between 2017 and 2019. This decline was most pronounced in the 16-17 age group where it fell by 26%. Underpayment declined least of all in the 25-30 age group where it fell by 10%.

Chart 3: NLW/NMW underpayment rates by age (2017-2019)



Source: BEIS analysis

Net wages

The primary deductions from gross wages include income tax and National Insurance Contributions (NICs).

The currently applicable rates for income tax are shown below:

Band	Taxable income	Tax rate
Personal Allowance	Up to £12,570	0%
Basic rate	£12,571 to £50,270	20%
Higher rate	£50,271 to £150,000	40%
Additional rate	over £150,000	45%

The rates for previous years are available on the Government's website: https://www.gov.uk/government/publications/rates-and-allowances-income-tax
Employees (or persons treated as an employee for tax purposes) over the age of sixteen and below State Pension Age are liable to pay Class 1 NICs on any payment of earnings, subject to the NICs threshold.
The threshold for the 2021-2022 tax year at which NICs become payable for employers is £184 per week, £797 per month or £9,568 per year. The standard rate of Class 1 NICs is 12% on earnings above this threshold. Employees in certain categories pay a reduced rate of NICs. For example a married woman with a reduced rate election will pay 5.85% on earnings above the threshold.

The rates and thresholds for NICs in previous years are available on the Government's website: https://www.gov.uk/government/statistics/main-features-of-national-insurance-contributions

A worker earning the NLW for 2,080 hours (40 hours a week for 52 weeks) earns a wage of £18,532.80. They only pay income tax on the amount over £12,570 per year at a rate of 20%. The worker would only pay Class 1 NICs on earnings over £9,568 per year at a rate of 12%. The combination of these two taxes for a worker in this situation would therefore mean that they retain 88% of their wage (not taking into account other potential deductions).
The combination of these two primary taxes on income is progressive, with higher earners in general contributing a higher proportion of their salary.[5]
Therefore, given that the gross value of the NLW is above 60% of the gross value of median wages, the net value of the NLW is above 60% of the net value of median wages.

Universal Credit

Universal Credit is a modern, flexible, personalised benefit responding effectively to economic conditions. It replaces six outdated and complex benefits with one, helping to simplify the benefits system, providing support in times of need and making work pay.

[5] Note that there is an upper earnings limit which for the tax year 2021-2022 is £967 per week, £4,189 per month or £50,270 per year. Above this threshold, employees pay Class 1 NICs of 2%.

People claiming Universal Credit move into work faster than under the previous system, stay in work longer and spend more time looking to increase their earnings.[6]

Universal Credit provides more help with childcare costs, a dedicated Work Coach and scraps the 16, 24 and 30 hours 'cliff edges' – working hour thresholds, which encouraged rigid patterns of low-hours employment. Universal Credit benefit payments are reduced at a consistent taper rate per pound as earnings increase, removing such distortions.

Universal Credit is available in every Jobcentre, with a caseload of six million claimants.[7] More people than ever can now access the additional support and flexibilities it offers.

Since the start of the pandemic, the Government's priority has been to protect lives and people's livelihoods. This includes continually supporting individuals and businesses.

The Chancellor announced a temporary six-month extension to the £20 per week uplift at the Budget on 3 March to support households affected by the economic shock of Covid-19. Universal Credit has provided a vital safety net for six million people during the pandemic, and the temporary uplift was part of a COVID support package worth a total of £407 billion in 2020-21 and 2021-22.

There have been significant positive developments in the public health situation since the uplift was first introduced with the success of the vaccine rollout. As the economy reopened and as we saw continued progress with our recovery, our focus has been on helping people back into work.

That is why, for Universal Credit claimants, Assessment Periods that ended on or after 6th October 2021 did not include the additional £20 per week temporary uplift.

The Government has consistently said that the best way to support people's living standards is through good work, better skills, and higher wages. To that end, the Autumn Budget announced decisive action to make work pay by cutting the Universal Credit taper rate from 24 November from 63% to 55%, meaning that claimants will be able to keep more of their earnings. At the same time, we have also increased the Work Allowance by £500 a year, this is the amount that households with children or a household member with limited capability for work can earn before their Universal Credit award starts to be tapered, meaning many claimants will be able to earn over £550 each month before their benefit begins to be reduced.

These two measures mean 1.9m households will keep, on average, around an extra £1,000 a year. These changes represent an effective tax cut for low

[6] Universal Credit at Work (publishing.service.gov.uk)
[7] Universal Credit statistics, 29 April 2013 to 14 January 2021 - GOV.UK (www.gov.uk)

income working households in receipt of UC worth £2.2 billion a year in 2022-23. They will allow working households to keep more of what they earn and strengthen incentives to move into and progress in work.

Meanwhile, our Plan for Jobs is helping jobseekers find new employment, and for the most vulnerable, including those who can't work, our £500 million Support Fund is there to help with their essential costs.

Standard Allowance	2020 – 2021 (Temporary Uplift)	Apr21 – Sep21 (Temporary Uplift)	Oct21 – Mar22
Single Under 25	£342.72	£344.00	£257.33
Single Over 25	£409.89	£411.51	£324.84
Couple Under 25	£488.59	£490.60	£403.93
Couple Over 25	£595.04	£595.58	£509.91

Rates and thresholds for previous years can be found in this publication [Page 15]: Benefits Uprating 2021 - House of Commons Library (parliament.uk)
A more detailed breakdown of all UC rates for the last two years is available on the Government's website:
Benefit and pension rates 2021 to 2022 - GOV.UK (www.gov.uk)

Continuing the above example of *Net Wages*, but for UC claimants working 40 hours at the NLW, the following scenarios set out household net incomes including Universal Credit and Child Benefit for single people working 40 hours a week at the NLW and for couples where one person works 40 hours a week at the NLW and the other member is out of work. This means that, in each scenario, claimants have gross monthly earnings of £1,549.[8]

- A single claimant (in work) with no children & no housing costs would have a ***nil UC award*** as their earnings would be too high to allow them to be entitled to UC. Therefore, they would have a ***net income*** of ***£1,358*** after taking into account Income Tax and NICs.

- A single claimant (in work) with 1 child & no housing costs would have a ***UC award of £166*** per month. They would also be eligible for a child benefit payment of £92 which means their ***net income*** would be ***£1,617***.

[8] All UC amounts below are using 21/22 rates without the temporary £20 standard allowance uplift.
Net income here is calculated by net earnings + Universal Credit + Child Benefit. All scenarios assume that these people are over 25 and do not have housing costs or any additional UC elements such as caring, childcare, limited capability for work related activity, or, a disabled child.

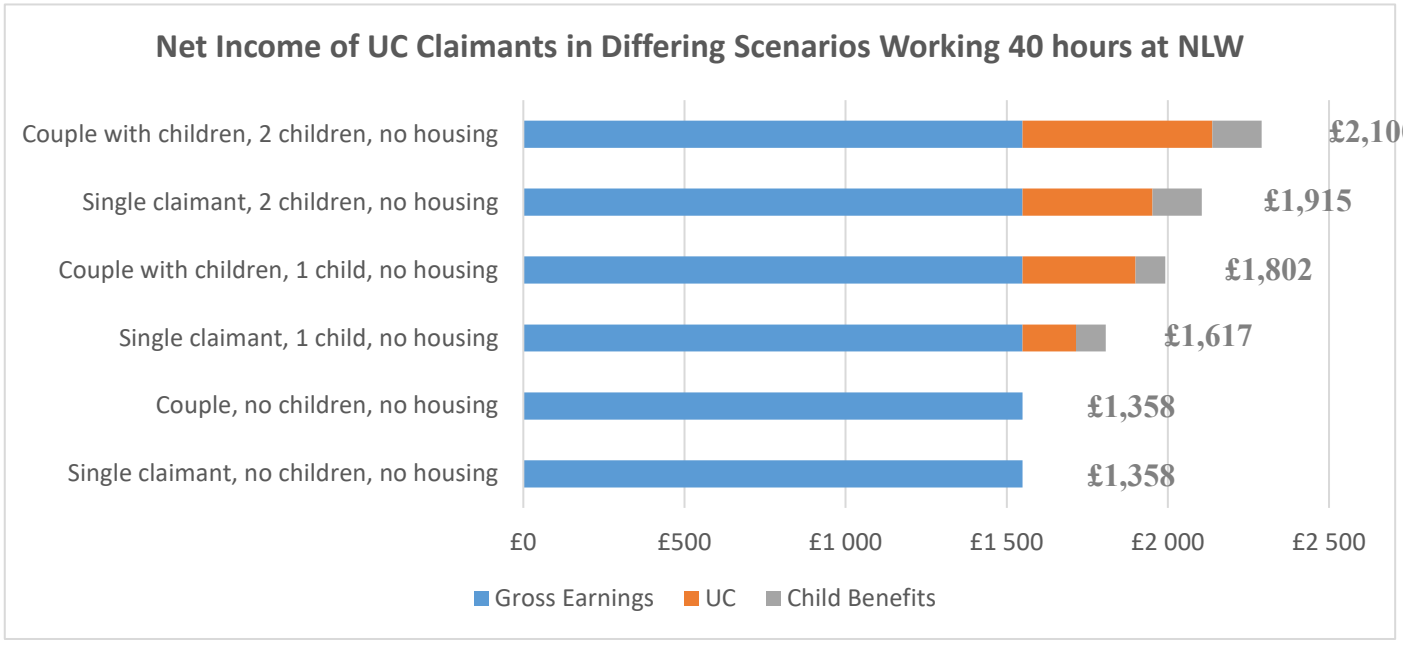
- A single claimant (in work) with 2 children & no housing costs would have a ***UC award of £403*** per month. They would also be eligible for a child benefit payment of £153 which means their ***net income*** would be ***£1,915***.

- A couple (1 member in work) with no children & no housing costs ***would not be eligible for UC*** as earnings would be too high, UC would be fully tapered at this level of earnings. Therefore, they would have a ***net income*** of ***£1,358*** after taking into account Income Tax and NICs.

- A couple claim (1 member in work) with 1 child & no housing costs would have a ***UC award of £351*** per month. They would also be eligible for a child benefit payment of £92 which means their ***net income*** would be ***£1,802***.

- A couple claim (1 member in work) with 2 children & no housing costs would have a ***UC award of £589*** per month. They would also be eligible for a child benefit payment of £153 which means their ***net income*** would be ***£2,100***.

A graphical representation of the above scenarios, showing how UC tops up the income of those in work is below:



The UK Government highlights that unlike in many jurisdictions, healthcare is largely free at the point of use and funded in part through contributions of workers through taxation. There is no separate tax or requirement for health insurance for the majority of workers in order to access the National Health Service.

Wages set by collective agreement

Wages can also be set through collective agreements, as long as the wage rate is above the statutory minimum wage. The table below gives the coverage of collective agreements (the percentage of jobs where the pay is set by a collective agreement) and the percentage difference between the median pay rate for jobs not covered by a collective agreement and those covered by a collective agreement, for each year in this reporting period.

