



**BUSINESS, ENERGY AND INDUSTRIAL
STRATEGY COMMITTEE INQUIRY INTO
THE UK'S LABOUR MARKET**

JULY 2022

**USDAW RESPONSE TO CALL FOR
EVIDENCE**

BUSINESS, ENERGY AND INDUSTRIAL STRATEGY COMMITTEE UK LABOUR MARKET INQUIRY

RESPONSE TO CALL FOR EVIDENCE

Introduction

Usdaw is the UK's fifth largest trade union with around 360,000 members. Our members work solely in the private sector with the majority employed in retail. We also have significant membership in road transport, warehousing, food manufacturing, pharmaceuticals, call centres and home shopping. Usdaw has national agreements with four of the UK's largest food retailers, Tesco, Sainsbury's, Morrisons and the Co-op, and we are also the recognised trade union for Asda stores in Northern Ireland. In the non-food sector we negotiate pay with Argos, Next Distribution and Poundland nationally, as well as Primark in Northern Ireland. We also hold a range of agreements covering food manufacturing and distribution sites at national and local level. This gives us a clear insight into the state of the UK labour market and we welcome the opportunity to respond to this call for evidence.

Executive Summary

- Labour shortages have had a significant impact on the labour market and in particular the road transport and distribution sector. More needs to be done to tackle these challenges, including improving employment rights, providing skills training for individuals to be able to enter the industry and ensuring the industry presents attractive employment opportunities to all sections of society.
- The pandemic had a huge impact on the retail sector and the ramifications are still being felt. There have been significant structural changes and for a variety of reasons the outlook for the sector is extremely uncertain. The pandemic clearly demonstrated the importance of workers across the sector and this needs to be recognised by Government.
- We remain concerned about the negative impacts of the rolling-out of AI and new technologies on workers and in particular the impact on job security. It is critical that adequate protections are put in place and that workers, through their trade unions, are involved in any discussions about changes around AI and new technologies.
- We need a new employment rights framework that protects low-paid workers and tackles in-work poverty, through a new deal for workers.
- Five years on from the Taylor review, one-sided flexibility remains a critical issue for low-paid workers and causes great financial uncertainty and insecurity. The Government should finally act on some of the recommendations it has received on the issue, including the Low Pay Commission's 2018 recommendation to introduce a right to switch to a normal hours contract.
- The pandemic and evolving employee demands around flexible working should add impetus to Government action in this area, with a particular focus on broadening genuine two-sided flexible working to a greater cross-section of workers.
- The UK's ageing population is exacerbating the labour shortage in the road transport and distribution sector, and targeted efforts are required to recruit younger workers, along with an overhaul of skills training, underpinned by significant improvements to terms and conditions.

The state of play in the UK labour market post-Brexit and the impact of the covid-19 pandemic on recruitment, skills shortages and the growth of the labour market

The impact of the UK's departure from the EU and shortages of workers

In warehousing and distribution, in particular, Brexit has caused a tightening of the labour market as previous migrant workers have returned home, frequently as a result of covid concerns, and the restrictions on freedom of movement. This has caused many companies significant labour shortages, especially in the run-up to Christmas. Whilst the Government did introduce increased flexibility, through a temporary visa scheme and an extension to Cabotage, it did not have a significant impact and Logistics UK estimates that the UK is in need of about 90,000 additional HGV drivers. Whilst the immediate crisis has receded, it remains to be seen if this pattern will be repeated this Christmas.

The impact of Britain's exit from the European Union remains of concern to retailers. Recently, various retailers, particularly Marks and Spencer, have warned of the dangers of price pressures, less choice, and food being thrown away as a result of labour shortages in other sectors. These concerns seemed particularly prevalent in the autumn, at the end of the grace period on businesses exporting from Europe to Great Britain, and around Christmas. UK retailers selling imported goods from the EU or exporting products to the EU have faced huge changes in the way they do business and their supply chains have been heavily impacted by the flow of workers into and out of the UK.

