

**TUC submission to
the UN Special
Rapporteur on
extreme poverty
and human rights**

UK visit, 5 to 16 November 2018

The Trades Union Congress (TUC) is the voice of Britain at work. We represent over 5.5 million working people in 48 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive. We would welcome the opportunity to expand on the issues identified in this submission when the Special Rapporteur visits the UK.

This submission focuses on three of the areas where the Commissioner asked for evidence:

Austerity

- Has pushed millions into poverty as a result of depressed wages and cuts to working-age benefits
- Has been accompanied by labour market deregulation that has weakened the position of workers, particularly those in low-paid or precarious work

Brexit

- Risks exacerbating the impact of austerity on the UK economy and labour market
- Puts employment rights enshrined in UK law but not legally guaranteed under current plans to leave the EU at risk

Universal Credit

- Has caused serious financial hardship and stress for many claimants in areas it has been rolled out to
- Should not be rolled out national until problems with its design and implementation have been addressed

Austerity

Austerity policies have damaged the UK economy and pushed increasing numbers of people into poverty over the last eight years. Cuts to government spending significantly slowed the economic recovery after 2008, by reducing demand and investment in the economy. According to the Office for Budget Responsibility, economic growth was around one per cent lower in 2010-11 and in 2011-12 as a result, and the economy has taken a permanent hit in terms of lower productivity and lost growth.¹

This low-growth, low-investment, low-productivity economy resulted in the weakest decade for pay growth in 200 years, with real wages declining on average by 0.4 per cent a year, against a pre-crisis average increase of 3 per cent. Wages are £10 a week lower than before 2008. After years of growing pay inequality², falling wages have hit low paid workers the hardest.

The effect of stagnant wages has been compounded by the cuts to working-age benefits that have been a key policy in the austerity programme. Social security increases were

¹ http://obr.uk/docs/dlm_uploads/Forecast-Evaluation-Report-2017_Web-Accessible.pdf

² See chart 6, page 18 <https://www.tuc.org.uk/sites/default/files/FutureofWorkReport1.pdf>

capped at 1 percent from 2013 and frozen for four years from 2016. The Resolution Foundation has calculated that this, together with other changes, including the roll out of Universal Credit (*see following section*) will reduce social security payments by £2.5bn this year.

The net result is a rapid increase in the number of children in poverty. Research commissioned by the TUC found the number of children growing up in poverty in working households grew by 50 per cent over the last decade, to 3.1 million.³

On top of reductions to social spending, annual government departmental spending has been cut by £940 (17 per cent) a head since 2010.⁴ This includes a cut in real terms to local government funding of 49 per cent. Spending cuts have hit more grant-dependant local authorities, which tend to serve more deprived communities, hardest. Average cuts were 33 per cent for the most grant-reliant decile of councils, compared to just 9 per cent for the least reliant decile. And cuts to social care funding have left more than 1.2 million older people without the help they need for everyday activities – a 48 per cent increase since 2010-11.

At the same time as introducing these austerity measures, from 2010 the government embarked on a programme of labour market deregulation, leading to the removal or weakening of rights for working people. Many of the reforms have particularly disadvantaged those in low paid workers and precarious work.

In 2013, the UK government:

- Abolished the Agricultural Wages Board, which was responsible for setting pay and conditions for agricultural workers. Traditionally, Wages Councils in the UK had set a floor of standards for low paid workers employed in unorganised sectors which largely lacked collective bargaining.
- Halved the period of consultation with recognised trade unions in cases of mass redundancy from 90 days to 45 days, thereby reducing the ability for union reps to avoid job losses.
- Imposed fees for employment tribunals (ETs) which severely restricted the ability of workers to enforce their civil employment rights. As a result, there was a dramatic 67% fall in the number of ET cases– with women, low paid workers and migrant workers particularly disadvantaged. In 2017, the UK Supreme Court struck the fees scheme down because it violated workers' fundamental rights to access justice and to an effective remedy for breach of their civil rights.
- Reduced compensation in unfair dismissal cases with compensatory awards being capped at the annual salary of the employee concerned, which means part-time workers and those employed in low paid, insecure work are often not properly compensated for loss of future earnings or loss of pension entitlements.

³ <https://www.tuc.org.uk/news/child-poverty-working-households-1-million-children-2010-says-tuc>

⁴ <https://www.tuc.org.uk/research-analysis/reports/time-change-end-austerity>

In 2016, the government introduced the Trade Union Act which restricted unions' rights to freedom of association, including the right to strike; the ability of public sector unions to organise and represent public sector workers; and unions' ability to organise campaigns on public policy issues. These measures have significantly restricted the ability of working people to organise collectively.