	2017	2018	2019	2020
Collective agreement coverage (% jobs where pay is set in a collective agreement)	39.6%	39.2%	39.2%	38.7%
Percentage difference between median pay rates (positive % indicates pay is higher when set in a collective agreement)	18.4%	18.5%	17.8%	17.5%

Covid-19 furlough scheme

The Coronavirus Job Retention Scheme (CJRS) was set up in March 2020 to support employers to retain their employees through the Covid-19 pandemic. It closed on 30 September 2021, having been in place continuously for nineteen months.

From the inception of the scheme, all UK employers could apply for a grant to cover 80 per cent of furloughed employees' usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and pension contributions. Since then, the amount covered by the Government grant has been gradually tapered as restrictions were lifted, and employers were required to top up the amount so that employees have consistently received 80 per cent of their usual salary for hours not worked, up to a maximum of £2,500 per month, throughout the duration of the scheme.

The timeline of grant tapering is as follows:

- From March to July 2020, the Government paid 80 per cent of wages up to a cap of £2,500 as well as employer National Insurance (Employer NICS) and pension contributions for the hours the employee did not work.
- In August 2020, the Government paid 80 per cent of wages up to a cap of £2,500 and employers paid employer NICs and pension contributions for the hours the employee did not work.
- In September 2020, the Government paid 70 per cent of wages up to a cap of £2,187.50 for the hours the employee did not work. Employers paid employer NICs and pension contributions and 10 per cent of wages, ensuring employees continued to receive a total of 80 per cent of their normal wages up to a cap of £2,500.

- In October 2020, the Government paid 60 per cent of wages up to a cap of £1,875 for the hours the employee did not work. Employers paid employer NICs and pension contributions and 20 per cent of wages, ensuring employees continued to receive a total of 80 per cent of their normal wages up to a cap of £2,500.
- From November 2020 to the end of June 2021, the level of the grant mirrored levels available under the CJRS in August, so the Government paid 80 per cent of wages up to a cap of £2,500 and employers paid only NICs and pension contributions for the hours the employee did not work.
- In July 2021, the Government paid 70 per cent of wages up to a cap of £2,187.50 for the hours the employee did not work. Employers paid employer NICs, pension contributions and 10 per cent of wages, ensuring employees continued to receive a total of 80 per cent of their normal wages up to a cap of £2,500.
- In August 2021 and September 2021, the Government paid 60 per cent of wages up to a cap of £1,875 for the hours the employee did not work. Employers paid employer NICs, pension contributions and 20 per cent of wages, ensuring employees continued to receive a total of 80 per cent of their normal wages up to a cap of £2,500.

As of 16 August 2021, there have been 11.6 million unique jobs supported by the CJRS since its inception. A total of 1.3 million employers have made a claim through the CJRS since it started in March 2020, totalling £68.5 billion in claims.

Any entity with a UK payroll could apply, including businesses, charities, recruitment agencies and public authorities, and employees could be on any type of employment contract, including full-time, part-time, agency, umbrella, flexible or zero-hour contracts.

Scotland

In 2019, 1.2% of employees in Scotland earned less than the NMW. This rose to 5.5% in 2020 (during the pandemic) or 2.1% when excluding those on furlough on reduced rates of pay[9].

The Scottish Government promotes the payment of the real Living Wage ("rLW"). The hourly rate of payment of the rLW has increased from £8.45 in 2016/17 to £8.75 in 2017/18, £9.00 in 2018/19, and £9.30 in 2019/20, with another increase in the latter half of 2020 to £9.50. All rates are based on a Minimum Income Standard, a single underpinning measure of the cost of a decent standard of living used by the Resolution Foundation. Currently, 84.8% of workers in Scotland are paid at least the rLW, with just over 15% of workers in Scotland not paid at the real Living Wage rate.

Isle of Man

[9] https://www.gov.scot/publications/annual-survey-of-hours-and-earnings-2020/

Information on gross and net minimum wages and their evolution over the reference period is set out in the table below.

Year	Net average pay £ per hour	Minimum wage £ per hour	Minimum wage as % of net average rate	% at or below minimum wage
2017	16.64	7.50	45%	5%
2018	16.88	7.85	46%	3.4
2019	16.59	8.25	50%	3.1
2020	18.02	8.25	46%	2.5%

Though the main minimum wage rate for a worker aged over 18 is currently £8.25, there are an additional two separate categories:

Over compulsory school age but under 18 £6.15

Development Worker £7.30

A “development worker” is a worker who:

- Is 18 or over.
- Is within the first 6 months after the commencement of his or her employment with the employer.
- Has not previously been employed by that employer or an associated employer.
- Has entered into an agreement with the employer requiring the worker to take part in accredited training on at least 26 days. (“accredited training” means training to a recognised industry standard which is approved by the Isle of Man Government’s Department of Education, Sport, and Culture).

The minimum wage does not need to be paid to apprentices (i.e. those trainees under a formal training agreement with their employer and the IOM Government’s Department of Education, Sport and Culture) who:

- have not attained the age of 19
- have attained the age of 19 but are within the first 12 months of their apprenticeship
- But an apprentice who has attained the age of 25 is entitled to receive the minimum wage.

Furlough

The Isle of Man provided two schemes during the pandemic for those in employment: the Salary Support Scheme and Manx Earnings Replacement Allowance.

The Salary Support Scheme (SSS) was launched in 2020 to provided support for businesses to continue to employ and pay their staff. The scheme is still ongoing.

The employee did not have to be "furloughed" for the employer to receive the support.

The scheme provided a contribution towards salary of a maximum of £280 per week per full time employee. The maximum contribution was increased to £310 per week per full time employee from March 2021 onwards.

Employers were required to continue to pay the employee at least the amount claimed under the scheme.

All businesses could apply for the support unless they were in an excluded sector. The different business sectors were included/excluded dependent on what the COVID restrictions on businesses trading were at any given time. The excluded sectors during the Isle of Man's first "lockdown" in 2020 were as follows:

- The finance sector.
- Legal services.
- Technology and digital.
- E-gaming etc.
- Space and utilities.
- Public administration.
- Large retailers.
- Any business receiving significant income from Isle of Man Government.
- Any constituent entity of a MNE (multinational enterprise) group under the Income Tax (Country-by-Country Reporting) Regulations 2017.

The largest number of employees supported for any one 4-week period was 10,931. For context, in December 2019, the number of people in employment in the Isle of Man was 35,416.

The Manx Earnings Replacement Allowance was provided to employees who were not being paid by their employer while absent from work because of the pandemic, and to the self-employed who could not work because of restrictions.

Paragraph 1 – Decent Remuneration;

b) The Committee also requests information on measures taken to ensure fair remuneration (above the 60% threshold, or 50% with the proposed explanations or justification) sufficient for a decent standard of living, for workers in atypical jobs, those employed in

the gig or platform economy, and workers with zero hours contracts. Please also provide information on fair remuneration requirements and enforcement activities (e.g. by labour inspectorates or other relevant bodies) as well as on their outcomes (legal action, sanctions imposed) as regards circumvention of minimum wage requirements (e.g. through schemes such as sub-contracting, service contracts, including cross-border service contracts, platform-managed work arrangements, resorting to false self-employment, with special reference to areas where workers are at risk of or vulnerable to exploitation, for example agricultural seasonal workers, hospitality industry, domestic work and care work, temporary work, etc.).

United Kingdom

Almost all workers in the UK are entitled to the NMW rate relevant to their age. This is the case whether a worker is directly employed or an agency worker, or whether they are on full time, part time, or zero hours contracts; so long as someone's employment status is defined as being a worker, then apart from very limited exceptions, they are entitled to at least NMW for hours worked.

When enforcing minimum wage regulations, HM Revenue & Customs (HMRC) will consider the actual working arrangements rather than any contractual arrangements or claims of self-employment. HMRC will consider the specific circumstances of the case to determine whether the individual is a worker for minimum wage purposes and, if they are, will determine the working time for which the individual must be paid at least the relevant minimum wage rate.

HMRC enforces NMW regulations on behalf of the Department for Business, Energy and Industrial Strategy (BEIS, responsible for NMW policy) and have done since the introduction of the NMW. HMRC enforce through a mixture of proactive investigations and reactions to complaints or tips,[10] and thoroughly investigate all cases, whether they relate to full time workers, workers on zero hours contracts, or any other circumstance.

HMRC undertake audits or employer visits where the risks of non-compliance or scale of investigation require it. They undertake proactive enforcement activities using a risk model to identify potential investigations and therefore do not just rely on complaints from workers who may not know their rights or may feel intimidated into not raising their concerns. In addition to enforcement, HMRC undertakes work to help employers understand their responsibilities and how to comply with minimum wage legislation, known as 'promote' activities. The aim is to avoid non-compliance and therefore protect

[10] HMRC consider 100% of complaints made. Complaints are able to be made online or through ACAS (the Advisory, Conciliation and Arbitration Service), an independent public body. Complaints can be made anonymously to protect the worker(s) making a complaint.

workers from the impacts of being underpaid before enforcement activity is able to remedy the situation.[11]

Promote activity includes an extensive, well-received educational and outreach programme which includes webinars, correspondence and podcasts among other tools. In 2020-2021 this programme reached around 770,000 employers and workers, and encouraged employers to make voluntary declarations in excess of £1m. The UK Government continues to strengthen and enhance our promote activities and expand coverage with an aim to contact five million workers and employers during the 2021-2022 financial year.

The most serious cases, where employers are deliberately or persistently non-compliant, are investigated by specialist teams. These cases can also involve other risks of labour market abuse which could lead to the team working with other agencies. In 2020-2021 over 120 such joint operations were completed.

NMW legislation does not draw a distinction between accidental and deliberate underpayment – all breaches are treated the same. Where wage arrears are identified, HMRC enforces those arrears by issuing a Notice of Underpayment (NoU).

Arrears of NMW are payable at the current rates and not the rate that was applicable at the time of the underpayment. In addition to paying workers the arrears they are due, penalties of 200% of the arrears owed can be applied. The Government will also consider public naming of businesses found to have underpaid their workers the NMW.

HMRC can issue a Labour Market Enforcement Undertakings (LMEU) to ensure compliance of serious and persistent offenders who do not meet the NMW prosecution threshold. There are currently 24 employers subject to a LMEU. For the most serious offences HMRC may seek a criminal prosecution.

Enforcement outcomes

Enforcement activity has continued throughout the pandemic.[12] In spite of the challenging circumstances, in 2020/21 HMRC investigated 2,700 businesses identifying over £16.7 million in wage arrears from almost 1,000 employers to more than 155,000 workers and issued 575 penalties amounting to over £14 million. Since 2015 HMRC has identified over £100 million in wage arrears for more than 1 million workers. Data showing the investigations and outcomes since 2015 is shown in the table below:

[11] National Living Wage and National Minimum Wage: government evidence on compliance and enforcement 2019/20 (publishing.service.gov.uk)

[12] Due to the impact of COVID-19 and changes made to ensure the health and safety of our staff and those of businesses we investigate there was a small reduction in investigations closed during 2020/21.

