

# Rolling out the Manifesto for Labour Law

The Institute of Employment Rights (IER) is proud to launch *Rolling out the Manifesto for Labour Law* – the second edition of our influential *Manifesto for Labour Law*, which in 2016 set out 25 recommendations for reform. After adopting our proposals as a blueprint for future policy and including many of them in their popular 2017 *Manifesto For the Many, Not the Few*, the Labour Party asked IER to further develop our ideas and set out a roadmap for implementation. Our working group of 26 leading lawyers and academics came together to do just that in *Rolling out*.

The overarching aim of our recommendations is to shift the focus of labour law from individual statutory minimums to collectively agreed wages and conditions set at both sectoral and enterprise level. Democracy, we believe, should not end at the gate to the workplace. Nor should our voice in parliament end with an X on a ballot paper. To correct both, we believe a Ministry of Labour – once a staple of government and still an important part of Western governments all over the world – should be reinstated to represent workers’ interests in Westminster.

Our proposals also focus on improving statutory rights, strengthening the enforcement of the law, and extending acceptable standards across supply chains so profits can no longer be based on the exploitation of workers in the UK or abroad.

As we face new challenges – including automation and post-Brexit uncertainties – our proposals ensure that employers, workers, academics and government officials can work together on policies to stimulate the economy through higher wages, creating higher demand, generating higher taxes, and reducing the amount that must be spent on state benefits.



“ I welcome this carefully thought out report from the Institute of Employment Rights ... We want to develop not just secure, well-paid and fulfilling jobs, but to transform the working world so that everyone, regardless of their background, has a right to a healthy work/life balance, family time and personal development. ”

John McDonnell,  
Shadow Chancellor  
from Report Foreword

## Lauren

I've worked as a waitress for TGI Friday's since my 18<sup>th</sup> birthday in 2010. Until this year, I was considered a model employee. They even used pictures of me on the front of the menu and in their Christmas advertising! But this year I've found myself having to speak out against the employer I've been loyal to for so long.



For a company that calls us a 'Fridays family', it's sad that they're now so obviously putting profits before their people. They took away our time-and-a-half for working over Christmas and New Year's. They cut staffing levels; got us to do our training unpaid and in our free time; and some branches got jobseekers to do "unpaid trial shifts" that didn't lead to a job because there was never one available in the first place. They started taking our staff meals, forcing team members on 10-11 hour shifts to spend the equivalent of over an hour's wage for lunch from the kitchen.

Kitchen pay has stagnated while the minimum wage has gone up, so many of them are now on or close to the minimum wage, and many don't even get the time-and-a-half they're owed for overtime. TGI's use youth rates too, so someone doing the same job as me who is 19 gets just £5.90 per hour. Young people don't get discounted rent or food so why should they be paid so much less for doing the exact same job?

In January, we were given just two days' notice that 40% of waiting staff's card tips - worth about £60 a week if you're full-time - would be reallocated to kitchen employees instead. One girl at my store lost over £1,000 in 18 weeks because of this change - she has a mortgage to pay and kids to feed!

That's when we joined the BFAWU, and later UNITE when the unions decided to take joint action. We led a huge recruitment campaign at TGI's that unionised over 250 workers in six months. Most of my colleagues are young and a lot of them had no idea what their employment rights were, nevermind what a union does or why they should join one. It's no wonder we get exploited like this when the government leaves it down to us to enforce the law.

It's now eight months into our campaign and we've had some big wins - we got our shift meals back and we now get paid for the time we spend training and attending meetings. But the law can't protect us if it stays as it is.

# Changing laws;

Lauren, Chris and Lee work in very different industries, but a common theme emerged - all three felt de-humanised by work, like "a number". And they're not alone. There are 32 million people in the UK in some form of insecure work; one in five earns just £15,000 a year (and 1.5 million claimants are in work), and trapping 4.1 million children from poverty.

Labour is not a commodity - one of the fundamental principles of the employment relationship. By requiring employers to include workers in general meetings, boosting the rights of workers to be represented, and for their union to be recognised, Lauren, Chris and Lee would have a voice.

By setting up National Joint Councils in every sector - at a minimum wages and conditions for everyone employed in that sector - in their industry.

By reinstating a Ministry of Labour, and establishing a National Labour Commission across society scrutinise the impact of policy on workers and give them a voice in Westminster.

The introduction of an independent Labour Inspectorate to enforce the law and resolve breaches, as well as better rights for unions to demand that and her co-workers to understand and enforce the law.

By making blacklisting a criminal offence, and directors personally liable in court and see the people who destroyed his life, and the lives of his colleagues would no longer be afraid to rock the boat and demand their rights, but also the safety of the people they represent.

Through widespread collective bargaining, and stronger standards, the Living Wage for every hour he works, and that his colleagues would have a voice for service users' lives.

By giving health and safety reps the power to stop the job without notice, and improvement notices when they see a problem, we can protect our colleagues.

