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Government responds to Taylor review

The government has been timid and not gone far enough in its response to the Taylor review of modern working practices, while an employment law expert called its response “a damp squib”.

The *Good work* plan comes in response to the independent Taylor Review, published last year, which investigated the impact of modern working practices on the world of work.

The government has said it will seek to protect workers' rights by:

- taking further action to ensure unpaid interns are not doing the job of a worker;
- introducing a new naming scheme for employers who fail to pay employment tribunal awards; and
- quadrupling employment tribunal fines for employers showing malice, spite or gross oversight to £20,000 and considering increasing penalties for employers who have previously lost similar cases.

The government has said it will also increase transparency in the business environment by:

- defining “working time” for flexible workers who find jobs through apps or online so they know when they should be being paid;
- launching a task force with business to promote awareness and take-up of the right to request flex-

ible working introduced in 2014;

- making sure new and expectant mothers know their workplace rights and raise awareness among employers of their obligations; and
- launching a new campaign to encourage more working parents to share childcare through Shared Parental Leave – the right introduced in 2015.

Employment law expert Daniel Barnett called the proposals a “damp squib” and pointed out that on more important topics the government are merely launching four separate consultations. These concern: employment rights; agency workers; employment status; and measures to increase transparency in the UK labour market. These consultations will end in early May to early June.

TUC general secretary Frances O'Grady said: “The government has taken a baby step – when it needed to take a giant leap.

“These plans won't stop the hire and fire culture of zero-hours contracts or sham self-employment. And they will still leave 1.8 million workers excluded from key protections.

“Ministers need to up their game. At the very least they must end the Undercutters' Charter [or Swedish derogation] that means agency workers can be paid less than permanent staff doing the same job.”

As it is the government is for now merely consulting on how to increase transparency of contractual ar-

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rangements for agency workers; and how umbrella companies or intermediaries could be brought within the scope of the Employment Agency Standards Inspectorate (EAS).

It also seeking to gather evidence on the level of abuse of the Swedish Derogation, with consideration of whether the EAS' remit should be extended to cover the enforcement of the *Agency Workers Regulations*.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/679767/180206_BEIS_Good_Work_Report__Accessible_A4_.pdf

www.tuc.org.uk/news/ministers-must-%E2%80%9Ctheir-game%E2%80%9D-in-se-cure-work-says-tuc

Night work and its links to cancer

A number of studies have confirmed the conclusions of older research about the increased risks of cancer for workers who carry out night or shift work, according to the European Trade Union Institute (ETUI).

Researchers from Sichuan University, China, reviewed 61 studies published between 1996 and 2017 on the effects of night work on the health of women the ETUI reports. The data cover 115,000 cases of cancer and four million participants living in the US, Australia, Asia and Europe. They conclude that in the long term the risk of breast cancer increases by 32 %, skin cancer by 41 % and gastrointestinal cancers by 18 %.

The risk of breast cancer increases by 3.3 % for every five years of night work.

Of all the occupations studied, nurses are most affected: they are 58% more likely to get breast cancer, 35% more likely to get a gastrointestinal cancer (stomach, oesophageal, liver, pancreatic, colorectal) and 28% more likely to get lung cancer.

The research was published in early January in the journal *Cancer Epidemiology, Biomarkers and Prevention*.

Atypical working hours are also harmful to men's health. In September 2017, a study published in *The Scandinavian Journal of Work Environment & Health* revealed that workers carrying out shift or night work have a higher risk of contracting prostate cancer.

According to the research, this risk is twice as high for them as for workers who have never worked

shifts or at night. Men who have worked shift or night work for more than 20 years are three or four times more likely to get prostate cancer.

The sectors with the highest risks are metalworking (metal cutting, metal forming, foundry work), mining, and mechanical and production engineering.

The researchers carried out a cohort study of 1,757 men in the highly industrialised Ruhr region of Germany.

www.etui.org/Topics/Health-Safety-working-conditions/News-list/New-studies-confirm-the-carcinogenic-effects-of-night-work

Part-time pay penalty suffered by women

Gender differences in rates of full-time and part-time paid work after childbirth are an important driver of differences in hourly wages between men and women, a briefing from the respected Institute for Fiscal Studies (IFS) finds.

