

TUC Response to Liberal Democrat consultation  
paper 73

# Employment and Trade Unions

“I’m a lifelong believer in trade unionism. When I was given a job as a shelf-stacker as a teenager, I immediately joined the shop-workers union USDAW. And from my first days as an MP - facing the onslaught of Thatcherism - I was convinced that strong trades unions were healthy for society.”

Rt Hon Charles Kennedy at the 2002 TUC

## **From the European Union’s Charter of Fundamental Rights**

### **Article II-27: Workers’ right to information and consultation within the undertaking**

Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.

### **Article II-28: Right of collective bargaining and action**

Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action.

### **Article II-30: Protection in the event of unjustified dismissal**

Every worker has the right to protection against unjustified dismissal, in accordance with Union law and national laws and practices.

### **Article II-31: Fair and just working conditions**

1. Every worker has the right to working conditions which respect his or her health, safety and dignity.
2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave.

### **Introduction**

The TUC is Britain's national trade union centre, the umbrella organisation for almost every British trade union. We are Britain's largest voluntary organisation representing almost seven million people through their membership of our 70 trade union affiliates. Just under one in three people at work in the UK are members of trade unions (29 per cent).

We welcome this opportunity to respond to the Liberal Democrat consultation paper on employment and trade unions. We agree that all political parties need to have an explicit programme for the workplace and we concur that

“there is a widespread sense of insecurity and dissatisfaction among many people in their jobs. The need for the development of better employment relations deserves a higher priority than it has at the moment.” para 1.0.1

While the close links that some unions enjoy with the Labour Party are well known, the majority of our affiliated unions are not linked to any political party. Significant numbers of trade unionists vote Liberal Democrat, and many Liberal Democrats are active in trade unions. Of course Liberal Democrats and the TUC will not agree on every policy, but we have found many common causes over the years as spelt out in both John Monks' speech to the 1999 Liberal Democrat Assembly and Charles Kennedy's speech to our Congress in 2002, both of which received warm receptions.

We respond to this consultation paper first with some general remarks, and then with some answers to the specific points raised in each chapter of the consultation document. We also include some recent TUC publications that we believe will inform the work of the working group.

### **Some general remarks**

Among the first acts of any dictator or authoritarian regime is to limit the freedom of trade unions to organise. This is why every significant human rights declaration, such as the EU's Charter of Fundamental Rights, makes explicit the right of freedom of association and the United Nations has in the International Labour Organisation an international organisation charged, inter alia, with promoting labour rights.

The relationship between the employer and the employed is always unequal. That is why employees need to be able to organise collectively and have a collective voice at work, and ultimately, as the EU's Charter recognises, the right to withdraw their labour.

This is not however to argue for an adversarial approach to industrial relations. The UK continues to enjoy low levels of industrial action both historically and compared to similar countries. In recent years the TUC has stressed the importance of partnership at work. By this we do not mean an acceptance of what academics would call a unitarist approach to industrial relations, that is a belief that the interests of employers and employed are identical. Our definition of partnership is more rigorous and more challenging.

We start from the basis that employer and their employees both have legitimate and overlapping interests, but that they are not identical. The starting point for good industrial relations is that both sides recognise this, and agree to work together to settle differences in an atmosphere of trust and mutual respect. This will not always be easy, and is far from the dominant practice in UK workplaces.

But as we show in the *High Performance Workplaces* document we append to this submission high trust relationships at work both between individuals, their managers and teams *and* between the workforce and management on a collective basis leads to efficient and productive organisations. Managers may find a command and control approach more congenial, but it does not lead to high productivity, staff commitment or flexible organisations.

A good example of how recognising trade union rights can help business is in the field of health and safety. The UK has a relatively good record internationally primarily because Mrs Thatcher never dismantled our tripartite Health and Safety

structures, which by involving both business and unions more closely matches the European social model than any other part of the UK's social policy framework, with the more recent exception of the Low Pay Commission. Trade Union safety representatives have been shown to reduce workplace injuries by 50%, and this must be to the benefit of employers too.

### **The quality of the working environment**

1. *How do we encourage businesses to increase their level of corporate social responsibility? Should this be left to voluntary means or is the law required to set minimum standards?*
2. *What balance should there be between voluntary agreement and legislative measures to improve the working environment?*

These are big, and very general, questions. There are clearly some issues that would be inappropriate to address by legislation such as the level of charitable giving by companies, some that can best be addressed through market mechanisms such as some environmental issues and some that should be legally enforceable. We have already referred to the fact that Britain's most deregulatory government left our health and safety regime untouched as it was not only relatively effective but had the support of both business and unions.

It would be a mistake to think that there is always an either/or choice between legislative and voluntary means. Changes in the law can also produce changes in behaviour. The 1999 Employment Relations Act introduced a legal right for a workforce to have their union recognised by their employer where a majority backed it, but the vast majority of recognitions have been achieved through voluntary means.

It is our experience that relying on the good will of companies or their economic self-interest only ever goes so far. Saying that things should be 'part of the business culture' (para 2.0.5) or that 'discretion should be left with employers to establish socially responsible workplaces though co-operation and consent' is all very well, and may even be true for most employers, but public policy needs to deal with the worst cases. Liberal Democrats have recognised this in their support for new Corporate Killing legislation and higher penalties for breaches of health and safety laws. The nearly two million people who benefited from the introduction of the

minimum wage had suffered from discretion having been left with their employers for far too long.