Structural changes to the labour market post-covid

The retail sector experienced significant turmoil over the course of the pandemic. In 2020 alone, at least 180,000 jobs were confirmed as lost in the sector, with a staggering 16,000 store closures, although the actual impact varied significantly between different city and town centres. This accelerated pre-existing trends in the sector, whereby high street shops are closing and frontline retail roles are being lost, whilst online firms such as ASOS and Bohoo buy up brands and incorporate them into their exclusively online retail offer. This means we are seeing an increase in warehouse and 'hidden' retail roles, in line with the increase in online shopping. The growth in online retailing has been faster in the UK than any other country and was rapid even before the pandemic. In 2006 the online share of retailing was 6.6%. In 2013 it was 12.7% and in 19.2% in 2019. Meanwhile, physical shops lost 12.6% of their market in the years 2006-2019.

As the cost of living crisis has intensified, the retail sector has continued to suffer, with falling retail sales. April figures from the ONS show that there was an unexpectedly large fall in retail sales in March, of 1.4% and February's sales figures were also revised downwards. In addition, figures from the British Retail Consortium's retail sales monitor suggests that retail sales fell again in April, by 0.3%, as consumers continued to tighten their belts, particularly with non-essential spends. As Simon Roberts, CEO of Sainsbury's and John Allan, CEO of Tesco, have said, customers are increasingly switching to lower cost, own-brand products and cutting back on non-essential spending as prices rise. Sainsbury's sales fell 4% in the 16 weeks to 25 June compared with last year and sales in Argos have also fallen.

The outlook for the retail sector over the next year is uncertain, as people rein in their spending and retailers face rising costs. Both these factors were cited by Marks and Spencer in their announcement on 25 May 2022 that they will close a further 32 stores over the next 3 years. Without further Government support, more store closures and job losses are anticipated. Analysis from the Centre for Retail Research showed that over 10,000 jobs were lost in retail in the first quarter of 2022 alone, with 750 stores earmarked for closure. The Centre for Cities predicts that some cities, particularly in the North and the Midlands, could see an accelerated wave of store closures this year with the end of Government support that slowed down the long-term trend of high street decline in these areas and significantly cushioned places from significant damage. Footfall in city centres remains significantly lower

than before the pandemic, even in cities that have recovered faster such as Manchester and Birmingham. Moreover, as city centre retail sales and footfall have fallen, it is not the case that retail outlets in suburbs have experienced a corresponding boost. Sales here have also fallen in such settings since March 2020. As costs have risen and sales have fallen, we are aware that many retailers are cutting back the amount of overtime hours available to workers, or are actively reviewing store-level budgets, including provision of hours.

These problems in the retail sector are caused by a whole series of fundamental problems, particularly with regards to businesses rates, increased fuel costs and a lack of parity between online and physical retailers. Whilst we have some a return of some redundancies across the retail sector, these are still below pre-pandemic levels and unemployment remains low.

Apprenticeships

Usdaw strongly supports apprenticeships and we continue to work with a range of employers on apprenticeship schemes. However, we believe that to ensure companies are able to recruit the right people for apprenticeships and use apprentices effectively, apprentices need to be paid more. The Government should be proactive in this regard by raising the level of the Apprentice Rate. Even with the equalisation of the Apprentice Rate and the 16-17 year old rate, a rate of £4.81 is simply unacceptable. Usdaw policy calls for all workers, irrespective of age or apprenticeship status, to be paid a minimum of £12 per hour, as a step towards £15 an hour.

Providing recognised workplace training is something that is of benefit to workers – both young workers and existing staff. In many of the companies we deal with, apprentices are paid the full rate for the job while they are training. Significant reform of the apprenticeship levy is needed, to consider new flexibilities that will significantly increase apprenticeship opportunities, particularly for those who are disadvantaged in the labour market. Usdaw is also calling for the reinstatement of the entitlement for all adults to have access to free courses for Level 2 qualifications as in the past. We believe that the Government should look to introduce a National Skills Taskforce, led by senior representatives of employer bodies, trade unions and other key stakeholders, to look at the requirements of how to deliver on the skills agenda and make apprenticeships work. Such a taskforce should produce a report to government setting out a forecast of supply and demand in relation to economy-wide skills and the implications for state investment going forward.

