



Heriot-Watt University  
Research Gateway

## Scottish Government Consultation on Fair Work

### Citation for published version:

Zapata Rodriguez, MDLA, Grajfoner, D, Maclaren, A, Myhill, K, Richards, J, Sang, K, Stewart, ME, Waite, K & Weir, KH 2021, *Scottish Government Consultation on Fair Work*.

### Link:

[Link to publication record in Heriot-Watt Research Portal](#)

### Document Version:

Publisher's PDF, also known as Version of record

### General rights

Copyright for the publications made accessible via Heriot-Watt Research Portal is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

### Take down policy

Heriot-Watt University has made every reasonable effort to ensure that the content in Heriot-Watt Research Portal complies with UK legislation. If you believe that the public display of this file breaches copyright please contact [open.access@hw.ac.uk](mailto:open.access@hw.ac.uk) providing details, and we will remove access to the work immediately and investigate your claim.



Heriot-Watt University  
Research Gateway

## Scottish Government Consultation on Fair Work

### Citation for published version:

Maclaren, A, Zapata Rodriguez, MDLA, Grajfoner, D, Myhill, K, Richards, J, Sang, K, Stewart, ME, Waite, K & Weir, KH 2021, *Scottish Government Consultation on Fair Work*.

### Link:

[Link to publication record in Heriot-Watt Research Portal](#)

### General rights

Copyright for the publications made accessible via Heriot-Watt Research Portal is retained by the author(s) and / or other copyright owners and it is a condition of accessing these publications that users recognise and abide by the legal requirements associated with these rights.

### Take down policy

Heriot-Watt University has made every reasonable effort to ensure that the content in Heriot-Watt Research Portal complies with UK legislation. If you believe that the public display of this file breaches copyright please contact [open.access@hw.ac.uk](mailto:open.access@hw.ac.uk) providing details, and we will remove access to the work immediately and investigate your claim.



UK | DUBAI | MALAYSIA



# Scottish Government Consultation on Fair Work

December 2021

<b>CENTRE FOR EMPLOYMENT, WORK AND THE PROFESSIONS (CREWS)</b>	<b>4</b>
<b>THE RESPONDENTS</b>	<b>4</b>
<b>THEMES IN THE CREWS RESPONSE</b>	<b>5</b>
<b>THE MATERIALS CONSIDERED</b>	<b>6</b>
<b>PART 1: INTRODUCTION TO FAIR WORK</b>	<b>7</b>
<b>EQUALITY AND FAIRNESS</b>	<b>7</b>
<b>THE THRESHOLD BETWEEN FAIR AND UNFAIR WORK</b>	<b>8</b>
<b>INTERSECTIONALITY</b>	<b>9</b>
<b>A FAIR AND JUST SOCIETY</b>	<b>9</b>
<b>EFFECTIVE VOICE</b>	<b>10</b>
<b>EFFECTIVE INDIVIDUAL AND COLLECTIVE VOICE IN THE GIG ECONOMY</b>	<b>11</b>
<b>LEGISLATION THAT DIMINISHES EFFECTIVE VOICE</b>	<b>11</b>
<b>THE NEURODIVERSE VOICE</b>	<b>12</b>
<b>VOICE CREDIBILITY IN RELATION TO HEALTH &amp; GENDER</b>	<b>12</b>
<b>OPPORTUNITY</b>	<b>13</b>
<b>GENDER PAY GAP</b>	<b>14</b>
<b>ENTERPRISE SHOULD BE AT THE FOREFRONT OF FAIR WORK</b>	<b>14</b>
<b>THE CARE BURDEN IN WORK</b>	<b>15</b>
<b>OPPORTUNITY REPORTED AS FEELING FAIRER IN THE GIG ECONOMY</b>	<b>16</b>
<b>CONFOUNDING INEQUITIES FOR MARGINALISED WORKERS</b>	<b>16</b>
<b>SECURITY</b>	<b>18</b>
<b>COMPASSIONATE HEALTH &amp; SAFETY</b>	<b>19</b>
<b>WORKER STATUS &amp; DEFENDING 'FAIR' FEATURES SUCH AS PENSIONS</b>	<b>19</b>
<b>FULFILMENT</b>	<b>21</b>
<b>FULFILMENT STARTS WITH FAIR PAY</b>	<b>22</b>
<b>DECOUPLING FULFILMENT FROM SKILLS</b>	<b>22</b>
<b>FLEXIBILITY CAN FOSTER FULFILMENT</b>	<b>22</b>