The discussion document seems to hint that Britain is over-regulated and that some rights for people at work should therefore be repealed. Yet Britain is among the least regulated of OECD economies, and many OECD economies that are more productive are more regulated. We attach a copy of *Unravelling The Red Tape Myths*. This debunks much of the business case against regulation.

A better starting point would be to set out how company behaviour needs to be improved and then work out the most appropriate tool to do so.

We too do not want to see extensive litigation on employment rights. It is a myth that unions rush to take tribunal cases. Our most recent analysis of tribunal cases (which we attach) shows that all tribunal cases are falling and that union backed cases are falling faster. This is because unions always try to resolve cases without involving the law. Non-union workers find that much harder.

However the way to reduce litigation is not to take away rights at work but to make sure that rules are clear and straightforward, that they are communicated effectively to business, particularly the small businesses that disproportionately take up tribunal time, and that penalties are set at a level to deter bad practice by employers. Encouraging unionisation and collective bargaining also leads to better dispute resolution in the workplace.

Corporate social responsibility would be enhanced by changes in company law, particularly by a change that requires companies to do more than simply maximise shareholder return.

*3. How do we ensure that different stakeholders have a role to play in establishing legislative and voluntary frameworks that affect the workplace environment?*

We commend the European practice of social partnership where employer and employees representatives work together to agree on how best to implement change. The Health and Safety and Low Pay Commissions are examples of UK

variants of this approach. Other policies such as the right to request flexible working have been drawn up this way.

Voluntary agreements are rare as employer organisations have been reluctant to commit their members in this way, although a voluntary agreement on teleworking has been produced as a result of a Europe wide decision to proceed on a voluntary basis. While the TUC is always prepared to explore new forms of social partnership, the big problem with voluntary agreements is that they are hard to enforce.

*4. How do we encourage partnership between different stakeholders within businesses that lead to more productive and profitable companies?*

The TUC strongly backs partnership at work not just in theory, but through the practice of the TUC Partnership Institute – our consultancy and training arm.

We believe that the best way to proceed at present is to use the introduction of the Information and Consultation Directive into UK law from 2005 as the spur for culture change within organisations.

*5. How do we avoid over burdening businesses whilst ensuring the rights of workers are protected and enhanced?*

Almost no significant advances in employee rights have occurred without employer opposition, even when the advances have swiftly become widely accepted and part of the social fabric such as the minimum wage. Employer organisations predicted big job losses and great difficulties for companies, yet employment has risen in these sectors since its introduction.

There is therefore no easy or glib answer to this question. While it is the job of politicians to build support and try to secure consensus, there are issues where they simply have to choose whose side they are on.

However there are ways of making implementation easier. As we argue above, the best way to proceed is for government to have a clearly defined desired outcome but ask the social partners to plan detailed implementation.

Rules should be kept simple and easy to understand – another merit of the minimum wage. While there will always be lobbies for opt-outs and special treatment of particular circumstances – some of which may well be justified – the more of these that are conceded the more complex the resulting rules.

6. *What rights should exist for individuals in the workplace, especially in terms of rights to conditions that recognise needs based on family commitments or age? What responsibilities, if any, should also be placed on individuals?*

The TUC's objectives for rights at work are set out in. Although this was produced in response to a government consultation it remains our most comprehensive account. It can be found at <http://www.tuc.org.uk/law/tuc-5677-f0.cfm>.

Employees already have a range of common law duties that can be legally enforced, and the responsibilities of any particular job will be set out in the contract of employment and associated disciplinary codes etc. We are not aware of proposals to change this, and therefore cannot comment.

7. *What collective rights should exist in the workplace and what rights should individual employees or employers have to opt out of them?*

See *Modern Rights for Modern Workplaces* for a statement of TUC policy on enhancing collective rights. We are not sure we understand the point about collective rights. There can be no compulsion on people to join a union, and anyone can opt out of collective rights to be consulted or participate or be informed simply by not joining in the process. People can of course in theory give up *individual* rights such as the minimum wage. We oppose this as individual employers will always try to pressurise individual staff to sign away rights. This can be resisted in union organised workplaces, but will be effective in non-union workplaces employing vulnerable staff.

### **Consultation in the workplace**

8. *What should be the aim of workplace consultation in the UK?*
9. *How should the European Directive on Consultation and Information in the Workplace be implemented in the UK?*

10. *Should the scope of workplace consultation requirements go further than is stipulated in the directive, and if so, what should they be?*
11. *Is there a role for permanently established workplace councils in UK companies?*
12. *Should the establishment of workplace councils become a legal requirement on businesses and if so why?*
13. *If workplace councils become compulsory, should there be opt outs for some businesses, for example those employing a small number of staff?*

The practical politics of this is that the European Directive on Information and Consultation is now law, despite long opposition from the UK government. Rightly, the government asked the CBI and TUC to work together on its implementation. While both sides made compromises in those discussions, we accept that they now form the basis on which information and consultation arrangements will be built in the UK.

Of course we would have liked the EU Directive to be stronger in some places, and are still lobbying the government on the details of implementation. We do not see any point however in a new fundamental discussion about introducing information and consultation in UK companies. We recognise the strong historic Liberal Democrat support for information and consultation, and thank you for your consistent support for the European Directive. You will no doubt have your own criticisms of what eventually emerges as UK law. However we would argue that it will still represent a significant advance on what we had before and the dual challenge to both of us is to make it a success and defend it from inevitable employer attack. It would therefore be more appropriate to revisit this section of your work in a few years when the early years of implementation could be scrutinised.