In the DfE employer and apprentice evaluation surveys for 2021 report, 53% of retail apprenticeships gave 'Training not being as good as hoped' as a reason for not completing an apprenticeship programme, 10% higher than the figure for all apprentices. Whilst the full data has not been broken down by sector, significant, across-the-board, concerns were raised around time for learning/training, poorly organised courses and a disconnect between the course and the individual's job role.

Skills and training needs of different sectors

The road transport and distribution sector has struggled to make apprenticeships work as an entry point. As such, we welcome the introduction of 'skills bootcamps' and believe that they should be particularly targeted at younger workers, as a more flexible route to becoming a HGV driver. It would be a positive step by the Government if these were to be made permanent and linked to specific employers. However, when it comes to recruitment issues in the sector, whilst skills and training are a factor, the wider conversation around terms and conditions cannot be ignored.

In retail and other sectors in which we organise, the digital skills gap needs addressing, as payslips, policies and entire HR functions are moved online and new technologies are introduced in the workplace. We provide online training courses for reps and members and

continue to work with employers on workplace learning hubs and other initiatives, although the axing of the Union Learning Fund has significantly hampered this work.

Artificial Intelligence (AI) and technology in the workplace

Introduction

Automation, as well as new technologies and the use of Artificial Intelligence to manage staff, remains an issue of concern for Usdaw and our members. The Coronavirus pandemic has significantly quickened the pace at which new technologies are being rolled-out and exacerbated our members concerns.

When we surveyed our members on New Technology, Your Job and Your Workplace survey, in September 2020 in collaboration with the Institute For The Future Of Work:

- A third (33%) of members reported that their role had been 'extremely' changed by new technology since covid-19.
- 66.5% of respondents were not at all confident that they know how data collected about them is used to assess or make predictions about their performance.
- 55% felt that increased technology over the next five years would make staff wellbeing worse.

From comparing our 2017 and 2020 surveys, workers have become much more pessimistic about the impact of technology and this is only likely to have worsened since.

There is potentially a huge amount for workers and society as a whole to gain from new technologies and new ways of working. However, there is a growing concern that as technology continues to develop, many of the workers at risk through automation will not necessarily be in a position to take advantage of new roles created. Usdaw also has a range of other concerns, including:

- Increased monitoring of workers, through the collection of mass data and wearable devices.
- Reduced job satisfaction as workers lose the ability to have any say over their jobs.
- Communication issues and a lack of nuance or discretion, as a result of employees being unable to informally deal with workplace issues, as HR functions move wholly online or are automated.
- Equality issues and the widening of gaps between different workers. The rise of technology has many implications for equality at work, with key areas of concern being around remote management and distant decision making, a rise in insecure work and 'gig economy' platforms and increased abuse at work.
- Workers' mental health may worsen as a result of workplace technologies. Wearable devices can lead to unmanageable pressures and increased stress. The continuous monitoring of workers erodes basic privacies, causing anxiety and fear of disciplinary action. Further issues arise from the use of management apps which allocate shift patterns and the blurring of work and non-work.
- An erosion of health and safety in workplaces due to a lack of monitoring and dialogue between employers and employees.
- The intensification of work and expansion of job roles as employees are expected to do more.

Use of AI in the workplace and in Usdaw sectors

The rolling-out of new technologies and automation in workplaces is an issue of important and urgent concern for the workers we represent and for us a union. It has already had a major impact on Usdaw sectors. We might think of automation in retail in terms of self-

service tills and automated warehouses, but it goes much further than that, with automated processes for recruitment and the ordering of new stock, the creation of shift patterns and calculating how much work workers are expected to do, through pick rates in warehouses, tracking devices and camera in cabs and systems for plotting drivers routes and drop points.

AI and Productivity

The most effective way of improving productivity in the workplace is through improving terms and conditions. The relationship between higher wages and improved productivity is long established and organisations across a variety of sectors that pay at least the Living Wage Foundation-accredited Living Wage rate, have reported improvements in staff loyalty, engagement, productivity, staff turnover, absenteeism and stronger corporate reputation. Through improving terms and conditions in retail, and across the economy, it is clear that we will be able to deliver improvements to overall productivity.