Year	NMW investigations	Arrears	Workers	Penalties issued	Value of penalties
2015/16	2,667	£10,281,396	58,080	815	£1,780,500
2016/17	2,674	£10,918,047	98,150	822	£3,892,976
2017/18	2,402	£15,615,609	201,785	810	£14,070,621
2018/19	3,018	£24,447,919	221,581	1,008	£17,134,737
2019/20	3,376	£20,836,609	263,350	992	£18,453,289
2020/21	2,740	£16,758,324	155,196	575	£14,064,688
Totals:	**19,081**	**£102,149,433**	**1,024,460**	**5,727**	**£70,331,471**

Scotland

The Scottish Government works in partnership with The Poverty Alliance to increase the number of employers gaining Living Wage accreditation, and provides annual grant funding to this end. In 2017, a total of 1142 employers had become accredited, and that figure increased to just over 2000 in 2021.

The Scottish Government recognises that, in addition to payment of the rLW, the number and frequency of work hours are critical to tackling in-work poverty. A Living Hours accreditation scheme for Scotland was launched in July 2021, building on the existing Living Wage accreditation scheme. As such, employers looking for certification must pay the rLW, provide a contract reflecting accurate hours worked and a guaranteed minimum of 16 hours a week (unless the worker requests otherwise), and ensure at least 4 weeks' notice of shifts and guaranteed payment if shifts are cancelled within this period.

Through our Fair Work First approach, the Scottish Government opposes the inappropriate use of zero hours contracts, which can leave workers with minimal job and financial security. As such, employers accessing public sector grants or delivering public contracts are asked to commit to paying the real Living Wage and not using zero hours contracts inappropriately.

Isle of Man

Fair remuneration for workers in atypical jobs, those employed in the gig or platform economy, and workers with zero hours contracts

In 2019, an IOM Government Committee reviewed the issues relating to zero hours contracts. Proposals relating to those issues will be consulted on by the end of 2021.

Fair remuneration requirements and enforcement activities

As set out in the information on the minimum wage above, all workers in the Isle of Man, subject to some exceptions, are entitled to be paid not less than the minimum wage. The minimum wage is enforced by a team of 3 inspectors employed by the Department for Enterprise. Enforcement takes many forms and centres on a programme of announced visits. This is supplemented by unannounced visits in response to complaints. With regard to the minimum

wage, compliance is generally good with very few complaints received, and very few infringements identified. In no cases was prosecution called for, and in all cases where an infringement was identified, back payments made good the outstanding amount. No workers were identified who had lost their jobs during the period due to asserting their right to minimum wage.

Year	Inspections	%Workforce covered	MW Complaints
2017	246	4.84	5
2018	229	4.79	4
2019	124	3.42	3
2020*	36	0.99	2
From late January 2020 onwards, no regular inspections were booked due to the Coronavirus pandemic.			

Compliance with the Minimum Wage is thought to be high amongst insular workers, and there are various well understood remedies for those who may, through error, be paid less than the legal minimum (active infringement is almost unheard of). Vulnerable groups are therefore likely to be made up for the most part of migrant labour. Whilst not specifically connected, all incoming migrant labour is subject to either the immigration or work permit regimes. In both cases, minimum earnings apply to either visas or work permit exemptions. Work Permits cannot legally be approved for rates of pay less than the Minimum Wage applicable to the individual in question. Compliance is therefore likely to be very high.

Paragraph 1 – Decent Remuneration;

c) *Please also provide information on the nature of the measures taken to ensure that this right is effectively upheld as regards the categories of workers referred to in the previous paragraph (b) or in other areas of activity where workers are at risk of or vulnerable to exploitation, making in particular reference to regulatory action and to promotion of unionisation, collective bargaining or other means appropriate to national conditions.*

United Kingdom

Zero hours contracts provide important flexibility in the labour market, which benefits both employers and workers. Individuals on zero hours contracts represent a very small proportion of the workforce – just 3%. For this small group, a zero hours contracts may work best for them. The flexibility supports workers who want to work part time or need to balance work around other commitments such as childcare or study. For example, around a fifth of people on zero hours contracts are in full-time education compared with 3% of other people in employment. Most workers on zero hours contracts say that this arrangement works for them, with the majority saying they do not want more hours.

The Government has taken action to improve fairness for workers on these contracts and prevent exploitation of vulnerable workers. We have banned the use of exclusivity clauses in zero hours contracts in Great Britain to give workers more flexibility. This means an employer cannot stop an individual on a zero hours contract from looking for or accepting work from another employer. It also prevents an employer from stipulating that the individual must seek their permission to look for or accept work elsewhere. The Government has also introduced rights for all workers to receive a day one written statement of rights and a payslip including number of hours worked to improve clarity and transparency for workers on zero hours contracts.

However, the Government recognises that some workers on zero hours contracts would like more stability in their working hours. We are committed to taking forward a key measure to include a new right for all workers in Great Britain to request a more predictable contract. Those who would like more certainty will be able to request a more fixed working pattern from their employer after 26 weeks of service. Those who are content to work varied hours each week will be able to continue.

The Government takes extra measures to protect certain vulnerable workers – in particular, agency workers are protected by the Employment Agency Standards (EAS) Inspectorate and the Employment Agency Inspectorate in Northern Ireland, and workers in the agriculture and fresh produce supply chain are protected by the Gangmasters and Labour Abuse Authority (GLAA). Withholding wages from workers is a violation of the regulations enforced by both of these enforcement bodies.

Scotland

Payment of the rLW is included in the Scottish Government's Fair Work First approach, meaning that employers accessing public sector grants or delivering public contracts are asked to commit to paying the rLW and not using zero hours contracts inappropriately.

More broadly, Fair Work First is also concerned with effective voice channels, including through trade union recognition, and with creating more diverse and inclusive workplaces, giving particular attention to addressing workplace barriers faced by women and disabled workers and those from minority ethnic backgrounds. This activity can often relate to people working in temporary and low-pay sectors, including hospitality and care.

Employers who are members of the Scottish Business Pledge[13] (a voluntary agreement between the Scottish Government and individual employers) are required to pay the rLW and not use zero hours contracts inappropriately.

Isle of Man

See Isle of Man response to b

[13] https://scottishbusinesspledge.scot/

Paragraph 1 – Decent Remuneration;

d) *Please provide responses to comments and queries from 2017 conclusions (see extracts of the full conclusions attached to the commissioning email for the context):*

I. ***the committee repeats its request for information on the net values of both minimum and average wages and, where applicable, direct taxation, social security contributions, the costs of living and earnings-related benefits. The Committee recalls that, under Article 4§1 of the 1961 Charter, the minimum or lowest net remuneration or wage paid in the labour market must not fall below 60% of the net average wage. When the net minimum wage is between 50% and 60% of the net average wage, the State Party must show that the wage provides a decent standard of living.***

United Kingdom

See responses to a, b and e

Isle of Man

See responses to a, b and e

Paragraph 1 – Decent Remuneration;

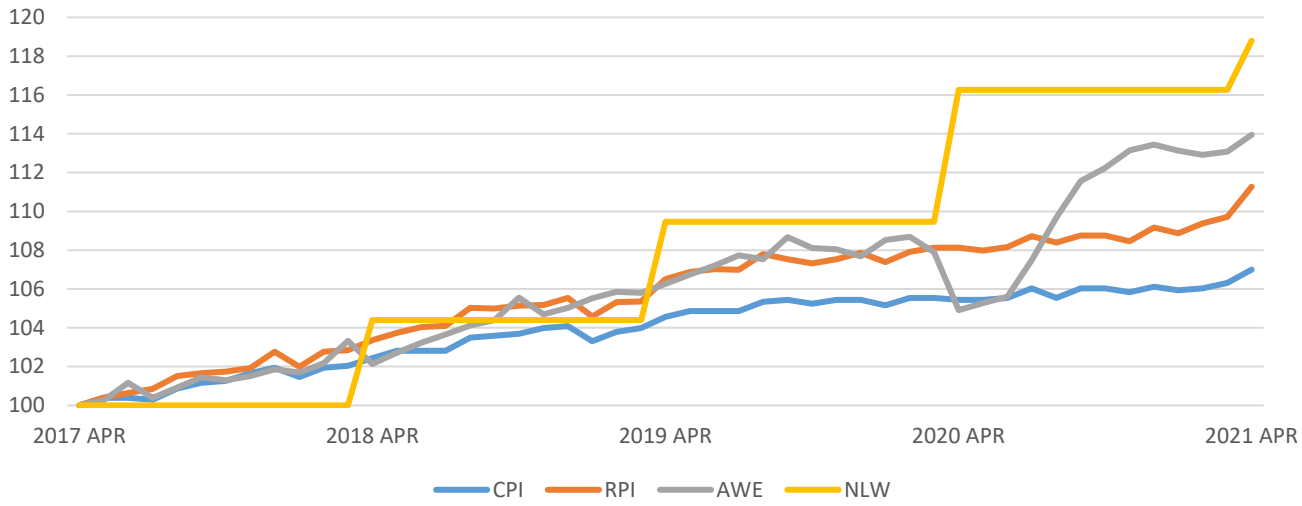
e) *If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion* ***"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 4§1 of the 1961 Charter on the ground that the minimum wage does not ensure a decent standard of living".***

United Kingdom

Minimum wage increases relative to inflation and earnings.

From 2019 to 2020 the NLW increased by 6.21% to £8.72, increasing the earnings of 1.97m workers. In 2020-2021 the NLW increased by a further 2.1% to £8.91, increasing the earnings of just under 2 million workers, as well as extending coverage to all workers aged 23 and above for the first time.

During the reference period the NLW has increased above inflation and the growth of average earnings. The purchasing power of the minimum wage in absolute terms, as well as the value of the minimum wage relative to median earnings (also known as the "bite") have both increased significantly.
Chart 2: Indices of NLW, prices and average earnings (April 2017-April 2021)



Source: BEIS analysis of ONS data

Between January 2017 and December 2020, the Consumer Price Index (CPI) has increased by 7.7%, the Retail Price Index (RPI) increased by 8.4%. Over the same time period the Average Weekly Earnings (AWE) rose by 14.4%. Conversely, the NLW rose by 21.1%. This means that real wages have increased by 12.7 percentage points more than RPI and 14.4 percentage points more than CPI. As the chart below indicates, all the minimum wage rates rose faster than inflation and average earnings.