We attach a copy of our submission to the DTI on implementation in the UK. This does answer your questions in detail.



## **Employment in a global economy**

*14. What changes, if any, are required to employment legislation and practices in the UK to improve productivity within the global economy?*

Improving productivity has long been the holy grail of UK economic policy. There is no single measure, and various quack remedies such as reducing rights at work are not supported by serious economic analysis. Solutions involve a mixture of better skills, better work organisation, better management (a particular UK problem), better infrastructure, more investment and better harnessing of innovation, research and development.

We attach various TUC publications that deal with these, some building on the work we did with the TUC when the Chancellor challenged us to work together.

*15. What policies with regard to employment are needed to encourage further foreign investment in the UK?*

The one employment policy that will boost investment is increasing the skills of the workforce.

*16. Do we need to establish a more humane but hard headed policy of managed migration to meet our future manpower needs?*

The TUC has long recognised the importance of migrant workers to our economy and has been one of the few organisations in the UK to support the free movement of labour within the EU for the new accession countries. We have also participated in government consultations over other work-permit issues.

We believe there needs to be much more focus on ensuring that migrant workers are treated fairly and humanely in the UK. When they are simply being used as a source of cheap unskilled labour that are unaware of their rights or unable to enforce them because of their undocumented status, exploitation is inevitable. There needs to be more regulation and enforcement of existing regulations of agency work including gangmasters.

*17. How do we manage migration without depriving third world countries of their skilled workers?*

This is not an easy issue. At the very least the public sector needs to exercise self-restraint in its recruitment policies, but also insist that the agencies who increasingly supply public sector staff also adopt ethical practices.

### **Diversity in the workforce**

*18. What are the barriers to diversity in the workforce and how can we remove them?*

*19. What measures are needed to end discrimination in the workplace?*

Most women, particularly those in low paid manual jobs, continue to lack access to adequate maternity leave. Very few can find acceptable levels of child care provision compared with their counterparts in Western Europe. Career breaks, sabbaticals and other forms of reconciling leisure and work are still very much a rarity. Millions of women, especially the 43 per cent who work part-time, consider that the quality of their working life is falling rather than rising, with part-time work too often resulting in low and unequal pay.

A similar pattern of growing dissatisfaction can be found amongst workers aged 50 and over. The more fortunate have taken early retirement on a generous pension and are able to fund leisure or voluntary activities, yet their good fortune only contrasts all the more with the position of those who missed the 'lifeboat' and now face increasing hours; the prospects of a longer working life in order to fund an adequate pension; and growing concern about whether their company scheme will survive until they reach retirement age. The 2000 survey found that the largest drop in job satisfaction took place amongst the over-fifties.

Unemployment among black and ethnic minority is higher than among the community as a whole, and government programmes such as New Deal have not helped black and ethnic minority workers as much as the rest of the community.

A generation after the introduction of equal pay legislation, the figures show that women still earn on average only 80p for every pound that their male counterpart receives. Similarly, in Britain today you are more likely to be low paid if you are black. Discrimination on the basis of gender, race, sexual orientation, age, disability or religion needs to be driven out in fact as well as in theory. **There is a need for equal pay audits to be made obligatory for all employers.**

Failure to treat workers equally is often coupled with depressing the aspirations and self esteem of workers from particular backgrounds. Such an approach is not only wrong on factual and moral grounds but it also ignores the talents and potential of significant numbers of workers. It builds on and often derives from remaining social prejudices and shortcomings in the education and welfare system in the UK.

Employers who treat all employees fairly and flexibly will be better placed to recruit and retain staff in an increasingly diverse and competitive labour market. Employers should use the new obligations to inform and consult to encourage workers to identify areas where they feel that they are discriminated against, whether it be on the basis of pay, promotion, or less tangible issues such as feeling valued by the employer.

The current discrimination and equal pay laws are highly complex. There is an overwhelming case for consolidating all the existing legislation into a single equality statute, with clear Codes of Practice and guidance to supplement where necessary. The logic for this is made all the more compelling now that there is to be a single Equality and Human Rights Commission.

**The new public sector duty to promote race and disability equality should be extended to cover gender and the requirement should be applied to the private sector too.** This would shift the emphasis on redress and litigation to achieving good practice, which would be much more effective.

Other issues of great concern to the TUC in the area of discrimination at work include job segregation, whereby women tend to work in low paid jobs. This in turn perpetuates the low pay in those sectors. We welcome the EOC's current investigation into job segregation and also their investigation into pregnancy discrimination at work. The Government must act on the conclusions of these investigations if they are serious about tackling low pay and sex discrimination.

Flexible working, though not a new concept, has become one of the biggest challenges to employers and one of the biggest concerns of employees. A range of social, economic, business and legal factors mean that flexible working is now an increasingly important issue in social and political terms. There are both social and business reasons for introducing flexible working.

The business case arises from the demands of technological advances, globalisation, increasing workloads and a need to develop new skills. The social case arises from the growth of the 'sandwich generation' (those with both childcare and eldercare responsibilities) and major changes in the way in which families organise their work - the strong trend towards dual earner families, the rapid expansion in the number of workingwomen, the increase in male caring and the continuing growth in lone parent employment.

**Childcare is now a key issue**, both in terms of under 5s and in terms of out of school hours. In January 2003 the Daycare Trust reported that Britain's childcare costs were still among the highest in Europe. A MORI survey carried out for the TUC's 1999 conference on 'A Childcare Guarantee' found that 32 per cent of parents face difficulties obtaining childcare, and that lone parents were particularly likely to find the availability of childcare an obstacle to employment. We would like to see significant steps towards addressing the childcare needs of more working families.