Even where AI and automation have been used in a positive way, to ensure automation has increased productivity employers have still need workforce buy-in. In our survey alongside the Institute for the Future of Work, just 4.6% felt that their employer would invest in staff over the next five years and 66% disagreed with the notion that they were confident that the new technology used by their employer had been designed with their best interests in mind.

Rather than being used as an excuse not to invest properly in staff and to start a race to the bottom on workers conditions, to the detriment of productivity, new technology must be used to enhance the quality of work and enrich jobs. At the moment, AI and the introduction of new technologies is too often introduced with little regard for employees and is intensifying work, negatively impacting productivity, the quality of work and employees mental health. One example of this is the increased use of self-service checkouts in retail stores. Workers are expected to manage several tills at once, including ID checks and removing security tags, alongside other duties. This is resulting in significant stress for those workers, particularly if they are considered responsible for thefts, and increasingly creating even more flash points for abuse, threats and violence.

“One shopworker is expected to keep an eye on eight or more self-service tills. We have to deal with errors and people walking out without paying, which can be a flashpoint for abuse.”

Retail worker, North West

“Self-service is a nightmare. If people walk off without paying, then I’m the one who gets called in to explain.”

Retail worker, East

“Working on a self-scan is really hard. We have to think of a dozen things such as Think 25, sorting out baskets, dealing with errors, keeping an eye on till rolls, ensuring there are enough bags. Any one of these things can lead to us being abused.”

Retail worker, South

Oral comments during Usdaw’s Annual Delegate Meeting, May 2022

Job security and job losses

Job security as a result of the implementation of AI remains a key concern for Usdaw across all the sectors we organise in. In our survey with the Institute of the Future of Work in 2020, just 28% of Usdaw members were confident their job would exist in five years. It is clear that the Government and employers need to provide training opportunities to ensure workers can take advantage of new roles. It is estimated that nine in ten UK employees will need to retrain by 2030 and currently the Government seems ill-equipped to deal with this challenge.

Protecting workers and preparing for the future

To ensure that new technology works for workers, it is critical that adequate protections are put in place and that workers, through their trade unions, are involved in any discussions. As such, Usdaw is calling for:

- A legal right to proper workplace consultation on the implementation of new technology in the workplace
- New Technology Agreements with employers that make it clear that our members' views should be a key part of the decision making process. We have already secured several such agreements.
- A legal duty to conduct Equality Impact Assessments of new technology and act on the findings of these assessments.
- For workers to have a right to human connection when decisions about them and their job are being made.
- Access to retraining and reskilling as technology is introduced.

Supporting workers to adapt to changing skills and the growing use of AI

One way that workers will be supported to adapt to the changing skills that will be required of them is through their trade union. In our training offer to members, we have a particular focus on digital skills. This has become increasingly important as policies and HR functions as a whole move online and as the digital skills gap has expanded during the pandemic. Overall, almost 5,000 reps and members engaged in our online courses in 2021. In Scotland and Wales, where Union Learning funding remains in place, we continue to work with employers on lifelong learning schemes.

Workers' Rights and Protections

Improving Employment Rights

The Government can improve employment rights by introducing its promised Employment Bill and creating a new employment rights framework that protects low-paid workers and tackles in-work poverty. We need a new deal for workers, based on:

- An increase in the National Minimum Wage to £12 per hour for all workers, as a step towards £15 an hour.
- A Minimum Contract of 16 Hours per Week for Everyone Who Wants It
- A right to a 'Normal Hours' Contract
- A Ban on Zero-Hours Contracts
- Improved Sick Pay
- Protection at Work, through legislation to protect public facing workers which makes it a specific offence to assault them
- A Proper Social Security System and a fundamental overhaul of Universal Credit
- A Voice at Work for All Workers, through strengthened trade union rights

Balancing the flexibility of the UK economy and protections for workers

Currently, for the vast majority of workers flexibility means flexibility for the employer, to the detriment of the employee. We need to redress the balance and ensure workers have more protections. Actions such as legislating for a right to a 'normal hours' contract and a minimum contract of 16 hours per week for those who want it are steps that are necessary to end give workers financial security and certainty over their lives. As noted in the BRC's report on, ['How to build, retain and empower your retail workforce'](#), ensuring a mutually agreed definition of flexibility in favour of employees, which Usdaw believes would need to include a normal hours contract and reasonable notice of shifts, would help to improve retention, engagement and productivity.