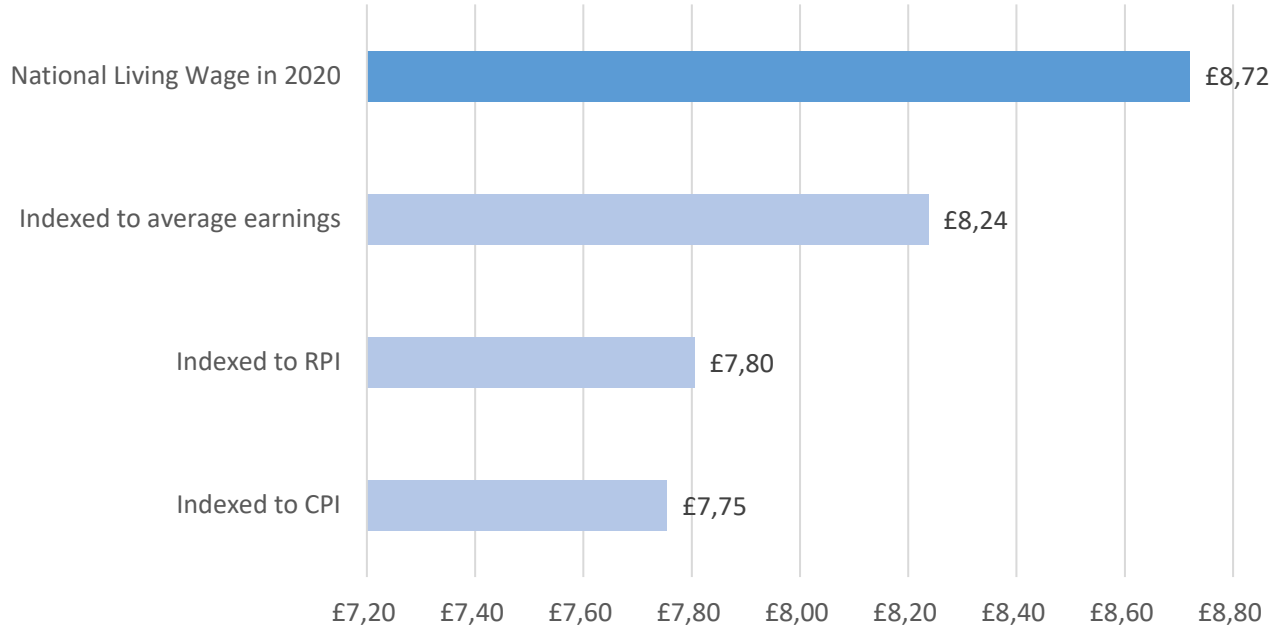
Table 1: Percentage increase in NLW/NMW rates, prices and average earnings, Jan 2017-December 2020

25+ (2017-2020)/23+ (2021) NLW	21-24/3 NMW	18-21 NMW	16-17 NMW	(Apprentice) NMW	CPI	RPI	AWE
18.8%	21.1%	18.0%	16.2%	13.8%	7.7%	8.4%	14.4%

Source: BEIS analysis of ONS data

If the NLW had increased in step with the CPI inflation then it would have reached £7.75 by the end of 2020, £7.80 in the case of RPI inflation, and £8.24 in the case of Average Weekly Earnings, as shown in Chart 3.

Chart 3: Increase in NLW indexed to prices/average earnings

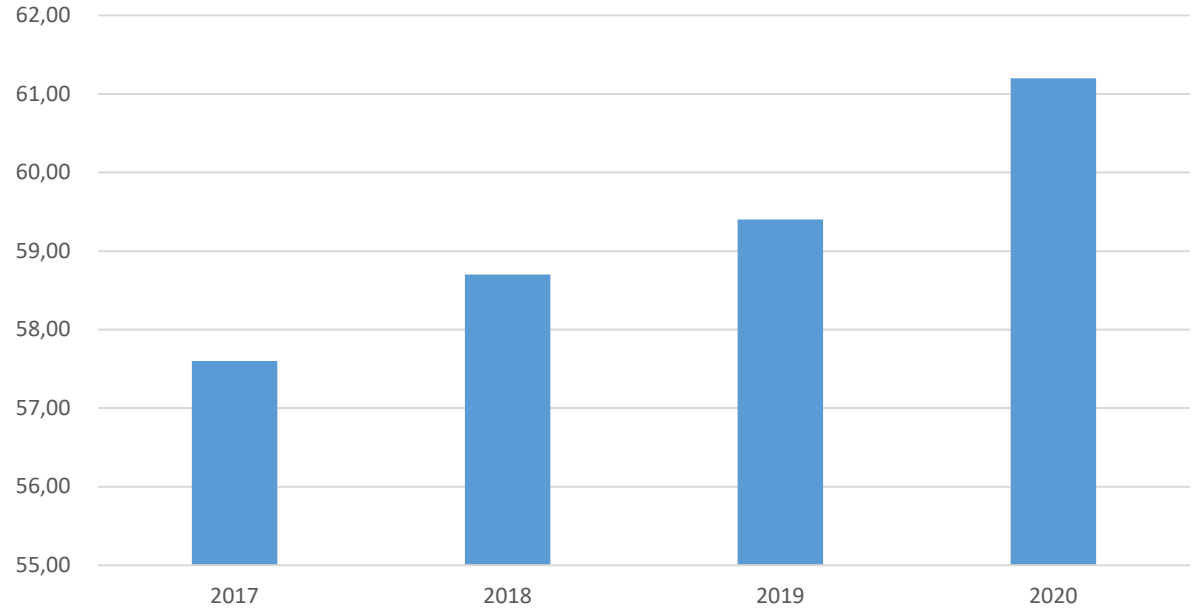


Source: BEIS analysis on ONS data

NLW relative to average incomes

The increase in the NLW relative to average earnings has increased the "bite" of the NLW (defined as the value of the NLW in proportion to the median hourly wage.) In 2017 the bite of the NLW was around 57.7%, by 2020 this proportion rose to 62.6% and has remained above 62% since in the following year. The UK Government has committed itself to increase the bite of the NLW to 66.6% of median earnings by 2024, if economic conditions permit.

Chart 4: NLW bite in April (2017-2020)



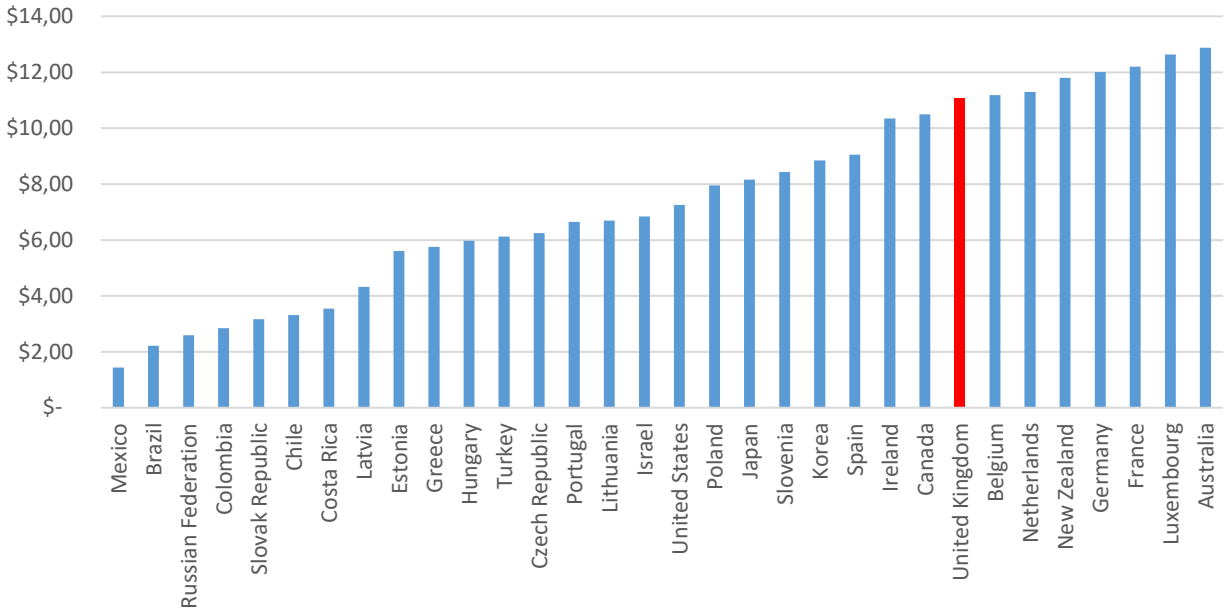
Source: Low Pay Commission

International comparisons of NLW

Chart 5 shows the Low Pay Commission's (LPC) analysis of minimum wage values across OECD economies in Purchasing Power Parity (PPP) terms. Comparing the minimum wages in PPP terms means looking at how much each wage can buy when both exchange rates and differences in national price levels are accounted for. This allows for a more accurate understanding of what living standards are like for people earning the minimum wage in different economies.

The UK is roughly in the top fifth of OECD economies in terms of the value of its minimum wage. The only OECD members with a similar sized economy and population with a higher minimum wage are France and Germany.

Chart 5: Comparison of minimum wage rates (PPP in 2020 USD prices)



Source: OECD

Scotland

Through the promotion of the real Living Wage, the Living Wage Accreditation Scheme, and the new Living Hours Accreditation Scheme, workers in Scotland receive a wage rate based on the Minimum Income Standard, a single underpinning measure of the cost of a decent standard of living which establishes the minimum income needed for an acceptable living standard. Just under 85% of workers in Scotland are now paid at least the rLW.

Employers who are members of the Scottish Business Pledge[14] (a voluntary agreement between the Scottish Government and individual employers) are required to pay the real Living Wage. Employers accessing public sector grants or delivering public contracts are asked to commit to paying the rLW.

[14] https://scottishbusinesspledge.scot/

Paragraph 2 – Overtime;

a) Please provide up to date information on the rules applied to on-call service, zero-hour contracts, including on whether inactive periods of on-call duty are considered as time worked or as a period of rest and how these periods are remunerated.

United Kingdom

The rules in relation to working time, minimum wage and overtime are the same for all workers regardless of whether they have fixed contracted hours or have a zero hours contract.

For minimum wage purposes, the actual arrangements need to be considered to determine whether the worker is to be treated as working during "on call" periods. Areas to consider will be the contractual requirements imposed on the worker, e.g. whether the worker is restricted to a place specified by the employer. The restrictions and level of burden imposed on the worker will be relevant. For example, a worker who is not required to report to the employer but is free to be at home, or any place of their choosing, and must simply ensure that they are able to be contacted if needed, may not be working during the time they are not responding to their employer or undertaking work. However, a worker required to spend their "on call" time at an employer's premises may be treated as working, even if they are not undertaking work duties.

See: Employees on call: Rest breaks - Acas

Scotland

The Scottish Government opposes the inappropriate use of zero hours contracts. Employers who are members of the Scottish Business Pledge[15] (a voluntary agreement between the Scottish Government and individual employers) are required to not use zero hours contracts inappropriately. Employers accessing public sector grants or delivering public contracts are asked to commit to not using zero hours contracts inappropriately.

Isle of Man

The situation remains as previously reported.

Paragraph 2 – Overtime;

b) Please explain the impact of the COVID-19 crisis on the right to a fair remuneration as regards overtime and provide information on measures taken to protect and fulfil this right. Please include specific information on the enjoyment of the right to a fair remuneration/compensation for

[15] https://scottishbusinesspledge.scot/

overtime for medical staff during the pandemic and explain how the matter of overtime and working hours was addressed in respect of teleworking (regulation, monitoring, remuneration, increased compensation).

