

UNISON Scotland Submission to Fair Work Convention

Introduction

UNISON is Scotland's largest trade union representing 155,000 members, primarily in the public sector, but with significant membership in the private and voluntary sectors.

We welcomed the Working Together report and the establishment of the Fair Work Convention. We set out our views on many of the issues covered in the current consultation in our submission to the reviewⁱ.

This submission therefore largely updates that submission to reflect recent developments and urges a three-part strategy for the Convention.

Definition of Fair Work

The working definition: "Fair Work is work that provides opportunity, fulfilment, security, respect and effective voice. Fair work balances the rights and responsibilities of employers and employees and can generate benefits for individuals, organisations and for society", seems an appropriate starting point.

Stage 1 - Identify Poor Employment Practice

There is inevitably a risk that the Convention will be viewed as a talking shop that fudges difficult issues. To avoid this we would urge the Convention to take a firm position on the sort of employment practices that clearly do not meet any reasonable definition of fair work.

The starting point must be those employers that don't even meet the legal minimum standards including those who fail to pay the National Minimum Wage or who indulge in practices that seek to undermine the NMW. Recent examples have been deductions to pay at Sports Direct, highlighted in an undercover Guardian investigationⁱⁱ.

In our sphere of responsibility, we have been challenging poor practice in the home care sector when members have not been paid for travelling time, charged for uniforms, required to use their own mobile phones and other poor employment practiceⁱⁱⁱ. We have also challenged the failure to pay the NMW to staff that are required to sleepover at their place of work in residential care settings.

Poor employment practice is not limited to those who breach minimum legal standards. The growing use of Zero-Hours Contracts is an obvious example as we set out in our evidence to the Westminster Scottish Affairs Committee^{iv}.

There are many others, but this all points to a change in work culture that we hope the Convention will challenge. Will Hutton identified the trend in his Observer article^v. '*Once, firms cherished their workers. Now they are seen as disposable*'.

The Convention will also recognise the context in which employment practice in Scotland operates. The Trade Union Bill will undermine positive industrial relations in Scotland and specifically impinges on devolved responsibilities, including some of the best examples of partnership working in NHS Scotland^{vi}.

The imposition of austerity economics on Scotland and the consequential cuts in public services also impacts on positive industrial relations. In our 'Damage Series' we have surveyed a wide range of public service workers^{vii}. A consistent theme in these responses has been the pressure on workers to patch and mend services. Cost cutting measures also impact on terms and conditions, training and other measures that build stronger, fairer workplaces.

Stage 2 - Promote Good Employment Practice

While poor employment practice can be malicious, it can also be as a consequence of public policy or ignorance. Small organisations often lack the human resource expertise to understand and develop best practice. The Convention could help by publishing and promoting best practice as a benchmark.

We would point to NHS Scotland's PIN policies as a model approach^{viii}. These go beyond collective agreements and offer practical guidance on a wide range of issues.

The Scottish Living Wage is an obvious example of good employment practice and good progress has been made in extending accreditation in Scotland. While the Business Pledge is not unhelpful, we should be wary of 'badges' that don't come with rigorous accreditation and monitoring. Our experience, particularly in the care sector, is that claims are made about paying the living wage that are not borne out by even a cursory examination of job adverts.

Important though wages are, it is important to ensure a package of workforce measures are adopted. In our experience some firms pay the living wage, but seek to offset the cost by cutting other terms and conditions.

Good employment practice should also recognise the needs of all workers. Everyone is entitled to be treated with dignity and respect. The ability to work without prejudice is a fundamental right, regardless of your background, gender, colour or sexual orientation.

For example, Black workers have many of the same concerns as other staff regarding access to employment, pay, promotion and training. However, racist discrimination can deepen the impact of problems faced in the workplace and Scotland is not exempt from such discriminatory practices. This manifests itself most obviously through bullying and harassment. However, structures and processes can also disadvantage Black workers and this should be recognised when developing good employment practice.

Disabled people make up 20% of people of working age, but only 50% of that number is actually in work. Disabled people are more likely to be unqualified and unemployed. If they are in work they tend to be paid less than non-disabled people, they experience lots of barriers to employment, incur more costs as a result of living with an impairment and live in low income families. They also rely heavily on public services, so cuts are especially damaging to them. Legislation has made a difference, but culture change has not fully taken root in Scottish workplaces.

Most workers in public services are women and therefore they are doubly impacted, both in employment and as users of services. The resistance of many public service employers to recognise their responsibilities in delivering equal pay is one example of the discrimination women face in the workplace. We set out a number of practical steps in our submission to the Scottish Government over the Public Sector Equality Duty^{ix} and to the

Scottish Parliament's Women and Work inquiry^x.

We addressed similar issues for young people in our submission to the Wood Commission on developing Scotland's Young Workforce^{xi}.