Our recent work with employers shows that sensible steps like this can be taken by businesses. Our most recent pay deal with Tesco provides a right for workers to a 'normal hours' contract and a minimum 16 hours contract for those who want it. However, legislative action is needed, to ensure all workers have these same protections.

Fire and Rehire tactics

Usdaw remains of the view that the abhorrent practise of 'fire and rehire' should be outlawed completely. The Employment Rights Act 1996 could be amended in a number of ways, including making dismissal automatically unfair if the purpose of the dismissal was to re-employ the employee on less favourable terms.

It remains to be seen whether the announced Statutory Code of Practice will seriously deter employers from using 'fire and rehire' tactics. Any consultation process as part of the Code must be meaningful and ensure significant consultation with employees and their recognised trade union. Any financial penalties for employers, who use fire and rehire tactics without meaningfully consulting and attempting to reach agreement, must be significant so as to act as a real deterrent. Compensation uplifts must apply both to awards for failure to consult and any associated unfair dismissal claim and should not be subject to any existing caps.

Employment status and modern working practices five years on from the Taylor Review

The Taylor review

Five years on from the Taylor review, the Government should finally act on some of the recommendations set out in that review. Since then, successive governments have failed to tackle one-sided flexibility and deliver the protections working people need. Having engaged extensively with the Taylor review, and a myriad of consultations since, we are extremely disappointed by the lack of action on a problem the Government has acknowledged exists. The reality is that for most workers, including in retail, warehousing and distribution, 'flexible working' means flexibility for the employer, to the detriment of the employee. In some ways, as a result of the pandemic and the cost of living crisis, the situation in workplaces has actually worsened since the Taylor review.

The Taylor Review stated that the "Government must take steps to ensure that flexibility does not benefit the employer, at the unreasonable expense of the worker, and that flexibility is genuinely a mutually beneficial arrangement." This remains the crux of the issue. For example, one area of flexibility that benefits the employer, at the unreasonable expense of the worker, is around contracted hours. Following on from the Taylor Review, the Low Pay Commission was commissioned to look at the issue of one-sided flexibility. Following an in-depth investigation into the issue, the Low Pay Commission recommended that workers be given the right to switch to a contract that reflects their normal working hours.

We strongly support this recommendation, as a way of eradicating the misuse of zero hours contracts as well as supporting workers across the retail industry, and others, who are commonly employed on short-hours contracts. We continue to see some staff in certain retailers on very short-short hours contracts routinely working a substantial similar amount of overtime each week. The current one-sided flexibility on hours creates a great deal of financial insecurity for low-paid workers. In our latest cost of living survey, over 1 in 5 reported that they were earning less than £10 an hour and of those respondents 73% of them said financial worries were impacting their mental health. Adding to this, we have been seeing increased instances of shifts being changed at short notice in workplaces.

The issue of available hours is huge for our members and their real, take home, pay and financial certainty. During the pandemic increased hours and overtime were readily

available, but this has now fallen away as absence rates have fallen and employers have taken away Coronavirus safety rules, meaning many have had their hours and real pay cut, whilst staff on temporary contracts have been let go. Our February 2022 survey of our members on the cost of living showed that 25% of members would like more hours but cannot get them. Women are twice as likely as men to be contracted to less than 16 hours a week, with 17% of women working short hours contracts compared to 8% of men. This rises to 18% for BME (Black and Minority Ethnic) women and 21% for disabled women. We believe in a 16 hour minimum contract for those workers who want it and that the Government should legislate for this.

Contracted Hours

As well as seeing few full-time, permanent contracts in modern retail settings, there was a significant increase in temporary contracts offered during the pandemic, to allow the flexibility that was required with wildly fluctuating demand and staff absences. Where we have agreements in place we have systems to manage this. For example in one supermarket, if temporary contracts are extended beyond 12 weeks, the store is required to speak to a Union Official. However, in other parts of the sector, particularly in companies where unions are not recognised, we are aware that people are being hired on temporary contracts that are often extended for significantly longer periods, or that temporary contracts are effectively used as a probationary period.