Wage progression and the gender wage gap: the causal impact of hours of work was commissioned by poverty campaigners the Joseph Rowntree Foundation, and explores the reasons for the gender pay gap of around 20%. It finds that one important factor is that mothers spend less time in paid work, and more time working part-time, than do fathers. As a result, they miss out on earnings growth associated with more experience.

The effect of part-time work in shutting down wage progression is especially striking. Whereas, in general, people in paid work see their pay rise year on year as they gain more experience, the IFS' research shows that part-time workers miss out on these gains. The vast majority of part-time workers are women, especially mothers of young children.

This accounts for an important part of the gender wage gap. By the time a first child is grown up (aged 20), mothers earn about 30% less per hour, on average, than similarly educated fathers. About a quarter of that wage gap is explained by the higher propensity of the mothers to have been in part-time rather than full-time paid work while that child was growing up, and the consequent lack of wage progression. About a further tenth of that gap is explained by mothers' higher propensity to have taken time out of the labour market altogether.

The lack of earnings growth in part-time work has a particularly big impact for graduate women,

because they are the women for whom continuing in full-time paid work would have led to the most wage progression.

For example, a graduate who has worked full-time for seven years before having a child would, on average, see her hourly wage rise by a further 6% (over and above general wage inflation) as a result of continuing in full-time work for another year, but would see none of that wage progression if she switched to part-time work instead.

Monica Costa Dias, IFS associate director and a co-author of the briefing, said: "There are many likely reasons for persistent gaps in the wages of men and women which research is still investigating, but the fact that working part-time has a long-term depressing effect is an important contributing factor.

"It is remarkable that periods spent in part-time work lead to virtually no wage progression at all. It should be a priority for governments and others to understand the reasons for this. Addressing it would have the potential to narrow the gender wage gap significantly."

www.ifs.org.uk/uploads/publications/bns/BN223.pdf

Unite defeats attempt to restrict picketing

An employer's "contemptible" attempt to restrict the right to picket during strike action has been overturned in the courts by the Unite general union.

The case arose as a result of a dispute involving Sutton Tanker workers based at Ellesmere Port. The 30 workers have been on strike since 19 January as a result of the company's plan to dismiss and re-engage them on inferior terms and conditions, which would result in their pay being slashed.

On 24 January, Unite was given less than 30 minutes warning that Eastham Oil Refinery of Ellesmere Port, where the workers are based, was in court seeking an injunction to prevent picketing in the locality.

As Unite was given no time to attend court and defend the case, a temporary injunction was granted and the case was adjourned until 1 February.

At that hearing, Unite overturned the injunction and secured the right to picket at the entrances of the lorry park. The court confirmed the separate right to conduct lawful protests on the public highway.

Unite assistant general secretary for legal services Howard Beckett said: "This was a key legal victory. It was vital to preserve the right to picket during a lawful dispute. If Unite had been unsuccessful the fundamental right of freedom of association would have been greatly restricted.

"Frankly the action of Eastham Oil Refinery in seeking an injunction without allowing Unite to mount a defence was contemptible and I hope this defeat will persuade other companies not to try the same tactic in the future."

www.uniteunion.org/news/unite-in-key-right-to-picket-legal-victory-in-north-west-sutton-tankers-dispute/

DPD courier fined for hospital visit dies

A courier driver with diabetes who was fined by his employers for taking time off for a hospital appointment has died.

The widow of Don Lane, from Dorset, says her late husband feared taking time off to get care for his condition because of £150 penalties imposed by delivery firm DPD if he did not manage to get his round covered.

Lane, who was 53, was fined for taking a day off to see a doctor and also missed appointments with specialists because of the pressure imposed by the company, it has been reported by the *Guardian* newspaper. His widow, Ruth Lane, has criticised DPD for failing to honour its "duty of care".