The conclusion must be that public policy should aim at helping lower income parents combine work with family life. Employment support for parents must also help those who are disabled and those who have low levels of qualifications. The TUC welcomes the recent package of extra childcare for lone parents; this will have to continue for the foreseeable future. The welfare and education of all our children is crucial to society and to the economy. The active involvement of parents is an essential part of this provision.

## **Training and Skills**

*20. How do we increase the overall skills levels of the workforce?*

The current Government's approach via the Skills Strategy is basically right, although we would have wanted to see action on these lines much earlier. We especially welcome:

- the new emphasis on developing some form of "social partnership" via the Skills Alliance and other new partnership arrangements;
- prioritising the needs of low skilled employees;
- addressing intermediate skills via expansion of Apprenticeships.

It would be a serious mistake to consider dismantling this approach in any way. Our approach is to build on this foundation, reinforce it with some statutory changes, and increase the union learning contribution

*21. What legal entitlement should employees have to training in the workplace?*

The TUC policy is to campaign for paid time off to train with the first priority being to achieve the right to paid time off for those employees who do not currently have a level 2 qualification.

*22. Should employers be required to invest in training their employees?*

We are addressing this mainly by pushing for increased collective rights on training in the workplace via Information & Consultation implementation, changes to the statutory union recognition process, and via the new Sector Skills Agreements that Sector Skills Councils are establishing. This means

- trying to influence the forthcoming Information and Consultation Regulations so that compulsory consultation on training is required of all workplaces affected by these regulations in the future. This would greatly extend the coverage of compulsory consultation on training which is currently limited to workplaces where unions have been awarded recognition through the statutory process.
- as the TUC anticipated the Employment Relations Bill did not include a requirement to include training and development on the list of items on which collective bargaining must take place when there is an award of statutory

recognition. The TUC had made a strong case to the Government for adding training and development to the requirements in the recognition legislation and this was part of the TUC's submission to the Government on the review of the Employment Relations Act 1999.

It is also our policy that the Government should honour its commitment to introduce statutory underpinning for levies in sectors where social partners agree, or, where a sector has failed to meet targets or training obligations, as the new Sector Skills Agreements determine.

*23. What role should the state play in training employees during their working lives?*

We largely support the approach in the Skills Strategy, in particular:

- prioritising public funding for employees without level 2 qualifications and with basic skills needs
- public subsidies for Apprenticeships and other means of achieving intermediate qualifications

*24. What should be done to prevent employers who do little training of their employees from poaching better trained employees from other companies?*

Sector levies and Sector Skills Agreements have a role to play here but we have not really got a position on how individual employers should be treated outside the parameters of the collective approach that would act as a disincentive to this kind of employer behaviour.

*25. What should be done to improve basic skills such as reading, writing and arithmetic of the workforce?*

Again, we support much of the approach in the Skills Strategy. In particular we draw to your attention the important work done by trade unions and Union Learning Reps. Many people lacking in basic skills are nervous about revealing this to employers or colleges. Union learning reps, often people who themselves have benefited from adult learning, are one of the most effective ways of giving people the confidence to come forward. The growth of union learning initiatives is the

great untold story of modern trade unionism, and we would be happy to supply further details to the working group or arrange visits to see it in action.

*26. Should employers be responsible for increasing the basic skills levels of employees?*

Employers should bear some responsibility and this could be done in a number of ways as a result of the regulatory changes we are pushing for, and the role of Sector Skills Agreements. We are also keen on the current regulatory requirements in some sectors (e.g. care sector, construction) for a certain proportion of employees to be trained up to a minimum level and this approach could be extended to other sectors where there are particular skills shortages.

*27. What responsibilities, if any, should individual employees have in furthering their own skills levels? Can we develop a more successful form of individual learning accounts?*

This is an area where there great scope for innovative policy development. It was originally thought that ILAs would be relaunched via the Skills Strategy White Paper, but the government decided instead against this in favour of new entitlements (e.g. a new Level 2 entitlement) .

However, ILAs have been relaunched in Wales and Scotland. Other countries are also experimenting to see how individual learning accounts can be used to promote learning.

As for imposing responsibilities on individual employees to take up workplace training, we would be very much against this (other than for obvious basic issues such as health and safety where compulsion already exists). Compulsory training reluctantly attended is unlikely to be successful, and could poison many successful voluntary initiatives.

We would prefer to develop employee development schemes, on the following lines

The TUC also believes there may be a case for further consideration to be given to providing financial incentives to employers who are willing to establish workplace arrangements (e.g. employee development schemes) to deliver learning and skills

that supplement learning covered by “priority group” status arrangements or industry specific training. This could take the form of an employer tax credit and could be linked to the presence of Union Learning Reps in the organisation and a clear joint commitment by the employer and union(s) to work together on any qualifying workplace skills initiative of this kind and so incentivise voluntary collective action.

### **Public Sector Employment**

28. *How should pay be determined in the public sector?*

29. *How can we encourage a widening of pay bargaining to other benefits?*

30. *What priority should we give to the encouragement of profit sharing and share ownership schemes?*

The public sector is large and complex. Different forms of pay determination are appropriate in different sectors. If the working group wishes for a union input in more detail across the public sector, we suggest that you contact the relevant individual unions direct.