Brexit

If the consensus view on the impact of Brexit proves accurate then there is a high risk that poor economic performance could exacerbate the effects of austerity outlined above. In addition, employment rights of UK workers could also be threatened by a Brexit deal that fails to provide guarantees that workers' rights will not be further downgraded.

EU employment, equality and health and safety laws have delivered wide-ranging benefits for working people, including those employed in low paid jobs.

These include:

- **Maternity and pregnancy rights.** EU law has improved protections for pregnant women and new mothers, including day one rights to unfair dismissal rights and protection from discrimination.
- **Equal pay.** Thanks to EU law, women in the UK secured the right to equal pay for work of equal value which is key to tackling the gender pay gap. EU equal pay law also resulted in part-time women workers gaining access to occupational pensions.
- **Protection from discrimination.** EU law led to the substantial strengthening of equality rights in the UK, including protection from discrimination on grounds of sex, race and disability. As a result of EU law, the UK also introduced new protection from discrimination on grounds of sexual orientation, age, religion and belief.
- **Equal treatment rights for part-time, fixed-term and agency workers.** It was estimated that around 400,000 employees benefitted from equal treatment rights for part-time workers (around three quarters of whom were women). The Fixed Term Employee Regulations led to significant improvements in pay and conditions and better access to occupational pensions for many temporary staff in the UK, particularly in the education sector. Temporary staff are also no longer required to waive their unfair dismissal rights. The Agency Workers Regulations also led to some agency workers receiving a pay rise and improved holiday entitlements.
- **Protections for migrant and posted workers.** Migrant workers are guaranteed equal treatment whilst posted workers who work temporarily in another country are guaranteed core workplace rights.
- **Working time rights.** Although UK workers can opt-out of the maximum 48-hour week, since the EU Working Time Directive (WTD) was implemented in the UK nearly a million fewer workers are working excessive hours. Around 6 million workers also secured rights to paid holidays, with around 2 million getting paid holiday for the first time, including many low-paid part-time women workers. Thanks to the WTD, many in

insecure work, including agency workers, and those on zero-hours contracts, for the first time secured the right to holiday pay.

- **Health and safety standards.** EU standards have led to the introduction of broad duties on employers to evaluate, avoid and reduce workplace risks. EU Directives have also led to safeguards in high-risk sectors like construction; addressed work-place risks such as musculoskeletal disorders, noise, work at height or with machinery; and provided safeguards for workers, such as new or expectant mothers and young people. The number of worker fatalities in the UK has declined significantly since EU directives were implemented.

The TUC is concerned these rights will be at risk once we leave the EU. Cabinet ministers and former cabinet ministers have made clear in recent months that Brexit would be an opportunity to get rid of the Working Time Regulations – even though these regulations provide key rights to holiday pay, rest breaks, and protection from excessive working hours. And this could just be the start, with rights for agency workers and outsourced workers and health and safety protections being other potential early targets.

The government has not set out any plans for protection workers' jobs or rights after Brexit. Ministers have repeatedly sought to reassure workers that their rights will be maintained or even improved after Brexit, but the government has not provided any legal guarantees for working people.

Universal Credit

The government is planning to begin the managed migration to Universal Credit (UC) in January 2019, transferring around 3 million people to the new benefit. But the TUC believes that, based on the experience of its roll out so far, UC is not fit for purpose in its current form and its implementation should be halted. Warnings from a wide range of organisations about the design and delivery of UC have been ignored by the Department for Work and Pensions (DWP).

The problems with UC are well documented, and include:

- **The five-week waiting period for the first payment.** This is the minimum period and many claimants face a longer wait delay. A National Audit Office (NAO) report⁵ found that in March 2018, 21 per cent of new claimants did not receive their full entitlement on time with 13 per cent receiving no payment at all on time. While advance payments may now be available these have to be paid back from UC payments, which push claimants in to arrears.
- **Not all claimants are comfortable with the online system.** The DWP's own survey of claimants showed just over half (54 per cent) of all claimants were able to register their claim online unassisted. More than four in ten (43 per cent) claimants said they needed more support registering their claim. Older claimants, those with a long-term health condition, and those without regular internet access were more likely to need extra help.

⁵ <https://www.nao.org.uk/wp-content/uploads/2018/06/Rolling-out-Universal-Credit.pdf>

