

Briefing: Employment Rights Bill

Thursday 21 November 2024

The **Health Foundation** is the largest independent charity in the UK providing research and analysis on health and health care. We spend around £50 million per year on research, analysis and grant funding in support of our mission to build a healthier UK. In 2023, we established the **Commission for Healthier Working Lives** to build a consensus on the action needed to address the UK's work and health challenges. The Commission's interim report, *Towards a Healthier Workforce*, sets a direction to ensure people with health conditions receive timely support to remain and thrive in the workforce.

Summary

The Employment Rights Bill is a unique opportunity to improve in-work health and address chronic workforce challenges in the social care sector. We are currently in the midst of a working-age health challenge. New Health and Safety Executive figures published this week indicate that 1.7 million working people in Great Britain report a work-related illness – significantly higher than the 1.2 million reported a decade ago. Addressing this challenge by improving the health of the workforce is essential for achieving sustained economic growth. There is also a pressing need to improve pay and conditions in the social care workforce. The Health Foundation supports the measures in the Bill that will help achieve this.

Measures that support healthier working lives

- We support plans to remove the lower earnings limit for Statutory Sick Pay (SSP), which currently excludes 1.15 million workers, and the removal of the three-day waiting period for financial support. To support people currently under the lower earnings limit, the government should look to the statutory maternity model.
- Wider reform of the sickness absence system – and its interactions with the benefits, system – is needed to better support people with health conditions to remain in employment. The current system can push people with health challenges further from the labour market, with an increasing economic and social cost.
- We also support proposals to improve job flexibility, and job security, through stronger protections against dismissal, and the right to guaranteed hours for people on low or zero-hour contracts who regularly exceed their contracted hours.

Measures to improve pay and conditions in the social care workforce

- We support the proposal to establish an Adult Social Care Negotiating Body to improve terms and conditions for social care workers. The government must be willing to provide funding for potential pay rises or will risk unwanted consequences for

people with care needs and workers. The recent Budget will likely compound existing financial pressures in the sector.

- The government should include a requirement in the Bill to commission an independent evaluation of the negotiating body, looking at impacts on the care sector and the potential to introduce similar models in other sectors.
- Alongside the measures in the Bill, the government should set out its wider strategy for the care workforce and develop a long-term plan for comprehensive reform of the social care system.

Measures that support healthier working lives

The relationship between work and health

1. For most people, most of the time, work is good for their health. However, for people in poor quality or insecure jobs, work can be **as bad for their health** as unemployment.
2. The recently published [report for the Commission for Healthier Working Lives](#), by the Institute for Employment Studies (IES), has reviewed the evidence on job quality and health. It shows that:
 - Half of all workers reported having to work more hours than expected in 2021– the highest rate in Europe. Half of workers report being regularly exhausted from work.
 - Certain sectors and groups are overrepresented in work that poses health risks, highlighting the need for targeted action. These include the transport, construction, commerce and hospitality sectors (around a quarter of the workforce), as well as groups already disadvantaged in the labour market, such as younger people.
 - Workers in public sector industries report significantly higher rates of work-related stress, depression or anxiety, indicating that government has a key role to play as an employer. Teachers and nurses are especially likely to report high levels of job strain.
3. The IES report identified four key factors with the strongest evidence linking job quality and health:
 - Job security and precarity. For example, being in insecure work can be significantly harmful for health and wellbeing, particularly for our mental health, with higher risks of depression, anxiety, low life satisfaction and exhaustion.
 - Excessive and/or irregular hours. For example, working very long hours, unpredictable hours and nights shifts are all strong predictors of a range of physical and mental health risks.
 - Demands and control at work. For example, having low or no control at work, particularly when combined with excessive demands (known as ‘job strain’), can be strongly predictive of poorer mental and physical health. Only one-third of workers say they have control over how they work – the lowest rate in Europe.
 - Relationships and support. For example, experience of bullying, harassment or discrimination is one of the strongest predictors of poor health outcomes when other factors are controlled for. Around one in six UK workers report being subjected to bullying, harassment or discrimination over the last year.