United Kingdom

The UK Government did not amend the rules governing general working time or fair remuneration in response to the pandemic. No specific rules were put in place in respect of teleworking. The UK Government is aware of the potential for teleworking to impact working hours both positively and negatively. This is something we are keeping under review. However, we believe that the current regulatory and enforcement framework has been sufficient to maintain compliance with working time and minimum wage legislation. The UK UKGovernment recognises the benefits of different forms of flexible working, including remote working, for workers and for employers. Even before the pandemic, the UK Government was pursuing plans to improve the availability of flexible working options for workers. We therefore believe that our regulatory framework and working norms were already largely prepared for some of the challenges faced in the fast move to teleworking for large sections of the economy.

See: Making flexible working the default - GOV.UK (www.gov.uk)

Healthcare staff

One sector of note during the pandemic with sector standard pay and increased remuneration for overtime pay is healthcare. The national Terms and Conditions for NHS staff offer premium rates of pay for work during unsocial hours or through agreed overtime. During the pandemic NHS staff benefited from those provisions.

'Non-medical' Staff

The Agenda for Change (AfC) contract covers the majority of the NHS workforce (this includes most 'non-medical' staff such as nurses, healthcare assistants, paramedics, and all but the most senior managers). When these staff work in the evening (after 8 pm and before 6 am), at night, over weekends and on public holidays, they receive unsocial hours payments. For instance, a nurse working on Saturday (would get time plus 30%; or time plus 60% for working on Sunday. Full details on unsocial hours payments are set out in Section 2 (England) in the NHS Terms and Conditions of Service Handbook.

The Terms and Conditions also contain detail on overtime payments, which can be paid for hours worked over full-time hours where the worker's manager has agreed to this work being performed outside the standard hours. There is a single harmonised rate of time-and–a-half for all overtime (or double time on general public holidays).

For part-time staff that work above their contracted hours, any additional hours worked up to 37.5 per week (full-time hours) are paid at plain rate plus any applicable enhancements as set out in the Terms and Conditions.

Consultant Doctors

A standard full time Job Plan for a consultant consists of 10 Programmed Activities (PA) of four hours duration a week. Special arrangements apply as follows:

- When a consultant works overnight (between 7pm and 7am) or anytime at weekends (premium time), the duration of a PA is reduced from four to three hours, or an equivalent pay enhancement is due.
- Where a consultant works more than three PAs a week in premium time, appropriate pay arrangements are agreed locally. For consultants, non-emergency work in premium time can only be scheduled by mutual agreement.
- Consultants can agree with their employer to work regular Additional PAs (APA) on top of their standard job plan. The annual rate for an APA is 10% of basic salary. Rates for irregular additional sessions are agreed locally.
- If a consultant is required to participate in an on-call rota they are paid a supplement of 1%-8% of basic full-time salary.

Specialty, Associate Specialist and Specialist (SAS) Doctors

There are several contracts covering SAS doctors. A standard full time Job Plan for a SAS doctor consists of 10 PAs of four hours duration a week.

SAS doctors on the 2021 contract may be required to work between 9pm and 7am (between 7pm and 7am for SAS doctors on pre-2021 contracts) on weekdays or at weekends (out of hours). For each PA undertaken out of hours there will either be a reduction in the timetabled value of the PA to 3 hours or a reduction in the timetabled value of another PA by 1 hour. If a PA undertaken out of hours lasts for four hours or more an enhanced rate of pay of time and a third may be agreed.

SAS doctors can agree with their employer to work Additional Programmed Activities on top of their standard job plan. The annual rate for an Additional Programmed Activity is 10% of basic salary.

SAS doctors who are required to be on an on-call rota will be paid an on-call availability supplement of 1-8%. This dependent on the frequency of on-call duties.

Junior Doctors

An enhancement of 37% of the hourly basic pay rate is paid on any hours worked between 9pm and 7am.

There is also a “weekend frequency allowance” to ensure those working the most frequent weekends are remunerated fairly.

Additional hours are remunerated at the basic pay rate. A doctor on an on-call rota who is required to be available but who is not normally expected to be working on site for the whole period, is paid an on-call availability allowance. The value of the allowance is based on 8% of a full-time basic salary. Provisions on pay for additional hours can be found in Schedule 2 of the 2016 Terms and Conditions for NHS Doctors and Dentists in Training (England).

Scotland

Regarding healthcare staff, as a general rule, staff who work beyond their contracted hours are entitled to overtime payments. Certain senior staff are not routinely eligible for overtime but a temporary variation to standard terms and conditions was agreed to facilitate overtime payments for these staff in situations where they had worked additional hours to assist with NHS Scotland's response to the Covid-19 pandemic. Time worked from home, where this if feasible, is subject to the same remuneration provisions as any other working time.

SAS doctors on the 2008 Contract (Scotland), any work done between 7pm and 7am Monday to Friday or any time over the weekend is paid at the rate of time and a third. In Scotland Junior Doctors are on the 2000 New Deal Contract. An enhancement of anywhere between 20% and 100% of basic pay is paid for hours worked between 7pm and 7am Monday to Friday or any time over the weekend, as a banding intensity supplement which is a flat addition to basic pay of a supplement between 20% and 100%.

Northern Ireland

All doctors in Northern Ireland have the right to enhanced pay for additional working under their terms and conditions of employment – additional hours worked are remunerated in line with those arrangements. During the Covid-19 response, doctors working additional hours will have had those remunerated at enhanced rates, in line with those contractual arrangements. Additionally, a number of enhancements were agreed at a local level between employers and the BMA, to compensate for changes in working patterns.

Isle of Man

The situation remains as previously reported.

Paragraph 2 – Overtime;

c) *The Committee would welcome information on any other measures put in place intended to have effects after the pandemic which affect overtime regulation and its remuneration/compensation. Provide information on their intended duration and the time frame for them to be lifted.*

United Kingdom

The UK has not put in place any relevant pandemic measures.

Isle of Man

No measures put in place.

Paragraph 2 – Overtime;

d) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion ***"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 4§2 of the Charter on the ground that workers have no adequate legal guarantees to ensure them increased remuneration for overtime."***

United Kingdom

The UK's NMW is a legal minimum which must be paid for all hours worked. There are no requirements for increased remuneration for overtime work as part of minimum wage regulations. However, where a worker's overtime meant their hourly rate dropped below the NMW rate within a single pay reference period, the employer would be required to make additional payments.

In the UK, legislation does not set 'normal' working hours. The working time regulations that determine the restrictions on working time provide flexibility for employers and workers to determine what counts as overtime through individual contracts and collective agreements. If overtime is provided for in a contract, it may be at a higher rate of pay or the worker may be entitled to time off in lieu. As explained in the response to Article 4 paragraph 1 the rate of pay cannot be below the minimum wage.

Though minimum wage regulations do not stipulate requirements for increased remuneration for overtime work, any worker with these arrangements in their work contract has legal protection that they will receive increased remuneration for overtime. Agreements for contracts to include increased pay for overtime work is standard practice in a number of sectors, many of which agree remuneration through collective bargaining. There are no legal requirements for pay in different sectors, and there is no sector-specific legal minimum wage because a single national rate is clear and simple for employers to understand: all workers must be paid the correct NLW or NMW rate, no exceptions.

It is important that minimum wage regulations are clear and easy for businesses to understand and comply with. Introducing any further complexity within the regulations also increases the risk of non-compliance and therefore the risk that workers could be underpaid, this risk is considered with any change to be made to the regulations. In fact, some changes are brought into force in order to reduce complexity for employers. Our commitment to reduce

the eligibility for the NLW to age 21 and above from 2024, down from 25+ in 2020, will remove an entire NMW age band, giving younger workers equal right to the top age band to those a few years older, and simplifying the system for employers.

Paragraph 4 – Reasonable notice of termination;

a) *Please provide information on the right of all workers to a reasonable period of notice for termination of employment (legal framework and practice), including any specific arrangements made in response to the COVID-19 crisis and the pandemic.*

United Kingdom

The position remains largely as described in previous reports. Under the Employment Rights Act 1996, and the Employment Rights (Northern Ireland) Order 1996, employees are entitled to receive at least one week's notice from their employer after one month's service, increasing to at least two weeks after two years' service. For each year of service over two years and up to twelve years an employee is entitled to an extra week's notice for each year of service, for example if they have 4 years' service their minimum notice shall be 4 weeks. For service of 12 or more years the minimum notice is 12 weeks.

The law does not restrict employers from giving a longer notice period and both parties are free to negotiate and agree longer periods depending on the particular circumstances of the workplace.

As expressed in our previous report, the UK Government remains firmly committed to ensuring that there is a framework of fair minimum standards in the workplace. The UK Government is satisfied that it has achieved this balance on notice periods.

In addition to the general position outlined above, specific additional rules apply for collective redundancies. Under the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA), and the Employment Rights (Northern Ireland) Order 1996, where an employer proposes to dismiss more than 20 employees as redundant at one establishment within a period of 90 days or less, employers are required by law to consult with those at risk of redundancy (or their representatives such as a trade union) and notify the UK Government. There are minimum periods for notification and consultation on collective redundancies:

- for 20-99 redundancies, the minimum period is 30 days before the first dismissal,
- for 100+ redundancies, the minimum period is 45 days before the first dismissal

Employers may also opt to provide notice of the redundancy potential in excess of these minimum consultation periods.

Additional measures in response to Covid-19

The UK Government introduced legislation, which commenced on 31 July 2020, which ensures that statutory redundancy pay and statutory notice pay and unfair dismissal compensation are based on an employee's normal pay, rather than their furlough pay (potentially 80% of their normal wage). These protections have been extended for the duration of the furlough scheme, which ran until the end of September 2021.

Throughout the pandemic, the UK Government took rapid action to clarify the rights of individuals in redundancy and dismissal scenarios and provided guidance to ensure individuals who were impacted by the pandemic had the most up-to-date information to guarantee their rights in relation to being on furlough, having to self-isolate or quarantining upon return to the UK.

Isle of Man

The situation remains as previously reported.

Paragraph 4 – Reasonable notice of termination;

b) *Please provide responses to comments and queries from 2017 conclusions (see extracts of the full conclusions attached to the commissioning email for the context):*

I. the report does not provide the requested information on notice periods and/or severance pay applicable to grounds for termination of employment other than dismissal (bankruptcy and employer's invalidity or death), nor does it provide information on notice periods and/or severance pay applicable to employees during probationary period; to early termination of fixed-term contracts and to civil servants. The Committee, therefore, reiterates its previous questions.

United Kingdom

Insolvency

Great Britain

In the case of most insolvency procedures, an insolvency does not automatically terminate a contract of employment. However, unless the business is to be continued, the insolvency office-holder will in practice dismiss the employees. The person who is dealing with the insolvency must inform employees about how their job is affected and what to do next. Individuals can apply to the UK Government (up to certain limits) for redundancy payments, holiday pay, outstanding payments (like unpaid wages, overtime and commission), money that would have been earned during the notice period (statutory notice pay).

Northern Ireland

Insolvency in Northern Ireland is regulated by The Employment Rights (Northern Ireland) Order 1996, Part XIV.

In Northern Ireland, in order to qualify for a redundancy payment, an employee must have completed a minimum of 2 complete years of service with an employer, with a redundancy payment worked out by determining age and the number of complete years of service an individual has had on the date employment ended.