While pay determination by outside arbitration is used in some parts of the public sector, and can look attractive in other areas, public sector employers have normally been reluctant to lose control over what is usually the largest part of their expenditure.

We welcome the working group’s recognition of the growing problems of two-tier pay caused by PFI and contracting out. We believe the model negotiated in local government provides a fair and workable model that can be extended easily to the rest of the public sector.

Unions are keen to extend the bargaining agenda and are already doing so on issues such as pensions, work-life balance and training and development.

We do not see any scope for profit sharing or share ownership in the public sector as it does not make profits or issue shares.

### **Labour Market Reform**



31. *Should the state play the leading role in the development of an active labour market strategy or do we need to encourage a new public/private relationship in this area?*
32. *Do we need to establish a coherent approach to the supply of people in search of a job change?*
33. *In what ways if any can we help in making our labour market more efficient and successful in matching supply with demand in the new worlds of work?*

The consultation document notes that the Government's active labour market programmes have played a part in the reduction of unemployment, and seeks views on possible reforms. This section of the TUC submission addresses the issues of relations between Jobcentre Plus and partner organisations, the coherence of the approach to people looking for a new job and the efficiency of the labour market.

The TUC believes that welfare reform policy should embody three themes - *work*, *inclusiveness* and *equality*. The work ethic is important, but so too are inclusiveness and equality.

We support an emphasis on helping people to get jobs because this orientation has the capacity to focus benefit spending where it is needed most. We would encourage the Government, of whatever party, to adopt a strategy of helping people move into paid work and come off benefits, and then use the money saved to provide more generous help for those who still need it.

Just under 75% of working age people are now in employment. There are pockets of continuing high unemployment, but the country as a whole is approaching full employment.

Attention has therefore switched to the employment rates of the groups with the lowest levels of. Most disadvantaged groups have seen larger increases in employment than the working age population as a whole, though employment rates for the lowest qualified have actually fallen:

### **Employment rates of disadvantaged groups<sup>1</sup>**

	<b>1997</b>	<b>2003</b>
<b>All</b>	72.7	74.9
<b>Over 50s</b>	64.7	70.1
<b>Ethnic minority</b>	55.1	58.3
<b>Lone parents</b>	45.6	53.4
<b>Disabled people</b>	43.5 <sup>2</sup>	49.1
<b>Lowest qualified</b>	51.8	50.8

There is a large group of economically inactive people who say they want paid work, and the TUC and other commentators have also been turning their attention to this group. There are more than two million economically inactive people of working age who want jobs;<sup>2</sup> this is about twice as many people as there are unemployed.<sup>3</sup> If we look at the composition of this group we see that more than a third are long-term sick and disabled people, and nearly as many are people with family responsibilities, many of whom are lone parents:<sup>4</sup>

### **Composition of those who want work but have not been seeking it in the last 4 weeks**

<b>Discouraged workers</b>	<b>Long-term sick and disabled</b>	<b>Looking after family/home</b>	<b>Students</b>	<b>Other</b>
1.9%	35.1%	30.3%	13.0%	19.6%

The New Deals are the Government's most significant labour market programmes, and spending on them has been concentrated on helping young unemployed people:

### **Windfall tax money allocated to New Deal programmes 1997/8 – 2003/4<sup>5</sup>**

<b>Programme</b>	<b>Spending (£ million)</b>	<b>Spending (share)</b>
<b>New Deal for young people</b>	£1,570	54.1%
<b>New Deal for 25 plus</b>	£830	28.6%
<b>New Deal for lone parents</b>	£300	10.3%
<b>New Deal for disabled people</b>	£100	3.4%
<b>New Deal for over 50s</b>	£60	2.1%
<b>New Deal for partners</b>	£40	1.4%

When the windfall tax was introduced, more than six years ago, it was reasonable to accept that the Government had a manifesto commitment to help young

unemployed people and that this group therefore had first call on the proceeds of this tax. It is now time to spend more to support harder to help groups. Comparatively little is being spent on economically inactive people, even though these are groups the Government is particularly keen to help.

The poverty of disabled people is well known. Families with a disabled adult are more likely to be poor than families with no disabled adults. We also know that families with a disabled adult are more likely to have no one in employment than families with no disabled adults.<sup>6</sup> This is possibly the most important explanation of the poverty of disabled people, as we know that workless households are more than five times as likely to be poor as families with one or more workers.<sup>7</sup>

Of all the disadvantaged groups the Government wants to help, disabled people have the lowest employment rate. The Government's belief that no one is beyond the scope of this help very attractive – the TUC is reluctant to accept that *any* disabled person of working age who wants a job should be told that employment is out of the question for them. But it is also important to recognise that this equal rights approach to disability and employment does not justify punitive measures, forcing disabled people to be available for work like JSA claimants.

Many commentators note that 40% of claimants of incapacity benefits say they want jobs. But this means that 60% do not, and evidence points to the difficulties faced by those who do.<sup>8</sup>

Lone parent families are more likely to be poor than any other family type, and the risk of poverty has risen more since 1979 for lone parents than for any other family type. Like disabled people, lone parents face a high risk of exclusion from the labour market. A great deal has been achieved, but much remains to be done: the employment rate of lone parents has risen more than three times as quickly as the employment rate of all working age adults. Even so, if the current rate of improvement is maintained it will take more than 12 years to hit the 70% target.