4. There is a pressing need to improve support people with health conditions to stay in work. The UK faces a significant working-age health challenge, with a record **3.9 million workers** now reporting work-limiting health conditions.
5. **Analysis** for the Commission for Healthier Working Lives shows that people with work-limiting health conditions who leave the workforce are three times less likely to return than people without any long-term health conditions. The Bill proposes some positive changes to workplace flexibilities and expansion of sick pay entitlement, but more action will be needed to build a system that is relentlessly focused on improving workplace health and helping people with health conditions stay in work for longer.

Statutory Sick Pay (SSP)

6. We support plans to remove the lower earnings limit, which currently excludes **1.15 million workers** from SSP eligibility, and the removal of the three-day waiting period for financial support. Steps to tighten enforcement of SSP through the new **Fair Work Agency** are also welcome.
7. To extend support to people currently under the lower earnings limit, the government should look to the statutory maternity model, setting minimum payments at 90% of recent average weekly earnings, or the main SSP rate, whichever is lowest. There is also a wider need to increase SSP entitlements to provide a stronger financial safety net for people without occupational sick pay, including wider reform of the sickness absence system, which has remained largely untouched since 1982.
8. Our **research** shows that around 300,000 people a year leave employment and become economically inactive with a work-limiting health condition. At £116.75 per week for up to 28 weeks, the UK's SSP entitlements are less generous than most similar countries. This results in weak incentives for people experiencing ill-health to take time to recover, while remaining in the labour market. Previous **DWP research** showed that one fifth (19%) of people receiving incapacity benefits moved straight from work to claiming benefits without any period of sickness absence.
9. Unlike comparable countries, UK employers are neither required nor strongly incentivised to provide support to help people return to work after a period of sickness absence. This is compounded by system design issues. For example, although phased returns to work are possible, SSP cannot be combined with normal pay, leaving workers at risk of losing income if they reduce their working hours.
10. The result is a system that pushes people with health challenges further from the labour market, with rising economic and social costs. **Annual spend** on health-related benefits for working-age people rose by 34% to £47.6 billion between 2019/20 and 2023/24, and is forecast to rise an additional 32% to £62.8 billion by 2028/29.
11. Long-term reform of sick pay and sickness absence should aim to better support the participation of people with health conditions in work, through stronger financial and practical support, and a more proactive role for employers. Recommendations to go

further than the government's current plans will be proposed by the Commission for Healthier Working Lives.

Flexibility and job security

12. Plans to improve flexible working by requiring employers to set out reasons for rejecting flexible working requests are both timely and welcome. Key to the success of this measure will be ensuring that employers cannot turn down requests without significant justification. Flexibility is critical to encourage parents, carers, and people with long-term health conditions to enter and stay in employment. Recent pilots of flexible working suggest there may also be direct health benefits from introducing greater flexibility. A **Timewise evaluation** showed that 82% of workers reported that flexible working arrangements had allowed them to maintain a good level of personal health and wellbeing – up from 51% before flexibility was introduced.
13. The Health Foundation also supports proposals to improve job security, through stronger protections against dismissal, and the right to guaranteed hours for people on low or zero-hour contracts who regularly exceed their contracted hours.
14. In 2023, **3.5 million people were in insecure work**, 10.6% of the workforce. This included 775,000 people on zero-hour contracts. Although it is not yet possible to estimate the precise health impacts of these proposals, job insecurity has been linked to reduced **wellbeing** and **physiological problems** such as hypertension and coronary heart disease, with greater impacts for experiencing persistent insecurity. However, changes should be balanced with the needs of some people with health conditions to have flexible contracts that enable them to work in accordance with their capability. The right to decline an offer of guaranteed hours is an important safeguard for this group.

Measures to improve pay and conditions in the social care workforce

Legislating to improve pay and other terms and conditions in adult social care

15. We support the government's proposal to establish an Adult Social Care Negotiating Body to develop a Fair Pay Agreement with better terms and conditions for social care workers. 1.6 million people work in social care in England, supporting older and disabled people to lead fulfilling lives. Workers in the sector are among the lowest paid and experience insecure employment conditions. **80% of jobs** in the UK pay more than the average hourly pay of £11.00 for care workers. **21% of the care workforce** is employed on zero-hours contracts, rising to 34% in domiciliary care. Social care workers are highly skilled but have **worse pay and conditions** than their NHS colleagues.
16. There is a strong case for improving social care pay and conditions. **8.3% of social care roles were vacant in 2024** (131,000 vacancies). Increasing pay is associated with **reduced leaver rates** and a positive impact on the **quality of care services**. Care workers are **more likely to leave** their roles if they are on zero-hours contracts. Low pay and insecure employment conditions also contribute to **1 in 5 workers in residential care**

living in poverty. **Our public polling with Ipsos** shows that 77% of the public believe that care workers are paid too little and finds strong support for increasing pay.