By introducing sectoral collective agreements and equal rights, we can have the same rate and have the same rights when doing the same job, and struggle on just £5.90 an hour.

Lauren, Chris and Lee are people, not numbers, and so are we. What that is needed is the political will and determination to change the law and govern their lives. Together we can ensure that everybody

## Chris

I've worked supporting people with learning disabilities for over 30 years. It takes a certain kind of personality - a giving sort - to do this work. It's time to clock off so we go the extra mile, but we don't get paid when we do. Since care work shifted to the private sector, now, I'm nothing but a bum wiper.

So let me tell you a little bit about what this "bum wiper" does. I am personally liable for the wellbeing of people in my care. I provide comfort and support. Because some of the people I work with have behavioural difficulties, I have been spat at, bitten, and hit. I work 12 hours that week and have barely slept; even if I was paid as little as £3 an hour for doing so.

Yes - £3 - well below the National Minimum Wage. That's the amount I'm paid when I do a 'sleep-in' at a service user's home. But you can't count as working, so even though we're still personally liable for whatever happens in the night, we're not eligible for the National Minimum Wage.

My generation are qualified, experienced and highly skilled. But now we're leaving the sector in droves. We're burned out, stressed, struggling to get any training on instruction anymore, it's just an online course. But if a service user has a medical emergency, they sometimes only have minutes to administer medication. We can't earn more at McDonalds, where they're allowed to go home to sleep, and if they make a mistake, no one dies.

But the high turnover of staff is a disaster for the people we care for. Imagine having to trust a constant stream of strangers with your person. Every time an opportunity for cost-cutting comes up, all that goes straight out of the window.

All we're asking for is to be treated with dignity and respect. For someone to notice all this hard work we put in and reward us for it.



# changing lives

...t when we spoke to them about their experiences, a work. They told us they felt ignored, devalued, treated in workers in the UK and one in ten of them is in some or less, forcing many to rely on state benefits (most from working families in poverty.

...nciples that should underpin new laws governing the workers on boards, giving workers a vote at company presented by their trade union and extending the right could be given a voice at work.

...which employers' and workers' representatives agree that sector – Lauren, Chris and Lee would have a voice

...ational Economic Forum on which stakeholders from and the economy, Lauren, Chris and Lee would have a

...mpowered to proactively enter workplaces to identify to the same, will mean it will no longer be up to Lauren

...sonally liable for their actions, Lee would get his day in lives of thousands of others, held to account. Chris and and would be better able to speak out not just about nt.

...utory rights, we can make sure Chris is paid at least argues are properly trained to safely take responsibility

...hen workers are at immediate risk, or issue provisional protect Lee while he dedicates his time to protecting his

...hts for all workers from day one, everyone will be paid me job, so Lauren's younger co-workers won't have to

...their 32 million working colleagues across the UK. All change the legal, industrial and economic policies that is treated with dignity and respect.

## Lee

I remember when I first went to work as an electrician on Piper Bravo – the oil rig that replaced Piper Alpha after an explosion killed 167 people. I was in my early 20s, and knowing what happened last time really played on my mind. On my first trip out, there was a helicopter crash that killed 11 people. That's when it hit me how much danger was involved. When I got back to the platform, I put myself up as a safety rep.

At first, the company encouraged us to flag up dangerous working conditions and said we didn't need to worry about being victimised. But these things go out of the window as soon as profit is at stake. When the job started to get behind, they tried to get around us – and the law – to speed the process up. They'd schedule jobs for when I wasn't on site, then break health and safety standards they knew I would insist on meeting. When we realised what was going on, we told them that if they weren't willing to follow the rules we would resign. That's when we were called to a meeting and told that if we didn't pipe down, they didn't know what would "happen to us"!

Not long after working on the rig, I got another job with the same company, this time at a gas terminal in Wales. When I turned up, my supervisor said I shouldn't have got the job because I'd been "blacklisted". We'd all heard of blacklisting – that if you rocked the boat by being involved in trade union activity or complaining when work was unsafe, the companies would conspire together to prevent you from getting work. And that's exactly what happened to me. For the last 26 years, I've been unemployed, or scraping by on lower-paid work, going through agencies, taking on jobs as a so-called "self-employed contractor", being denied my rights.

I knew I was being blacklisted, but back then everyone thought you were a conspiracy nut if you started saying some of the largest firms in the country were deliberating targeting you. We were finally proved right in 2009, when a raid on the offices of The Consulting Association revealed a blacklist of 3,213 workers had been created and shared by over 40 construction companies for decades – and my name was on it.

I joined the Blacklist Support Group and we tried to get justice, but we were forced to settle out of court when the firm put us in a position that could bankrupt us if we tried to push it to a trial. We got a bit of compensation, but that's not justice. After all they've done to us, we want to see the people responsible – both company directors and police – own up to their crimes and we want them to be held personally liable. We've had our lives torn apart and we just want to be heard.