- **Understanding and applying for UC is complex, and causes considerable stress and anxiety for some claimants.** The claimant experience has not been a central part of the design of UC. The NAO report stated that the DWP had found it difficult to identify and track those who it deems vulnerable. It has not measured how many UC claimants are having difficulties because it does not have systematic means of gathering intelligence from delivery partners.
- **There are serious concerns about inadequate levels of staffing to deal with the rollout of UC.** This is having an impact on staff and claimants. PCS, our affiliate union reports that its members are under significant pressure, trying to deliver a system that has been beset with problems.
- **Local authorities, advisory and advocacy organisations have seen demand for support rise since UC was introduced in their area.** Support agencies have expressed concerns that the current level of support they provide to claimants will not be sustainable as their caseload increases.⁶
- **The monthly payment and assessment period do not work for everyone.** A monthly payment makes it difficult for some low-income families to budget, particularly where rent is not paid directly to the landlords.
- **The system of monthly assessment periods and the corresponding benefit payment can be difficult to understand.** Changes to a claimant's payday or temporary increases in earnings can take them over the earnings threshold and result in their UC being stopped automatically.
- **UC extends and intensifies conditionality in the benefits system.** For the first time, in-work claimants could find themselves sanctioned if they cannot demonstrate to the DWP that they are seeking to improve their paid income. The idea that there are extra hours or higher paid work available is simply not the case in much of the UK's low-paid economy.
- **The accumulation of cuts to UC means it has reduced its ability to support paid work and work incentives.** The 2015 Summer Budget made dramatic cuts to UC, including reductions to work allowances. Work allowances are the amount claimants can earn before their UC payments start to be reduced. Lone parents are disproportionately affected as they face some of the biggest cuts to the work allowance. The Resolution Foundation estimates UC will be around £3bn a year less generous than the current tax credit system and will lead to an average loss of £625 a year for working families.⁷ And the Child Poverty Action Group reports cuts to UC which originally promised to lift 350,000 children out of poverty will now mean a million more children in poverty than under its original design, and 900,000 more in severe poverty.⁸
- **Women are more likely to experience financial abuse.** As UC payments go to one person in a household, which will often be the man, it is based on a very old-fashioned

⁶ <https://www.nao.org.uk/wp-content/uploads/2018/06/Rolling-out-Universal-Credit.pdf>

⁷ <https://www.resolutionfoundation.org/app/uploads/2017/10/Universal-Credit.pdf>

⁸ <http://www.cpag.org.uk/sites/default/files/Austerity%20Generation%20FINAL.pdf>

concept of the male wage earner model. Splitting UC couple payments by default could provide some financial protection for victims of domestic abuse.

- **The design of UC discriminates against the self-employed.** It is assumed that self-employed claimants are earning the Minimum Income Floor' (MIF), the equivalent of 35 hours a week at the National Minimum Wage. This leads to a reduction in UC, and there is no such requirement for employees. The introduction of the MIF is expected to save more than £1bn for the Exchequer, which is in effect coming out of the pockets of the low-paid self-employed.

Introducing any new system of this magnitude is likely to result in teething troubles, but the design and implementation of UC is already causing widespread and severe hardship. Some claimants have been left penniless, reliant on foodbanks to survive, and unable able to pay their rent; with seriously impacts their physical and mental health.

Problems identified during the initial rollout include:

- Reports by the Trussell Trust of a 30 per cent upsurge in foodbank use in the six months after UC rolled out in areas it serves, compared to 12 per cent increase in non-UC areas.⁹
- Reports from Citizens Advice that UC claimants it has helped who have been paid late are 23 per cent more likely to get into debt than claimants who are paid on time.¹⁰
- Warnings from housing bodies of increases in rent arrears. Nearly three-quarters of households on UC are in rent arrears compared to 26% of all households.¹¹
- The policy director at the Residential Landlords Association, which represents more than 50,000 private sector landlords, has said some members were "increasingly reluctant" to offer accommodation to tenants on UC.¹²
- Claimants with mental health problems have been shown to face considerable hardship and considerable deterioration in their mental health because of UC.¹³

The NAO report makes clear that the DWP must ensure that the UC programme does not expand before business-as-usual operations can deal with higher claimant volumes, and that it must learn from the experiences of claimants and third parties, as well as the insights it has gained from the rollout so far.¹⁴

The purpose of pilot schemes is to learn, but the DWP clearly has not learnt from its experience of delivering UC. The national roll out of UC needs to be stopped to allow time for a rethink of its the design and delivery.

⁹ <https://s3-eu-west-1.amazonaws.com/trusselltrust-documents/Trussell-Trust-Left-Behind-2018.pdf>

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<https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Summary%20of%20Making%20a%20Universal%20Credit%20claim%20report%20-%20July%202018%20.pdf>

¹¹ <https://www.localgov.co.uk/Housing-bodies-warn-of-increase-in-Universal-Credit-rent-arrears/45655>

¹² <https://www.landlordtoday.co.uk/breaking-news/2017/9/more-tenants-face-eviction-and-rent-arrears-due-to-universal-credit?source=newsticker>

¹³ <https://www.disabilitynewsservice.com/universal-credit-leaves-claimants-with-mental-health-problems-tangled-in-bureaucracy/>

¹⁴ <https://www.nao.org.uk/wp-content/uploads/2018/06/Rolling-out-Universal-Credit.pdf>