Studies of the barriers to employment faced by lone parents repeatedly highlight childcare. One Parent Families has argued that “lack of access to affordable, high quality childcare is the greatest barrier lone parents face in participating in any activity outside the home.”<sup>9</sup> British childcare is amongst the most expensive in Europe and prices are rising quickly,<sup>10</sup> but Working Tax Credit only helps in

meeting 70% of the costs faced by low paid workers with children. One study of lone parents found that “childcare costs and the importance of looking after one’s children were cited as major barriers to getting a paid job by virtually every lone parent with children under 11.”<sup>11</sup>

Childcare is not the only problem stopping lone parents getting jobs. Indeed as a group, lone parents illustrate the problems caused by multiple disadvantage. Low levels of skills and qualifications are a major issue - 44% of workless lone parents have no qualifications.<sup>12</sup> More than a third of lone parents have a child with a long-term illness or disability, and one in ten has other caring responsibilities in addition to their children. On top of this, fewer than half of all lone parents describe their own health as ‘good’. A massive 1999 study of low-income families underlined the importance of disability as a predictor of employment - 21% of non-employed lone parents had poor health, compared with no more than 12% of employed people.<sup>13</sup>

The New Deal for 18 - 24 year olds is probably the most successful active labour market programme ever to be rolled out nationally in Britain. Evaluations of its impact on youth unemployment and employment<sup>14</sup> have been remarkable, showing that it has reduced long-term unemployment, increased the rate at which young people have returned to employment, increased youth employment, been popular with most participants and remarkably cheap. There are less impressive, but still positive, results for the other New Deal programmes.

Unfortunately, a consistent feature of all the New Deal programmes is that they are most successful at helping those already closest to the labour market. In 2002, research<sup>15</sup> based on a combination of official data and interviews with individuals, showed that:

- The programme has been most successful in rural areas, especially in the South, where over half the participants have typically entered jobs.
- In inner city areas job placements are more usually in the 30% – 40% range.
- Churning, with people going through the programme and back to benefit, is commonest in industrial cities in the North, such as Newcastle, Tayside, Sheffield and Barnsley.
- Furthermore, in areas with high levels of unemployment personal advisers have been over-worked, and lacked time to check the quality of the jobs they were

directing young people to apply for.

- In these poor quality jobs, retention rates have been very low.

A large scale study of the attitudes of young people<sup>16</sup> found that disadvantaged participants were less positive about the New Deal, less likely to say they had found it useful, less likely to praise their Personal Adviser. There have been similar findings for the other New Deal programmes.<sup>17, 18, 19, 20</sup>

Plainly, equipping labour market to deliver more help to the most disadvantaged is a priority. In an important report, published in February,<sup>21</sup> the National Employment Panel reported on ways of increasing job opportunities for disadvantaged long-term unemployed adults. They recommended that Jobcentre Plus should develop a ‘working definition’ based on the results of important research by Richard Berthoud.<sup>22</sup> Prof Berthoud found six disadvantages are linked to non-employment:

- **Family structure.** Single people face higher risks than couples. Families with children face higher risks than those without.
- **Skills.** People with low skills or qualifications face higher risks of non-employment.
- **Disability.** Disabled people face higher risks of non-employment.
- **Age.** Risk declines from 17 to 20, then stays much the same till the age of 49, after which it starts rising again.
- **Demand for labour.** Living in a region with high unemployment is a risk.
- **Ethnic group.** Black and minority ethnic groups have a higher risk of non-employment, with Pakistanis and Bangladeshis having particularly high risks.

The more of these risk factors apply to an individual the less likely s/he is to be in employment. People with none have a risk of about 4%, for those with all six (0.02% of the population) it rises to 91%. The NEP recommended that:

- People who are long-term unemployed and have three or more of these factors should be treated as disadvantaged.
- There should be a National Strategy for helping the most disadvantaged, with plans in every District and office.
- People identified as disadvantaged should be offered early entry to the New Deal, in-depth assessment and training, specialist personal advisers and services from specialist contractors.

The TUC has strongly supported these recommendations.

After a long debate the Government has accepted that Jobcentre Plus and the New Deal need to be more flexible if they are to be able to help the most disadvantaged clients. Rigid rules and programme design make it more difficult to meet individuals' needs and local circumstances, and freeing up local JCP managers and front line staff will make it possible for the agency to take advantage of their expertise. As the Treasury and the Department of Work and Pensions have admitted:

*“There is, for example, increasing evidence of the value of flexibility in enhancing the effectiveness of employment programmes. This underlines the need for further flexibility to respond to the needs of individual clients and local areas, subject of course to the maintenance of high national standards, and in the context of the overall framework of rights and responsibilities of the national benefit system. Simplification of what may currently be complicated processes for advisers, employers, clients, and programme providers, is another important factor.”<sup>23</sup>*

The Government's change of heart is welcome, as are the reforms introduced in April, which bring the options stage of New Deal for 18 - 24 year olds very much into line with the post-reform New Deal 25 plus. The same approach can be seen in the abolition of the upper age limit for eligibility for Modern Apprenticeships.

There is a strong argument for developing this convergence further, with an alignment of the rules and structure for the two compulsory New Deal programmes. In particular, both programmes should have the same eligibility criteria, with unemployed people entering the programme at the same point, whatever their age. The ideal would be to make the enhanced provision represented by the New Deal the norm for all unemployed people, but bringing the starting point for adult claimants down to 6 months would be a substantial improvement. As an interim stage the entry point for people over 25 could be brought down from 18 months to 12. This would bring the UK up to the standard set by the EU employment plan, and would be a significant step forward.