<b>RESPECT</b>	<b>24</b>
<b>RESPECT AT A COLLECTIVE LEVEL</b>	<b>25</b>
<b>STIGMA OF ILL-HEALTH</b>	<b>25</b>
<b>APPRENTICES &amp; BULLYING</b>	<b>26</b>
<b>RECOMMENDATIONS &amp; CONCLUSIONS</b>	<b>27</b>
<b>‘THE 6TH ELEMENT’: INTERSECTION</b>	<b>27</b>
<b>CONSIDER ‘HEALTH &amp; SAFETY’ UNDER THE SECURITY DIMENSION</b>	<b>28</b>
<b>PART 2: THE CONSULTATION QUESTIONS</b>	<b>30</b>
<b>FAIR WORK IN THE CURRENT ECONOMIC CONTEXT</b>	<b>30</b>
WHAT DO YOU BELIEVE ARE THE BARRIERS TO DELIVERING FAIR WORK GIVEN THE CURRENT ECONOMIC CHALLENGES IN SCOTLAND?	30
WHAT DO YOU BELIEVE ARE THE OPPORTUNITIES FOR DELIVERING FAIR WORK IN THE CURRENT ECONOMIC CLIMATE IN SCOTLAND?	31
<b>FURTHER ACTIONS TO DELIVER FAIR WORK</b>	<b>32</b>
PLEASE SET OUT ANY FURTHER ACTIONS YOU THINK THE SCOTTISH GOVERNMENT SHOULD TAKE TO DELIVER FAIR WORK FOR EVERYONE. THIS MAY INCLUDE FOR EXAMPLE ANY FURTHER SUPPORT YOU THINK IS NEEDED.	32
PLEASE SET OUT ANY OTHER ACTIONS YOU THINK ARE REQUIRED TO DELIVER FAIR WORK FOR EVERYONE, INCLUDING WHO SHOULD TAKE THIS ACTION.	33
<b>FAIR WORK AND EMPLOYMENT POWERS</b>	<b>35</b>
IF SCOTLAND HAD FULL CONTROL OVER EMPLOYMENT LAW, WHICH ISSUES WOULD YOU LIKE TO SEE ADDRESSED AS A PRIORITY IN ORDER TO DELIVER FAIRER WORK IN SCOTLAND?	35
<b>FURTHER IDEAS</b>	<b>36</b>
WHAT IS THE MOST IMPORTANT THING THAT YOU OR YOUR ORGANISATION CAN DO TO HELP SCOTLAND BECOME A FAIR WORK NATION?	36
ANYTHING ELSE RELEVANT TO SCOTLAND BECOMING A FAIR WORK NATION AND ANY FURTHER IDEAS YOU MIGHT HAVE ON THE ACTION THAT WILL BE NEEDED TO ACHIEVE THIS.	36
<b>REFERENCES</b>	<b>37</b>

# Centre for Employment, Work and the Professions (CREWs)

This response has been produced by the Centre for Employment, Work and the Professions (CREWs) at Heriot-Watt University (Edinburgh).

CREWs is a research centre in the Edinburgh Business School in the School of Social Sciences at Heriot-Watt University.

Our research aims to understand contemporary work and employment, working with employers, policy makers, trade unions and professional bodies to improve working lives globally.

Our work is supported by funders including the EPSRC, AHRC, Wellcome Trust, The British Academy and GCRF funding.

## *The Respondents*

Details of the colleagues who have contributed to this report.

<b>Name</b>	<b>Position</b>	<b>Contact</b>
Maria de los Angeles Zapata Rodriguez	Doctoral Researcher, HRM & Law	mz56@hw.ac.uk
Dr Dasha Grajfoner	Assistant Professor, Psychology	d.grajfoner@hw.ac.uk
Dr Andrew MacLaren	Assistant Professor, HRM & Law	a.maclaren@hw.ac.uk
Dr Katriona Myhill	Assistant Professor, Law and HRM	k.myhill@hw.ac.uk
Dr James Richards	Associate Professor, Human Resource Management	j.richards@hw.ac.uk
Professor Kate Sang	Professor of Gender and Employment Studies, Director of CREWs	k.sang@hw.ac.uk
Dr Mary E Stewart	Associate Professor, Psychology	m.e.stewart@hw.ac.uk
Dr Kathryn Waite	Associate Professor, Marketing	k.waite@hw.ac.uk
Dr Kenneth Weir	Assistant Professor, Accounting	k.weir@hw.ac.uk

## Themes in the CREWs response

This response covers an array of themes that are related to the research carried out by the respondents within the CREWs research centre. The themes are listed below and presented with a colour code. At the beginning of each section of *part 1* of this response the themes covered in the section are highlighted in a ‘heat-map’ style. The themes covered in each sub-section are also presented at the start of each.