This will determine the number of weeks of statutory redundancy pay he/she is entitled to:

- The current limit on a week's pay for statutory redundancy purposes is £566
- The maximum statutory redundancy pay an employee can get in total is £16,980.
- Claims for any unpaid redundancy must be made within six months of a job ending.

Employer's invalidity / death

As a general rule, the death of an employer automatically terminates personal employment contracts.

On an employer's death the contract of employment will automatically come to an end. Under Section 136(5)(b) and Section 174 of the Employment Rights Act 1996, termination of an employment contract by death of the employer counts as a redundancy dismissal. An affected worker can claim Statutory Redundancy Pay unless the Personal Representative of the deceased employer offers to renew the employment contract or re-employ the worker within eight weeks of the death (in accordance with section 174(2)(b) Employment Rights Act 1996).

Notice periods and/or severance pay applicable to employees during probationary period;

Probationary periods are not defined in law in the UK. They are not linked to statutory rights. As such, they are solely a provision of a contract (or collective agreement). It is not possible to derogate from the statutory minimum provisions in an individual contract or collective agreement and therefore if a contract provides for a probationary period, it is in order to provide additional or greater rights and protection to those who complete probation. For workers during a probation period, the legal position set out elsewhere in this report therefore applies.

Early term termination of fixed-term contracts

<u>Great Britain</u>

Fixed-term contracts will normally end automatically when they reach the agreed end date. The employer does not have to give any notice as the termination date is known to and agreed by the worker at the start of the contract.

If the employer wants to end the contract earlier, what happens will depend on the terms of the contract. If there is no provision about being ended early, the employer may be in breach of contract. If the contract stipulates that it can be ended early, and the employer has given proper notice, the contract can be ended.

Fixed-term employees have the right to a minimum notice period of:

- 1 week if they've worked continuously for at least 1 month
- 1 week for each year they've worked, if they've worked continuously for 2 years or more

These are the minimum periods. The contract may specify a longer notice period.

Northern Ireland

Early termination of a fixed term contract may be a breach of contract. Employees may make a claim of breach of contract through an Industrial Tribunal or Civil Court. To make a breach of contract claim through an Industrial Tribunal, an individual's employment must have ended.

There is a cap of £25,000 on what a tribunal can award. As well as that, an individual needs to know that if they wish to claim more, they cannot first seek £25,000 from a tribunal and then go on to seek the remaining balance from a civil court.

There are restrictions on the type of claim that can be made, for example an individual cannot make a personal injury claim through the tribunal, and there is a three-month time limit on making a claim.

Unlike civil courts, there are no fees for claims through the Industrial Tribunals and they are often quicker than the civil courts. Claims may be brought to a civil court, with no cap for award.

Notice periods/severance pay to civil servants

Civil servants have the same legal rights to notice periods and pay as other workers in the UK. In addition to these general legal rights, civil servants have access to the Civil Service Compensation Scheme (CSCS). This is a statutory right for civil servants.

The table below provides details of the pay (known as the tariff) in different situations.

	Voluntary Exit	Voluntary Redundancy	Compulsory Redundancy
Standard tariff	1 month's pay per year of service	1 month's pay per year of service	1 month's pay per year of service
Variable tariff (to offer more than standard tariff, you must have Cabinet Office Minister's approval)	Between statutory redundancy terms and twice standard tariff	Standard tariff only	Standard tariff only
Minimum qualifying service	2 years but employers may exercise discretion	2 years but employers may exercise discretion	2 years
Cap for those below pension age (subject to tapering for those close to pension age)	21 months' pay	21 months' pay	12 months' pay
Cap for those above pension age	6 months' pay	6 months' pay	6 months' pay
Employer top up to pension	Optional	Must be included	Not permissible
Lower paid underpin of £23,000	Optional	Must be applied	Must be applied
Higher paid cap of £149,820	Must be applied	Must be applied	Must be applied

Individuals who leave as part of a voluntary exit or redundancy scheme will be entitled to three months paid notice. Those who leave under a compulsory redundancy scheme are entitled to six months paid notice.

Fixed term appointments (FTAs)

At the conclusion of a fixed term contract an individual will not be entitled to any redundancy compensation pay as there was an agreed and expected end date for their employment.

FTAs can be made redundant before or at the end of their contract. If the reason for dismissal is redundancy and the FTA has two or more years' continuous service when made redundant, the department has to pay redundancy compensation under the CSCS (unless the FTA has refused an offer of suitable alternative employment).

Dismissal

Civil servants can be dismissed on grounds of performance, conduct or attendance. Due to the constitutional position of the Crown and the prerogative power to dismiss at will, civil servants cannot demand a period of notice as of right. In practice though, Government departments do provide the right to periods of notice in line with those set out in the Civil Service Management Code[16] (CSMC).

For monthly paid staff who are not subject to a probationary period and who have less than 4 years continuous service, 5 weeks is the standard level of notice applicable. For those with more than 4 years' service, their notice is calculated as 1 week plus 1 week for every year of continuous service to a maximum of 13 weeks. Government departments are responsible for setting the probationary policies for their staff including the terms related to notice periods

If dismissal relates to where there is an underlying medical condition, the individual may be eligible for what is known as 'efficiency compensation'. Broadly the compensation an individual would be eligible to receive is calculated as follows:

- two weeks' final pensionable earnings for each year of reckonable service during the first five years of qualifying service;
- three weeks' final pensionable earnings for each year of reckonable service during the next five years of qualifying service;
- four weeks' final pensionable earnings for each year of reckonable service after the first ten years of qualifying service;
- two weeks' final pensionable earnings for each year of reckonable service after the fortieth birthday, up to a maximum of two years' final pensionable earnings.

Ill-health retirement

When a civil servant is permanently prevented from carrying out their official duties due to ill-health, they may be allowed to retire early without any actuarial reduction being applied to their pension. Eligibility criteria varies depending on which pension scheme the individual in question is a part of, but broadly:

- the individual must have at least 2 years qualifying service
- the individual must have suffered a permanent breakdown in health leaving them incapable of doing their own or comparable job (or incapable of gainful employment generally)

With the exception of those in the 'classic' pension scheme, benefits are split into two categories, lower tier and upper tier, depending on whether the individual is incapable of doing their own or a comparable job (lower tier) or whether the individual is incapable of gainful employment (upper tier).

In most cases, benefits for those deemed to fall into the lower tier include immediate payment of unreduced pension and for the upper tier this is usually

[16] https://www.gov.uk/government/publications/civil-servants-terms-and-conditions

the immediate payment of unreduced pension as well as a level of enhancement to this payment depending on elements such as time served.

Isle of Man

The situation remains as previously reported.

Paragraph 4 – Reasonable notice of termination;

c) *If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion* ***"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 4§4 of the 1961 Charter on the ground that notice periods are not reasonable for employees with less than three years of service."***

United Kingdom

The UK Government has not put into place new measures since the previous conclusion.

The UK Government remains firmly committed to ensuring that there is a framework of fair minimum standards in the workplace. The UK Government is satisfied that it has achieved this balance on notice periods. As such, we disagree with the Committee that the UK is not in conformity with Article 4 paragraph 4. For the reasons provided above, we consider workers receive a reasonable length of notice, including for those with less than three years of service.

Paragraph 5 – Wage deductions;

a) *No information requested, except If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion* ***"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 4§5 of the 1961 Charter on the ground that the absence of adequate limits on deductions from wages equivalent to the National Minimum Wage may result in depriving workers who are paid the lowest wage and their dependents of their means of subsistence."***

United Kingdom

We dispute this conclusion. In the United Kingdom, the National Minimum Wage and the National Living Wage (together referred to as the minimum wage) provide essential protection for the lowest paid workers. The minimum wage sets a minimum hourly rate of pay that all employers are legally required to pay to their workers. Almost all workers are entitled to the minimum wage, although the rate of pay that they are entitled to depends on their age and whether they are an apprentice.

With the exception of certain limited circumstances, deductions an employer makes from a worker's pay will reduce their pay for national minimum wage purposes if these are for the employer's own use and benefit or reflect the worker's expenditure in connection with the employment.

If such deductions result in the worker being paid less than the national minimum wage, this will result in the employer failing to comply with minimum wage legislation.

Minimum wage legislation is robustly enforced on behalf of the UK Government by Her Majesty's Revenue and Customs (HMRC). HMRC responds to all worker complaints and targets specific employers based on their risk-based assessments. Employers who fail to comply with minimum wage legislation are required to pay all arrears to workers, including former workers, as well as penalties amounting to 200% of the value of arrears. In addition, those employers are eligible to be publicly named by the UK government as a non-compliant employer.

There are a limited number of deductions set out in law that will not reduce a worker's pay for minimum wage purposes. The main exemption relates to living accommodation, provided that the amount deducted does not exceed a notional daily amount called the accommodation offset. This deduction is permitted as it is in lieu of a payment for the accommodation service being provided and which in any case would likely need to be paid by a worker. The offset amount does not reflect market rates or the actual cost of renting the accommodation, and it aims to discourage employers from trying to recoup the minimum wage paid to workers by charging excessive accommodation charges. This therefore protects workers from being unfairly charged for accommodation.

Other permitted deductions include deductions in connection with, for example, an accidental overpayment of wages, and payments to a third party that a worker asks an employer to deduct from their pay, for example a trade union subscription. In addition, deductions are permitted in connection with income tax and National Insurance Contributions.

The UK Government published clear and comprehensive guidance in March 2021 to help employers understand their obligations to pay their workers at least the relevant minimum wage rate.

See: Calculating the minimum wage - Guidance - GOV.UK (www.gov.uk)

Article 5 - Right to organise

a) *Please provide data on trade union membership prevalence across the country and across sectors of activity, as well as information on public or private sector activities in which workers are excluded from forming organisations for the protection of their economic and social interests or from joining such organisations. Also provide information on recent legal developments in these respects and measures taken to promote unionisation and membership (with specific reference to areas of activity with low level of unionisation, such as knowledge workers, agricultural and seasonal workers, domestic workers, catering industry and workers employed through service outsourcing, including cross border service contracts).*

United Kingdom

After many years of steady decline since 1980, trade union membership in the UK has increased slightly over the reporting period (2017-2020), having increased from 23.3% of all employees in 2017 to 23.7% in 2020. The table below sets out UK trade union membership as a percentage of employees by industry sector.

UK trade union membership as a percentage of total employees by sector and industry	
	2020 (%)
Whole UK economy	23.7
Sector	
Public Sector	51.9
Private Sector	12.9
Industry	
Agriculture; forestry and fishing	*
Mining and quarrying	*
Manufacturing	14.4
Electricity; gas; steam and air conditioning supply	35.5
Water supply; sewerage; waste management and remediation activities	24.1
Construction	10.6
Wholesale and retail trade; repair of motor vehicles and motorcycles	13.7
Transportation and storage	33.1
Accommodation and food service activities	4.3
Information and communication	8.5
Financial and insurance activities	11.4
Real estate activities	10.0
Professional; scientific and technical activities	8.3

Administrative and support service activities	11.8
Public administration and defence; compulsory social security	42.4
Education	51.4
Human health and social work activities	37.7
Arts; entertainment and recreation	16.9
Other service activities	13.0

In the UK, all workers have the right to join a trade union and to be represented by that union in collective bargaining with employers. Where an employer refuses to recognise a union voluntarily, that union can apply on behalf of the workers to the Central Arbitration Committee (CAC) in Great Britain, or the Industrial Court in Northern Ireland, for statutory trade union recognition. Where that union can demonstrate it has majority support in a workplace, the CAC will grant statutory union recognition. Where an individual working in the gig economy is classified as a worker (ie meets the definitions of worker in the UK's legislation), then they have full union rights. For example, Uber's decision to reclassify all of their drivers as workers in compliance with the UK Supreme Court's judgment and to further formally recognise the GMB union for collective bargaining purposes is a positive step.