Finally, we would urge the Convention not to ignore workplace health and safety. Everyone should be able to work without suffering harm. However, each year in the UK, it is estimated that up to 50,000 people are killed by work and around two million people are either made ill or more ill because of their work. Cuts to public services, including environmental health departments and the HSE in Scotland, have had an adverse impact on protecting workers. The Trade Union Bill will also undermine the role of trade union safety representatives.

To give just one example, UNISON Scotland publishes an annual report on workplace violence. While progress has been made in developing best practice guidelines in the NHS and local government, almost 40,000 violent incidents are recorded every year. Many more go unrecorded and too many employers treat violence as part of the job – it isn't^{xii}.

Stage 3 - Delivering on Fair Work

We accept that there are constraints on the Convention particularly due to employment law being reserved. However, we would urge the Convention to focus on using devolved powers to deliver on Fair Work. There are a number of key areas including:

Public procurement. The new statutory guidance on workforce matters^{xiii} is an important step forward, but it needs to be implemented. Our experience with past attempts such as the s52 guidance is that delivery is often weak. The Scottish Government will shortly be publishing new procurement regulations that implement the revised EU Directive and this is another opportunity to make progress. We highlighted these issues recently in our evidence to the Economy Committee's inquiry^{xiv} on work, wages and well being in the labour market.

Sectoral Bargaining. There is a strong relationship between collective bargaining coverage and low wage work. Countries with high rates of collective bargaining coverage have low levels of low wage work. Countries with lower collective bargaining coverage such as the US and UK have comparatively high levels of low wage work. The Scottish Government could promote sectoral collective bargaining in areas where it has the most leverage. One such area is in social care. The Scottish Government, local authorities and health boards fund most social care in Scotland and in the residential sector even set a national rate. It should be a condition of that financial support that employers sign up to a sectoral bargaining structure.

National Workforce Strategy. The Christie Commission on Future Delivery of Public Services highlighted the necessity for a joined up vision for the public sector workforce. A National Workforce Strategy could for example prevent needlessly wasted effort reinventing the wheel on issues like staff transfer, pensions, secondment and common procedures. This could include a staff governance framework, similar to that adopted by NHS Scotland, across the public services.

We would also draw attention to Professor Chris Warhurst's 4W's^{xv} as an approach that points to the ways government's can influence the labour market. It would also help if

Scottish employment data was significantly improved. A point well made by the STUC recently^{xvi}.

Conclusion

UNISON Scotland welcomes the broad approach set out by the Convention in this consultation. However, we would urge the convention to take a robust stance on poor practice and set out what good practice looks like with sufficient practical guidance. Finally, we would urge the Convention to adopt a series of practical steps to ensure Fair work is the delivered using the levers available to the public sector. Warm words and ambition are positive steps, but practical action is better.

For further information contact:

Dave Watson: d.watson@unison.co.uk

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ⁱ http://www.unison-scotland.org.uk/response/ProgressiveWorkplacePoliciesInScotland_ResponseToScotGovtWorkingTogetherReview_Jun2014.pdf

ⁱⁱ <http://www.theguardian.com/business/2015/dec/09/how-sports-direct-effectively-pays-below-minimum-wage-pay>

ⁱⁱⁱ <https://www.unison.org.uk/news/article/2013/10/homecare-workers-lose-out-on-travel-time-pay/>

^{iv} <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmsscotaf/654/654.pdf>

^v <http://www.theguardian.com/commentisfree/2015/aug/23/amazon-jeff-bezos-workers-rights-capitalism-employment-law>

^{vi} http://www.unison-scotland.org.uk/briefings/b068_PolicyBrief_TradeUnionBill+Scotland_Sep2015.pdf

^{vii} <http://www.unison-scotland.org.uk/publicworks/damage.html>

^{viii} <http://www.staffgovernance.scot.nhs.uk/partnership/partnership-information-network/pin-policies/>

^{ix} <http://www.unison-scotland.org.uk/response/ScottishGovernmentPSDuties2010.pdf>

^x http://www.scottish.parliament.uk/S4_EqualOpportunitiesCommittee/UNISON_Scotland.pdf

^{xi} http://www.unison-scotland.org.uk/response/DevelopingScotlandsYoungWorkforce_ResponseToWoodCommissionInterimReport_Nov2013.pdf

^{xii} http://www.unison-scotland.org.uk/safety/ViolentAssaultsonPublicServiceStaff_UNISONScotlandFollowUpSurvey_Oct2015.pdf

^{xiii} http://www.unison-scotland.org.uk/briefings/b069_BargainingBrief_LivingWage+Procurement_Nov2015.pdf

^{xiv} [http://www.scottish.parliament.uk/S4_EconomyEnergyandTourismCommittee/Inquiries/Unison\(1\).pdf](http://www.scottish.parliament.uk/S4_EconomyEnergyandTourismCommittee/Inquiries/Unison(1).pdf)

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http://www.scottish.parliament.uk/S4_EconomyEnergyandTourismCommittee/Inquiries/ProfChrisWarhurst.pdf

^{xvi} http://www.scottish.parliament.uk/S4_EconomyEnergyandTourismCommittee/Inquiries/STUC_june.pdf