She told the *Guardian*: "There was a constant threat of a fine. They had to deliver the parcels to tight slots and the pressure to get them done was huge. He was putting the company before his own health. He wasn't able to do his parcels first and make the hospital appointments, so he would cancel on the day.

"He collapsed in January 2017 and they knew that because they collected his van. It was after that Don cancelled three appointments. DPD had a duty of care to make sure he got to those appointments, but they failed in it."

Under the terms of the contract, drivers are not entitled to sick leave and the company can charge them £150 if their rounds are not completed.

www.diabetes.co.uk/news/2018/feb/parcel-deliverer-with-diabetes-fined-for-day-off-for-doctor-visit-sadly-dies-93292945.html

www.bbc.co.uk/news/uk-england-dorset-42946855

Tesco could face huge equal pay bill

Supermarket giant Tesco is facing what could be the largest equal pay challenge in UK history after law firm Leigh Day announced legal proceedings against the company. If successful, the lawyers estimate the challenge could cost Tesco as much as £4 billion to compensate workers.

In June 2016 the employment tribunal found that lower paid female workers at Tesco's rival Asda could compare themselves to higher paid men who work in distribution centres.

Lawyers, who say they have already been approached by more than 1,000 employees and ex-employees at Tesco, are making the same argument as the Asda case and another case against Sainsbury's. The Tesco equal pay claim focuses on employees working in male-dominated distribution centres being paid considerably more than the largely female-staffed Tesco stores.

Warehouse employees sometimes earn in excess of £11 an hour, while the most common wage for store staff is £8 an hour.

This disparity could see a full-time distribution worker earning £5,000 more per year than store staff on the same hours.

According to Leigh Day, the underpayment of workers could apply to in excess of 200,000 Tesco employees, with estimated pay shortfalls that could reach £20,000. The final bill for Tesco could be as high as £4 billion.

Paula Lee from the employment team at Leigh Day said: "We believe an inherent bias has allowed store workers to be underpaid for many years.

"In terms of equal worth to the company, there really should be no argument that workers in stores, compared to those working in distribution centres, contribute at least equal value to the vast profits made by Tesco."

It's a different to equal pay, but on its web pages, Tesco addresses the gender pay gap in its UK operations and here it claims a voluntarily reported a gap of less than 1% in 2016. This allegedly was "based on an analysis of the pay received by male and female colleagues at equal levels of work".

Tesco has – like all of the big supermarkets – yet to file its statutory gender pay gap report for 2017 but it reports a median (midpoint) gender pay gap for the year to April 2016 of 8.6%.

www.personneltoday.com/hr/tesco-equal-pay-claim-4bn/

www.tescopl.com/little-helps-plan/people/gender-pay-gap/

Union voice missing on food and drink council

The GMB general union has demanded a workers' voice on the Food and Drink Council. Without a union voice the council risks becoming an exclusive talking shop for big business, says the GMB.

Prime minister Theresa May talks about worker involvement in corporate governance, but her government are not about to embrace that idea on quangos it seems.

The new Food and Drink Council includes 16 representatives from across the entire food chain, covering farming, manufacturing, retail, hospitality and logistics. Members of the council are appointed by the Department for Environment, Food and Rural Affairs, subject to the final agreement of the council's joint-chairs.

They have seen fit to appoint Nick Varney, chief executive of Merlin Entertainments, the owner of theme parks such as Legoland, as well as Cassandra Stavrou, the founder of snack firm Propercorn, but no one from a union.

The GMB is calling on the council to ensure that unions and workers are invited to be involved in the future work of the group.

National officer Eamon O'Hearn said: "Without a true voice for the workers on the Food and Drink Sector Council, it seriously risks becoming an exclusive talking shop for big business."

The £28 billion industry making some of the most famous British exports from Marmite to mustard and whisky to Walkers Crisps "relies on thousands of people, including our members, who work every day to not only put food on the table of their family but of families across the country and the world".

www.gmb.org.uk/newsroom/food-drink-council

www.gov.uk/government/groups/food-and-drink-sector-council#contents