Restriction of union rights for certain groups in the UK

In the UK, there is separate legislative provision outlawing strike action by the police, the military and prison officers. However, in 2015, the Scottish Government granted the right to strike to prison officers in Scotland. The prohibition outlawing strike action by prison officers remains for England and Wales. Throughout the UK, prison officers have the right to join an independent trade union.

Armed Forces personnel are permitted to join civilian trade unions and professional associations that enhance their trade skills and knowledge; but the UK's trade union legislation specifically excludes armed forces personnel from collective labour relations. Armed Forces personnel are therefore not permitted to join an independent trade union for collective bargaining purposes.

Police officers are not permitted to join an independent trade union. Officers up to and including chief inspectors are represented by the Police Federation, which is a police staff association set up by law.

The UK Government does not propose any legislative changes in relation to union rights for the army, police and prison officers.

Legal developments to promote trade union membership

The UK takes a voluntarist approach to collective issues. Collective bargaining is largely a matter for individual employers, their employees and their trade unions. It is largely a matter for individual employers to decide whether they wish to recognise a trade union for collective bargaining purposes. Most collective bargaining in the UK takes place because

employers have voluntarily agreed to recognise a trade union and bargain with it.

The Employment Relations Act 1999, and the Employment Relations (Northern Ireland) Order 1999, introduced a statutory recognition procedure that gave independent trade unions the right to apply to the Central Arbitration Committee (CAC), or Industrial Court (IC) in Northern Ireland, to be recognised by an employer for collective bargaining over pay, hours and holidays in respect of a group of workers in a particular bargaining unit.

This right applies in respect of employers employing 21 or more workers. The statutory procedure encourages the parties to resolve their differences through agreement. However, the CAC or IC can award recognition where the clear majority of the bargaining unit want it, and this is established in most cases through a ballot of the workforce.

The territorial scope of the Trade Union Act 2016 does not extend to Northern Ireland. In Northern Ireland the Industrial Relations (Northern Ireland) Order 1992 remains in force. As a result, certain provisions do not apply in Northern Ireland. For example, in Great Britain in order for subsequent industrial action to be lawful, a minimum of 50% of eligible voters must vote in a ballot for industrial action, as well as the pre-existing requirement for a majority of those actually voting to vote in favour of industrial action. This minimum of eligible voters is not required in Northern Ireland. Further, in Northern Ireland 1 weeks' notice (7 days) is required to be given to an employer to notify it of lawful industrial action. In Great Britain, this is currently 2 weeks, under the 2016 Act.

It should be noted that section 15 of the Trade Union and Labour Relations (Consolidation) Act 1992 does not extend to Northern Ireland. Similar provisions are, however, detailed in Article 8 of the Industrial Relations (Northern Ireland) Order 1992.

There have been no recent legal developments to promote trade union membership in the UK. The Government is of the view that the voluntarist approach set out above, underpinned by the statutory recognition procedure, is the correct approach.

Scotland

The Scottish Government is implementing measures to encourage trade union recognition and membership through conditionality applied to public grants and funding through its Fair Work First approach. Additionally, through its Fair Work policy, the Scottish Government has committed to promoting collective bargaining across Scotland. This is demonstrated through the inclusion of an employee voice indicator within the government's National Performance Framework[17]. The Scottish Government has also been working with

[17] https://nationalperformance.gov.scot/measuring-progress/national-indicator-performance

stakeholders to promote collective bargaining, focussing initially on the social care, early learning and child care, hospitality, and construction sectors.

The Scottish Government is also currently consulting on proposals for a National Care Service, which will oversee the delivery of care, improve standards, ensure enhanced pay and conditions for workers, and provide better support for unpaid carers. The National Care Service will allow the introduction of a National Wage for Care staff and will enter into national bargaining for the sector, based on fair work principles, for the first time.

Isle of Man

The Isle of Man Government does not hold data on the prevalence of trade union membership in the Island. There are no recent legal developments to report.

Article 5 - Right to organise

b) Also provide information on measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock of the COVID-19 crisis and pandemic and their fallout, and with a view to preserving or, as the case may be, restoring the rights protected under the Charter after the crisis is over.

United Kingdom

The UK has no formal process of social dialogue. However, UK social partners (CBI & TUC) have reached some agreements which the UK Government has used as a framework. For example, the Information and Consultation of Employees Regulations 2004 which implemented EU Directive 2002/14/EC.

Instead, the consultation process ensures that social partners have an opportunity to input into policy development. In addition, the UK Government can bring together social partners on an ad hoc basis to discuss current issues, as appropriate. This is what occurred during the Covid pandemic when UK Government officials and Ministers engaged constructively and regularly with trade unions on policy development.

In particular, throughout the policy development process for the Coronavirus Job Retention Scheme (CJRS), Treasury Ministers and officials worked carefully with and consulted a wide variety of organisations in the public and private sectors, including trade unions and business organisations.

Trade union rights, including the right to strike, were not curtailed during the Covid pandemic. Such rights did however have to comply with Covid health regulations, for example the right to picket a place of work had to comply with social distancing rules.

Scotland

Throughout the Covid-19 pandemic, the Scottish Government has engaged constructively with the STUC and affiliate unions through regular Ministerial-level engagements, established early on to ensure that trade union views, and thus worker voice, could inform the response to the economic and employment aspects of the pandemic.

Additionally, a joint Statement on Fair Work expectations was developed to support employers and workers during the pandemic. This Statement was initially signed by the Scottish Government and the STUC, and was subsequently also signed by public, private and third sector partners as it was updated at key stages throughout the pandemic. A Single Point of Contact mailbox was also established to enable trade unions to submit queries to Scottish Government about Covid issues in workplaces and to input to the development of sectoral guidance to support employers to operate safely.

In response to Scottish Ministers' expressed wish to ensure that workers' voice is fully considered in the Covid response, relevant trade unions have been included in various Scottish Government-led groups that were established to deal with sectoral issues, such as manufacturing, hospitality, and retail, and also in the development of Safer Workplaces guidance to support different sectors to operate safely during the pandemic.

The Scottish Government is firmly committed to supporting a diverse, inclusive and prosperous health and social care workforce. The Scottish Government works extensively with members of staff and their networks to develop actions and national resources that are staff-led and staff-inspired. The Scottish Government encourages and facilitates the creation of localised staff networks and are exploring ways to improve communications between these networks and the Scottish Government.

The Scottish Government takes a range of advice and guidance into consideration when developing policies and initiatives to ensure they fulfil our strategic ambitions for diversity and inclusion, within the context of our legal obligations in respect of equality. The Scottish Government continues to work with a wide range of third sector organisations, including Stonewall Scotland, Inclusion Scotland, and the Glasgow Centre for Inclusive Living to ensure that the voices of those with lived experience can help to shape policy and practice to improve outcomes and support Covid recovery across Scotland.

The Scottish Government has also accepted the recommendations of the Expert Reference Group on Covid and Ethnicity, engaged proactively with the Equality and Human Rights Commission's Independent Inquiry into racial inequality in health and social care workplaces, and is working to address the identified issues at pace.

Isle of Man

In 2018, the Manx National Economic Development Forum was re-established. The Forum includes representation from the Trades Union

Council in addition to representatives of business, voluntary organisations and Government officers.

Article 5 - Right to organise

c) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion **"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 5 of the 1961 Charter on the ground that legislation which makes it unlawful for a trade union to indemnify an individual union member for a penalty imposed for an offence or contempt of court, and which severely restricts the grounds on which a trade union may lawfully discipline members, represent an unjustified incursion into the autonomy of trade unions."**

United Kingdom

The Government respectfully disagrees with the Committee and we continue to be firmly of the view that our provisions do not breach Article 5. There have been no legislative changes in this area since the last report.

Union's ability to indemnify an individual

The UK Government is of the view that section 15 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) serves a beneficial function, namely to make it unlawful for a union to indemnify a union member for a penalty imposed for an offence or contempt of court. We believe that this deters reckless and unlawful behaviour by union officials, and therefore ensures union funds are safeguarded.

Our legislation provides protection for union members against wrongdoing within their unions. Furthermore, it is our view that it strikes the right balance of protecting the rights of union members whilst protecting the freedom of others by discouraging unions from encouraging their members to cause offences knowing that they would be compensated by their trade union. The UK Government believes this is therefore in the public interest and is proportionate. The restriction is therefore in line with Article 31 of the Charter.

Union's ability to discipline its members

The UK Government strongly supports the principle that workers should be free to join a trade union of their own choosing. With that in mind, we are of the view that the rights of unions to discipline and expel members needs to be balanced against the rights of individuals to acquire and retain their membership. Section 64 TULRCA gives union members the right not to be unjustifiably disciplined. This protection means members have the freedom to make up their own minds whether or not to support industrial action and provides protection for members who seek to ensure that their union follows its own rulebook and complies with statutory requirements. This provision

does not extend to Northern Ireland, but similar provisions are found in Article 31 of The Trade Union and Labour Relations (Northern Ireland) Order 1995.

Under UK law, individuals are potentially committing a tort or breach of contract when they take industrial action. They can therefore lose pay for breach of contract. Under the UK system of trade union immunity, unions cannot be sued for damages if they lawfully organise industrial action.

Since an individual's own rights and liabilities may be affected, as well as those of the unions, the UK Government considers that the individual needs to be free to decide whether or not to take part in industrial action, whether or not this is lawfully organised.

Whilst UK law does not prevent a trade union from expressing dissatisfaction with members refusing to take industrial action, the UK Government considers that the law should not allow a union to take certain disciplinary actions - such as expulsion - against members who, for example, decide not to break their contract of employment; make allegations of breaches of union rules by union leaders; or who wish to no longer have their union subscriptions taken at source from their salaries. These are all justified and are proportionate to protect the rights of those concerned as well as the public interest, for example where allegations of misconduct are being raised by the union member. The restriction is therefore in line with Article 31 of the Charter.

We would like to point out that the UK Government has taken steps to improve the autonomy of unions with regards to matters relating to their membership. Section 19 of the Employment Act 2008 modified the rights of a trade union to determine its conditions for membership, and to take political party membership into account when deciding whether a person should belong to the trade union. These provisions broadened a trade union's ability to exclude or expel individuals. The Employment Act 2008 does not apply to Northern Ireland, in which The Trade Union and Labour Relations (Northern Ireland) Order 1995 continues to regulate trade union membership provisions.