17. There have previously been no long-term national policy attempts to improve social care pay. Previous governments have left it to employers to decide on terms and conditions. But employers' decisions are often constrained by commissioning practices and national policy choices. **A more targeted approach to national pay policy in social care**, such as the Bill proposes, is vital.

Key considerations for the government as it develops its approach to care worker pay

18. The government **expects a Fair Pay Agreement to increase costs** for care providers, local authorities commissioning care services and people who fund their own care. Local authorities are already struggling financially and while large care providers may be better placed to absorb costs, 66% of providers have **less than 20 employees**. The recent Budget provided some extra funding for social care but will also **significantly increase the costs of providing care**, contributing to financial pressures on the sector.
19. The government must be willing to provide additional funding for pay rises in social care, recognising that some of this will return to **the Treasury and the sector**. Underfunding wage increases risks unwanted consequences for people with care needs and workers. Since the introduction of the National Living Wage (NLW), care providers have offset rising costs by **employing a greater proportion of staff on lower wages**. Giupponi and Machin concluded that the 'cost shock' of the NLW was accompanied by **'a significant deterioration in care quality'**. When the Real Living Wage was introduced in social care in **Scotland**, some providers could not afford it and handed back care packages.
20. As government determines the negotiating body's membership, it should ensure that it represents the interests of the range of stakeholders in social care including providers, local authorities, self-funders and personal assistants. Currently, there is **no single representative for employers and only a minority of the workforce are unionised**.
21. The negotiating body and its Fair Pay Agreement on terms and conditions must also recognise the diversity of the workforce. Compared to other sectors, social care is overrepresented by women, older workers, migrant workers, and people from black and minority ethnic backgrounds. Negotiations on pay should avoid exacerbating existing inequalities. For example, there is evidence of **ethnicity and gender pay gaps** in social care and that migrant workers are at a **higher risk of underpayment**.

Evaluating the impact of the Adult Social Care Negotiating Body

22. The **impact assessment** of the Bill recognises the need to evaluate the implementation of a Fair Pay Agreement in social care. The government should include a requirement in the Bill to commission an independent evaluation of the negotiating body and its impact. Evaluation will support the government to identify and adapt to changes in provider and worker behaviours following changes to terms and conditions. It will help understand the potential for introducing similar mechanisms in other sectors.

23. Key areas to evaluate include the impact of a future Fair Pay Agreement on: recruitment and retention; opportunities for progression; pay inequalities; the health and wellbeing of workers; outcomes for care users; and the provider market.

Developing a wider workforce strategy and a long term plan for social care

24. Alongside the measures in this Bill, the government should set out its wider strategy for the care workforce, including improvements to progression, training and development. **International evidence** suggests that changes to social care terms and conditions should be designed as part of a comprehensive approach to workforce policy. Without a wider strategy to grow and professionalise the workforce, there are limits to the potential for a negotiating body to improve recruitment and retention. Other low paid sectors such as retail and hospitality may respond by increasing pay to compete for staff.
25. The care system also desperately needs wider investment and reform. Adjusting for age, social care spending per person in 2024/25 will be **5% lower in real terms than in 2009/10**. Many people go without care and reliance on unpaid carers is high, partly since publicly funded care is heavily means- and needs-tested. Many of the challenges in social care are interconnected: increased costs resulting from pay rises will have implications for self-funders, for example.
26. **Labour's Manifesto** promised a new National Care Service but the government has so far provided limited detail on this. It has also taken the disappointing decision to delay the previous government's plan to introduce a cap on lifetime care costs next year, leaving people vulnerable to catastrophic care costs. Social care was notably absent from the list of the government's longer-term reform priorities published with the recent Budget. Alongside the Bill's measures, the government should set out its plans for comprehensive reform of the social care system.

Further information

For further information about our position, evidence and research, please contact Alex Boyle, External Affairs Manager at alex.boyle@health.org.uk