Hard-to-help unemployed people and economically inactive people are characterised by having multiple, changing and severe problems. Unfortunately, despite a number of valuable reforms, it is still not possible for Jobcentre Plus PAs to address the range of local and individual problems which may be stopping clients getting jobs: poor housing or homelessness, substance abuse, health problems and/or disability, childcare and eldercare responsibilities, poor local transport, lack of qualifications, and under-performing local labour markets can all contribute – in fact, everything that goes under the rubric of ‘social exclusion.’

This is difficult to address. An impressive ethnographic study of the New Deal for 18 - 24 year olds voluntary sector option in London<sup>24</sup> found that what is currently available doesn't quite fit the bill:

*“When asked what they are doing to improve their clients’ employability; contractors talk of compiling CVs and helping with interview techniques. However, when asked why they think these clients are unemployed, they point to a range of personal problems – which may fall both under individual and structural causation, such as negative influences from family and friends and precarious housing. They are also explicit about their inability and/or lack of remit to address these problems.”<sup>25</sup>*

Achieving the flexibility to be able to address these problems must be a priority, and it is clear the rigid rules about local contracts with partner organisations form a major barrier to achieving this flexibility.

There is, of course, a tension between flexibility and the need for reliable national standards. Without such standards inter-agency work will become more difficult - and “joined-up” delivery is essential if we are to deal with the various problems that stop socially excluded people from getting jobs. To resolve this tension the answer is not to re-assert Departmental control, but to give greater weight to the Local Strategic Partnerships, which are intended to bring together local agencies dealing with exclusion, regeneration and poverty.

A second tension is that between getting a client into a job and dealing with the other social problems s/he may face. These problems are almost certainly linked – it will not be practicable to deal with one set first and then move on to another,

and interlinked problems can only be solved if they are dealt with at the same time. The Government is right to focus on getting everyone into a job right as quickly as possible, but it has not adequately recognised that quick progress will be rare for people with multiple or extreme problems.

A re-examination of various qualitative surveys of the New Deal for young people<sup>26</sup> highlighted two vital issues. One was the importance of quickly assessing the help clients need – and this is especially true for vulnerable people, such as those with long-term health problems, learning disabilities, drug or alcohol dependency, or who are homeless or ex offenders. Specialist provision must then be available when the assessment identifies this as a key need.

Secondly, the studies reveal that the question of whether a participant completes their option is a good predictor of how likely they are to get a job out of the New Deal. Five factors are closely linked to the likelihood of a participant's completing her/his option:

- The match between her/his aspirations and what is offered by the option;
- Intervention by personal advisers when things go wrong;
- The availability of help with personal issues or problems;
- Awareness of sanctions;
- Monitoring and scrutiny of providers, especially those who have been reported as having difficulties with placements.

Employment programmes need to become light on their feet: taking small steps very quickly. Quick assessment of the problems faced by individuals should be followed by quick reference to expert providers. Employment help should match clients' aspirations: JCP will find its task much easier if the people it aims to help regard their involvement with the agency as part of how they get where they want to be, not as a distraction from it. And, where clients break the rules, this should not mark an automatic bureaucratic process ending with sanctions, but should be a prompt to investigate what is going wrong.

This is an important point. There *are* people who avoid work or are defrauding the system, but they are only a minority of those who are sanctioned. Most claimants



would prefer a good steady job to the poverty and stress of a life on benefits, and will work with JCP towards that objective. This means when someone who doesn't attend a course or turns down a job (common reasons for sanctions) we have a valuable warning sign, and should make the most of it, *quickly* investigating what the problem is. Common reasons for these problems are new family responsibilities, previously unnoticed obstacles (like poor public transport, for instance) or low quality programmes. One approach to these problems would be to make payments to providers depend upon results for all those referred to them, not just those who start or complete; there would then be a strong incentive to investigate 'no shows' and take action.

### **The role of trade unions**

34. *How do we encourage the evolution of trade unions into important stakeholders and partners in the creation of high performance workplaces and the development of a more successful competitive economy?*

Trade unions naturally and by instinct seek to become partners in the creation of high performance workplaces. All unions and their members understand very well that jobs will be more secure as well as pay and conditions better where the employing organisation is a high -performance, well organised entity.

So it is not that unions need to be “encouraged” to go down this road. It is more that obstacles on the road should be removed and employers encouraged to treat unions as natural partners. For example, if the Information and Consultation Regulations were extended to require employers to consult on training issues that would send a clear message that unions and their members have a lot to say and a right to be heard on investment in their own skills and development. Another example might be reviewing the criteria for achieving IIP status to include how well employers work in partnership with their employee representatives on training and related issues.

Fundamentally, Government’s role should be to encourage employers to work with unions by an appropriate mix of financial support for union training and internal organisation so as to become effective and efficient organisations themselves; (i.e. continuation of the U.M.F.) as well as the creation of a legislative framework which gives unions the right to be heard on matters affecting their members’ future. Good employers have nothing to fear from this as they will be working in partnership already. It is no accident that the majority of the UK’s most successful and largest companies recognise and work well with their unions.