Article 6 - Right to bargain collectively

Paragraph 1 – Joint consultation;

No information requested

Paragraph 2 – Negotiation procedures;

a) *Please provide information on specific measures taken during the pandemic to ensure the respect of the right to bargain collectively. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law*

enforcement, transport, food sector, essential retail and other essential services.

United Kingdom

Neither the UK Government nor the Northern Ireland Executive took any specific measures during the pandemic in relation to the right to bargain collectively. Employers and workers, and their representatives, maintained the ability to undertake collective bargaining. We did not see a deterioration in the realisation of this right and therefore did not identify any need for the government to take action.

Scotland

Increasing collective bargaining coverage across Scotland is a priority in the Fair Work Action Plan.

Firefighter pay continues to be negotiated on a UK-wide basis through the established collective bargaining mechanism.

There has been no need for Scottish Government to take action to promote voluntary negotiation and collective agreements for police staff or police officers, due to the continued use of well-established mechanisms. Police Scotland has regular engagement with Police Officers and Staff through their separate negotiating forums such as the Joint Negotiating and Consultative Committees. Police Officer representatives can also bring any terms and conditions issue to the Police Negotiating Board (a collective pay bargaining body) or the Scottish Police Consultative Forum. Police Staff Unions discuss and negotiate their terms and conditions with Police Scotland and the Scottish Police Authority through the Joint Negotiating and Consultative Committee. These established mechanisms for negotiation have continued throughout the pandemic.

Police Scotland and the Scottish Police Association continue to work with police staff trade unions and with police officer staff associations in relation to pay terms and conditions, including negotiations on current pay claims, and have worked closely with trade unions and with staff associations to maintain the service to the public throughout the pandemic, and to take account of the needs of staff. Police Officer and Police Staff representatives were members of the Coronavirus Health and Safety Group that set health and safety standards for officers and staff. A number of temporary changes to aspects of staff terms and conditions were agreed in response to the rapid change in Police Scotland's model brought about by Covid-19, such as changes to shift patterns, relocation, and the ability to work from home, all of which was agreed with trade unions.

All NHS Scotland terms and conditions have been negotiated and agreed in partnership between trade unions, NHS employers and government, and this includes overtime provisions.

Isle of Man

The Government of the Isle of Man did not make any changes or take any action in relation to ensuring the right to bargain collectively. It did not receive any feedback from trade unions or others that such action was required

Paragraph 2 – Negotiation Procedures;

b) If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusion ***"The Committee concludes that the situation in the United Kingdom is not in conformity with Article 6§2 of the 1961 Charter on the ground that workers and trade unions do not have the right to bring legal proceedings in the event that employers offer financial incentives to induce workers to exclude themselves from collective bargaining."***

United Kingdom

The UK Government continues to believe that we are compliant with Article 6(2) and that our current domestic law sufficiently protects the rights of workers and unions in relation to this article. The Government position has therefore not changed:

- UK law provides that individuals who are trade union members have the right not to have an offer made to them by their employer for the sole or main purpose of inducing them not to be or seek to become union members. Furthermore, UK law provides union members and those seeking to become members the right to not have an offer made to them by an employer where acceptance would mean they are no longer covered by a collective bargaining agreement.

- Section 145A Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA), and Article 77A of The Employment Rights (Northern Ireland) Order 1996 (ERO 1996), ensures individuals have the right not to have an offer made to them by an employer for the sole or main purpose of inducing them not to become or seek to become a union member.

- Section 145B TULRCA, Article 77B of the ERO 1996, protects members of trade unions which are recognised or seeking to be recognised with the right to not be made an offer by their employer where accepting an offer would mean the worker was no longer covered by a collective bargaining agreement.

Rights of workers who did not receive an offer

The UK Government does not believe Article 6(2) guarantees the right for co-workers or trade unions to bring proceedings with regard to inducement offers to surrender a worker's union rights. The text in Article 6(2) does not indicate

this is a requirement and we believe that to interpret the text so widely would be incorrect.

The right to not receive an inducement offer to surrender one's union membership is a right held by an individual worker, and similarly it is therefore appropriate that they, as individual workers, are entitled to enforce that right. This is consistent with other individual rights in industrial relations law, for example, section 146 TULRCA and Article 73 of the ERO 1996 which provides workers with a right not to be subject to detriment at the hands of their employer on grounds relating to union membership or activities; this right is specific to, and only enforceable by, the affected worker.

In Northern Ireland these provisions were strengthened by the Employment Relations Act 2004 and the Employment Relations (Northern Ireland) Order 2004, which made it unlawful for an employer to offer inducements to workers not to belong to a trade union, not to participate in a union's activities at an appropriate time and not to use a union's services at an appropriate time.

From a practical perspective, it would be very difficult for a co-worker to bring a claim and provide sufficient evidence of any prohibited offers if the worker who received the offer did not wish to participate in any proceedings.

Free-standing right for unions to complain about its right to collective bargaining

The UK Government is content that our current law conforms to Article 6(2) of the ESC.

We believe that on a fair reading of Article 6, the right of the applicant unions to strive for the protection of their members' interests is not a right separate from and independent of the Article 6 right of their members to freedom to belong to a union for the protection of their interests, it is contingent upon the members' own right. It follows that infringement of the rights of the union only happens as a result of infringement on the individual's rights and as such the union has no free-standing right.

The Northern Ireland Executive has not taken any specific measures in respect of 'Free-standing right for unions to complain about its right to collective bargaining' during the Covid-19 crisis.

In terms of the effective exercise of the right to bargain collectively, the Northern Ireland Labour Relations Agency (LRA) is an independent, but publicly funded body (under the Industrial Relations (No. 2) (Northern Ireland) Order 1976), which provides advice to employers and trade unions on issues which arise in any matter relating to the establishment and operation of union recognition arrangements.

In addition, the LRA also provides conciliation services, at the joint request of parties, to resolve any difficulties or disputes relating to trade union recognition.

It is the UK Government's position that the rights of trade union members are sufficiently protected and are enforceable through section 145A of TULRCA and Article 77A of the ERO 1996.

Paragraph 3 – Conciliation and arbitration;

No information requested

Paragraph 4 – Collective action;

a) *Please provide information on specific measures taken during the pandemic to ensure the right to strike (Article 6§4). As regards minimum or essential services, please provide information on any measures introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.*

United Kingdom

No specific measures were introduced during the pandemic in relation to the right to strike or as regards minimum or essential services. Trade union rights, including the right to strike, were not curtailed during the Covid pandemic. Such rights did however have to comply with Covid health regulations, for example the right to picket a place of work had to comply with social distancing rules.

During the Covid pandemic, the UK Government did bring together social partners on an ad hoc basis to discuss current issues as appropriate. This is what occurred during the Covid pandemic when government officials and ministers engaged constructively and regularly with trade unions on policy development.

Scotland

The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No. 18) Regulations 2021[18], which were introduced by the Scottish Government to amend the governing legislation which mandated the Covid-related restrictions, included a specific exemption for picketing.

There are no current restrictions on industrial action within the Scottish legislation currently governing Covid-related restrictions as of 7 September 2021.

Isle of Man

[18] https://www.gov.scot/publications/health-protection-coronavirus-restrictions-and-requirements-local-levels-scotland-amendment-no--18-regulations-2021/

No specific measures were taken during the pandemic to ensure the right to strike. No measures were introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.

Paragraph 4 – Collective action;

b) *If the previous conclusion was one of non-conformity, please explain whether and how the problem has been remedied. Conclusions "**The Committee concludes that the situation in the United Kingdom is not in conformity with Article 6§4 of the Charter on the following grounds:***

- ***I. the scope for workers to defend their interests through lawful collective action is excessively circumscribed; lawful collective action is limited to disputes between workers and their employer, thus preventing a union from taking action against a de facto employer if this was not the immediate employer;***
- ***II. the requirement to give notice to an employer of a ballot on industrial action, in addition to the strike notice that must be issued before taking action, is excessive;***
- ***III. the protection of workers against dismissal when taking industrial action is insufficient."***

United Kingdom

The UK Government continues to believe that we are in conformity with Article 6(4) of the Charter. Our response to the specific points of the Committee is set out below.

Strike action against a de facto employer

The UK Government recognises the Committee's criticism in this regard, however respectfully disagrees. The Appendix to Article 6(4) entitles each country to regulate the right to strike, provided the restrictions can be justified by Article 31.

In the UK's context, history and traditions, the UK's prohibition of secondary action is necessary for the protection of the rights and freedoms of others and for the protection of the public interest.

It is well established under the UK's legislation that for trade unions to undertake lawful industrial action, they must have a trade dispute with the direct employer who employs the workers involved in that dispute. Where an employer is not a direct party to a trade dispute, they have no ability to negotiate or control over the dispute and as such there may be little they can do to help resolve it.

The UK's restrictions on secondary action must also be considered in the context of our industrial relations history. In the 1970s the annual average of working days lost was 12.9 million. The economic damage to the UK economy

caused by these strikes was disproportionately large due to the severe impact of secondary action on the UK's very decentralised industrial relations structure.

The large number of bargaining units in the UK means there is scope for multiple disagreements to arise between parties each year. In the past, lawful secondary action led to a severe impact on the UK economy and the wider public.

The difficulties experienced in the past, and the fact the UK has no other controls on industrial action, means we are concerned sanctioning secondary action would pose a significant risk to the UK economy and ability to deliver services to the general public.

It is worth noting, however, that UK legislation does not prohibit secondary action with regard to lawful picketing.

Requirement to give notice of a ballot

The UK Government believes the legal requirements with regard to ballot notices are proportionate and are not excessive. Our legislation recognises the interest which employers, whose workers may be called on to take industrial action against them, have in the conduct of strike ballots and any ensuing calls for action.

The requirement for a union to give notice to an employer of a ballot of industrial action gives employers the chance to respond to the prospect of a strike ballot, or strike call, as they deem in the best interests of the business.

Under The Trade Union and Labour Relations (Northern Ireland) Order 1995, 1 week's notice (7 days) is required to be given to an employer in Northern Ireland to notify it of lawful industrial action.

Protection of workers against dismissal

The UK Government respectfully disagrees with the Committee's conclusions in this area.

Under UK law, it is unfair for an employer to dismiss an employee for taking lawfully organised, official industrial action lasting twelve weeks or less. It is worth noting that virtually all industrial action in the UK lasts less than twelve weeks.

It should also be pointed out that this period does not include days when the employer has prevented workers from working or from returning to work by locking them out of the workplace.

Regardless of the duration of the industrial action, if the employer has failed to take reasonable procedural steps to resolve the dispute with the trade union,

it is unlawful for an employer to dismiss an employee for taking this type of industrial action.

Generally, this means that the employer must have exhausted the standard procedures for dispute resolution before dismissing any employees. If the trade union has requested it, the employer should have also used mediation and conciliation services.

The UK Government also considers that Article 6(4) should not be interpreted as meaning that employees can never be dismissed in any circumstances for taking industrial action.

Protracted periods of industrial action can frequently threaten the very existence of a business and can endanger the livelihoods of other employees who are not involved. Their rights also need to be factored into the construction of a fair and balanced legal system.