Flexible Working

Genuinely 'flexible working', in a mutually beneficial arrangement between employers and employees, could be of great benefit to many workers in addressing barriers to work, their mental health and productivity. We know that flexible working is already essential for many people, especially those with caring responsibilities, to be able to work. We need to make sure flexible working is available to all and that it is implemented in a way that benefits workers.

The Government's proposal of workers having the right to make a flexible working request from day one of the job will by itself not necessarily lead to increased access to flexible working. A request-based system has many pitfalls, including fear of rejection or negative treatment in work or even during the application process, particularly when coupled with the broad business reasons that employers can currently use to turn down flexible working requests. Many key workers are unable to take up the option of flexible working, despite their efforts during the pandemic and ongoing critical role in society. The Government take action to change this.

We support the introduction of:

- A legal duty on employers to consider which flexible working arrangements are available in a role and publish these in job advertisements.
- A day one right to request flexible working for all workers, with the criteria for rejection being amended and requiring objective justification.

The pandemic and changing and evolving employee demands around flexible working should add impetus to Government action in this area, with a particular focus on broadening flexible working to a broader cross-section of workers. Current research shows that those who have worked from home during the pandemic are significantly more likely to be offered flexible working options and that the proportion of employees doing no form of flexible working (under the Labour Force Survey definition) has only changed by 4 percentage points, from 74 per cent to 70 per cent between 2013 and 2020.

The impact of an ageing population on the labour market

The UK's ageing population and labour shortages

The UK's ageing population is undoubtedly exacerbating labour shortages in the distribution and road transport sector. This is largely because as older drivers are retiring, companies are struggling to recruit new employees and particularly younger employees. The reason for this is that long-term structural issues within the transport sector have made the industry unattractive to young people and workers looking to change careers.

The terms and conditions on offer in the industry have been substantially eroded over the course of many years. Employers in the sector have sought to introduce contracts with overly flexible shift patterns. Working hours have been increased, including via the recent relaxation of the retained EU drivers' hours rules and the road transport (working time) directive. As it stands, the pay rates available in the industry are insufficient for what is a skilled role, with a high level of responsibility. These factors have resulted in widespread difficulties with the recruitment and retention of drivers.

A key trend within the sector is the introduction of new contracts, on lesser terms and conditions, for new starters. These less favourable terms and conditions drive young workers and career changers away from the sector. For example, the rise of 5/7 contracts, which require employees to work any five days of the week, and the damage this does to work life balance, detrimentally impacts the recruitment and retention of new drivers. Similarly, contracts that allow shift start and finish times to be altered at short notice have a negative impact on recruitment and retention. In addition, the lack of welfare facilities and provisions are a disincentive for women in particular.

The employability of older workers and barriers in the workplace

A significant proportion of older workers are grandparents and the soaring cost of formal childcare arrangements means that many are now relied upon for informal caring arrangements. The Family Childcare Trust annual survey, showed that there is still a childcare crisis, that costs are still too high and rising, and that there is still not enough available. As such, the extent to which parents rely on older relatives for childcare is unsurprising and this is undoubtedly a barrier to employment for many older workers. The Government could take action on this and address issues with childcare by:

- Harmonising, improving and extending statutory maternity and paternity leave and pay.
- Providing 30 hours of free, high quality childcare for 2 to 4 year olds.
- Making additional hours available on top of the 30 free hours, with these additional hours being free for those on the lowest incomes and, for those on the highest incomes, costing no more than £4 per hour.
- Introducing practical measures to ensure that childcare provision is available to those who work hours other than the 'traditional' 9-5, Monday to Friday and those whose working patterns are subject to change.
- Ensuring parental leave is fit for purpose by giving all workers, regardless of their employment status, a day one right to 10 days paid parental leave.

- Creating wraparound provision, along the lines of breakfast clubs and after school clubs, that is universal.

The intensification of work in the retail sector, often in conjunction with the rolling-out of new technologies, is another barrier facing older people in the workplace and their employability. This is particularly the case with the lack of an adequate training offer in many workplaces.

Paddy Lillis
General Secretary
Usdaw
Voyager Building
2 Furness Quay
Salford Quays
Manchester M50 3XZ