35. *What further collective legal rights if any should trade unions have?*

Further collective legal rights should include:

- Removal of the minimum threshold of 20 employees for statutory recognition, all employees, including those in small workplaces should have the same right to recognition
- Removal of the 40% recognition threshold, a simple majority of those voting

- should be adequate, as for parliament and almost any other elections
- Trade unions are over regulated, as noted by the Better Regulation Taskforce. For example, contrary to the right of freedom of association in Article 11 of the ECHR, unions cannot expel racist (e.g. BNP) members. That should change.
  - Industrial action ballots are very complex and over-regulated actually reducing the flexibility available to negotiators and often making it harder to achieve a negotiated settlement .
  - Similarly, elections to union's executive or GS positions are over-regulated and complex. More flexibility would reduce needless expense and increase turnout.
  - Unions currently have the right to accompany members but this should be strengthened to extend to representing members e.g. at disciplinary hearings.
- The thrust of TUC policy in this area is to remove over-complex restrictions which only succeed in making partnership working more difficult. They are also not matched by any similar requirements (e.g. in elections) on employers.

36. *What restrictions, if any, should be put on trade unions and their activities in the future?*

Trade unions in the UK are already highly restricted. There is certainly no need for any further restriction. In general, unions should be treated in a similar way to other membership bodies. That is, they should be required to observe principles of national justice, fairness and equality in the treatment of their members; and they should of course be required to observe the same high standards of financial and other management as apply to e.g. employing organisations.

37. *Should trade unions be involved in a wider bargaining agenda in the workplace that covers such important issues as the provision of pensions and the development of skills and learning?*

Trade unions should certainly be involved in a wide bargaining agenda, including pensions, skills and learning. Most unions are already heavily engaged in these issues, assisted for example by the new statutory rights for union learning representatives.

38. *What other organisations should be encouraged to represent workers collectively, such as staff associations, and what should their role be?*

There is no need for any encouragement for bodies such as staff associations. Working people should be free to decide for themselves on the appropriate form of representation. Where they are free to do so experience shows they tend to choose to join or form unions. Staff associations have been viewed with suspicion because they are often promoted by employers as a less independent alternative to a trade union. Experience also shows that where staff associations are able to fully represent members and are genuinely independent (and certificated by the Certification Officer as such) they behave, in practice, as trade unions. Indeed many formally became so, e.g. in the finance sector.

39. *Should unions be encouraged with support from government to modernise their structures, develop more services to help their individual members and act as recruitment agencies?*

Government assistance is certainly welcome. The Union Learning Fund and now the Union Modernisation Fund are helping unions to improve their structures, effectiveness and internal management. Such government assistance is, of course, only a fraction of the assistance available to employers. Acting as recruitment agencies is a rather different matter and poses some complex questions. While some unions did carry out this role, to some extent, in the past (e.g. in the Print industry) very few do so now and there seems little appetite among unions, though some are involved in informing members of job vacancies.

40. *Should government encourage unions to form local networks and clusters with companies, educational establishments, job placement firms and local authorities?*

Unions are heavily involved in local and regional networks. This takes a variety of forms. TU reps sit on local and regional bodies such as Regional Development Agencies or local learning and skills councils. Many are also reps on school, college or university governing bodies – sometimes as representatives of their employees but more often representing the wider union movement. Job placement firms have less union involvement and it is not clear what form this would take

though unions are of course interested in helping ex members back into work. The local authority trades unions are of course active in their local authorities and network effectively with other unions in their area and the regional TUC which plays a growing role in regional union coordination and fostering local networks.

41. *Should government promote partnerships at work and in the wider political economy between unions and companies?*

Government should actively promote partnerships between unions to all employing organisations, not joint companies. Partnership has proven economic benefits so should be promoted as part of government's responsibility for promoting national prosperity. It also promotes social inclusiveness and active citizenship, both of wider national value. Finally, partnership embodies principles of national justice and fairness as between employers and employees. Liberal Democrats in particular should feel at home with the concept of promoting fair play and democracy at work. For very similar reasons partnership should be actively promoted in the wider economy. Trade union representatives have a legitimate voice and a lot to say on regional and national bodies such as RDA's, LSC's the Skills Alliance and so forth. Very many more national and regional institutions could benefit from active trade union involvement. Finally, government could support this TU involvement by helping unions train members involved in this work, or who might wish to be.

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- 1 Opportunity for All 2003,DWP, <http://www.dwp.gov.uk/ofa/indicators/indicator-17.asp>  
Figures are for GB, those for disabled people are for 1998 and 2003.
  - 2 Labour Market Trends, October 2003, table D.2.
  - 3 Ibid, table C.1.
  - 4 Labour Market Trends, October 2003, table D.2, figures for Spring 2003.
  - 5 Budget Report, HMT, 2003, table 4.3. Cash figures are rounded to the nearest £10 million, percentages are proportions of money allocated to New Deal.
  - 6 Data in “Labour market experiences of people with disabilities”, Allan Smith and Breda Twomey, Labour Market Trends, August 2002, table 8 shows that 31% of working age households that include a disabled person are ‘workless (that is, none of the adults are employed) compared with under 10% of that do not include a disabled person. (Figures are for Autumn 2001 not seasonally adjusted, unemployment is ILO unemployment. Workless households = households where all adults are unemployed + households where all adults are unemployed or economically inactive + households where all adults are economically inactive.)
  - 7 Households Below Average Income, 1994/5 – 2001/02, DWP, table 5.7.
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  - 9 Making Work Pay for Lone Parents, NCOPF, 2001, pp. 15 – 16.
  - 10 Childcare Bills Rocket As Demand Outstrips Supply And Parents Are Left To Pick Up The Tab, Daycare Trust Press Release of 6-2-02, based on a telephone survey of 140 of the 150 Children’s Information Services in England.
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