...ort - to take responsibility for another person's welfare on such a low wage. You don't want to leave those you care for stranded just because or in the mid-90s, things have changed for the worse. Once upon a time, I was treated as a skilled professional, but to the people in charge

...e – I bathe them, clean for them, take them shopping and to their appointments, I sort out their medications (enemas, sometimes), their bills, en, sworn at and hit. If anything goes wrong, it's on me – I can even face prosecution if it's a medication mistake, even if I've worked over 100

...sleep when you know that if you miss one thing, the service user could get hurt. But apparently lying awake, away from your family doesn't Vage.

...to survive on wages that stagnated years ago. The young people they're hiring to replace us don't get the training we did. There's no hands-ister life-saving medication. Young carers can't believe another person's life is in their hands. A lot of them quit. I don't blame them. They can

...al care. All our marketing material says we're "person-centred", we're all about the "wellbeing" of our service users. But as soon as an



# The future of labour law



Ministry of Labour

National Economic Forum

academics will sit to plan for future industrial challenges and scrutinise the impact of policy on all sections of society.

A **Ministry of Labour** should be created, led by a Secretary of State with a cabinet seat to represent workers' voices in parliament. Its responsibilities will include introducing a **Collective Bargaining Act**; **full employment in secure, high-quality jobs**; wages high enough to **reduce reliance on state benefits**; strategies to **ensure that technological advances increase productivity not unemployment, benefiting the many**, not just the few; appropriate training and education to **reduce present or future skills gaps**; and a **National Economic Forum**, on which workers, employers, government officials and independent

**National Joint Councils (NJsCs)**

**will be rolled out**

in every sector to negotiate **sectoral collective agreements** and to **oversee the resolution of disputes**. Agreements will cover **everything from wages to apprenticeships, setting minimum terms and conditions for all workers within a sector**, ensuring employers cannot undercut workers' rights by exploiting migrants, or by abusing zero-hours contracts.

**NJsCs will also represent the interests of their sector to government**

so that workers, employers and lawmakers can work together to plan for future challenges and opportunities, making the best use of emerging technologies and industries to strengthen the UK economy.

NJsCs may also **agree basic standards throughout the supply chain**, including fair pay, health and safety and freedom of association.



**Trade union recognition and access rights** will

be simplified and improved to ensure workers are better represented at work.

**Workers will have a right to be accompanied or represented by a trade union rep on any issue.**

**Enterprise collective bargaining** will build upon sectoral collective agreements. Any changes (for instance, where temporary cuts to wages or conditions need to be made to preserve jobs) will be agreed by the NJC.

**Improved and simplified rights for trade unions to inspect workplaces when a member reports non-compliance with the law will be introduced.**

**The laws prohibiting requirements to recognise and/or negotiate with trade unions in contracts will be repealed.**

Corporate governance laws will be amended to **ensure workers' voices are heard in the boardroom**, in company meetings and as pension fund trustees.



**A framework of stronger statutory rights** underpinning collectively agreed terms and conditions will include:

**A living wage;**

**Equal rights from day one** for all workers, regardless of whether they are employed directly, through an agency, or contracted through a mobile app;

**A minimum number of guaranteed hours** for all workers, and a **premium rate** for overtime;

**Stronger protections against discrimination and harassment;**

**A month of paternity leave on full-pay and two-three months shared leave to be taken flexibly by both partners;**

**New powers for health and safety officers** to stop the job when danger is imminent, or serve provisional improvement notices for lower risk breaches;

**More health and safety inspections, and the return of pro-active inspections in all industries;**

**Repeal of the Primary Authority Scheme**, which allows large companies to avoid legal obligations;

**Public sector procurement will be used to promote** collective bargaining, unionisation and labour law adherence, both in the public and private sectors.



**Enforcement mechanisms will be strengthened.** Adherence to the law and collective agreements will be enforced by **NJsCs**, an independent **Labour Inspectorate** and a **Labour Court**.

**Emphasis will be on resolving disputes without resorting to litigation wherever possible.**

Where in-house dispute resolution procedures agreed by NJsCs fail, **the Inspectorate will have the power to enter workplaces, issue enforcement notices and reinstate unfairly dismissed workers**. Where the dispute still cannot be resolved, **the Inspectorate will have the power to bring legal proceedings on behalf of workers, and criminal prosecutions** against the worst offenders.

**Greater powers will be given to the Central Arbitration Committee and employment tribunals to investigate and resolve disputes** where external arbitration or litigation is necessary.

**Penalties for breaking the law should also be made commensurate with the damage suffered by the victim**, removing the cap on unfair dismissal compensation, doubling the statute of limitations on unlawful deduction from wages, and repealing the £25,000 restriction on breach of contract.

**Failures to pay compensation should be treated as an aggravated breach**, attracting financial penalties and criminal sanctions for the worst offenders.

**Blacklisting should attract criminal sanctions** and a **new unit to investigate corporate manslaughter** should be established.

**Directors and shareholders should be personally liable** where their actions have caused or contributed to harm.

All workers should be eligible for **free legal advice**, and pre-claim conciliation through ACAS should be optional and available to all.



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