**Part 1** of the response is structured around the Fair Work Convention’s Framework: Effective Voice, Opportunity, Security, Fulfilment and Respect. There is an introduction, followed by a section on each dimension of the Fair Work Framework. There is then a conclusion and recommendations section.

**Part 2** presents responses to the specific questions set out in the consultation.

Theme	Examples/Details
Work Types	Gig economy, Apprentices, Part-time/full-time, Unpaid work, enterprise
Health & Wellbeing	Age, Health/well-being
Disability	Disability in work, Ableism
Neurodiversity	Autism and ASD
Gender	Women’s experiences in work, Trans rights,
Collective Bargaining	Union organising, Gig workers’ rights
Pay & Finances	Pensions, Remuneration gaps, In-work Poverty

## *The Materials Considered*

In producing this paper, the respondents consulted a range of materials, these are listed below. These materials were used as a basis to inform discussion and direct this response in terms of the expertise and research activities of the respondents.

- [The Scottish Government's Briefing Paper on the Fair Work Consultation](#) ('Becoming a Fair Work Nation')
- [The Fair Work Convention Framework](#) (and supporting materials)
- The videorecorded work of the Committee of the Scottish Government with responsibility for discussing Fair Work (*The Economy and Fair Work Committee; The Economy, Energy and Fair Work Committee; The Economy, Jobs and Fair Work Committee*)
- The present and previous research activities of the respondents (both published and in-progress)



# Part 1: Introduction to Fair Work

## *Equality and fairness*

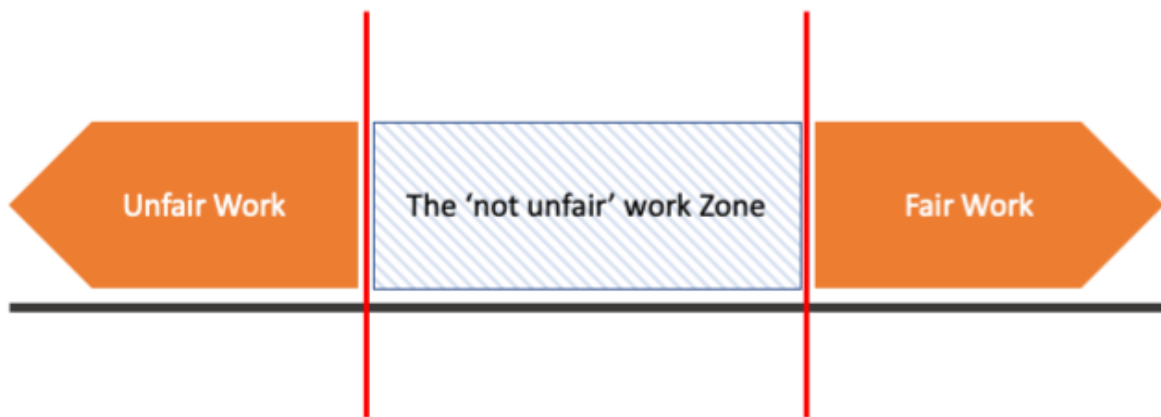
Something is fair (or equitable) when the variability in people's circumstances is factored-in to their treatment. Equality means the same treatment, regardless of circumstances. Equality and fairness are not one and the same thing, in fact, for the majority of scenarios, treatment of a population at large will either be equal or fair, rarely both. The Equality Act 2010 protects certain defined characteristics in law in relation to employment and access to services. The 'equality' in the Equality Act 2010 is fairness in action, in reality. The Equality Act 2010 is about equality of outcomes regardless of specific characteristics, but the achievement of those outcomes is the result of *equitable* treatment – for example reasonable adjustments for people with disabilities.

But equality and fairness can also seem in conflict with each other. A recent example of this tension in practice is the UK Government's Social Care Policy, where there is strong emphasis on the *equality* of treatment for people having to contribute towards their care costs in old age. No citizen would be required to pay more than £86,000 towards the cost of their care. This is an example of equality in action, it is inarguable that if everyone will have to pay the same then it is equal. However, this policy is materially *unfair*, it disproportionately impacts the people on the lowest end of the calculation spectrum and does the opposite to those at the top. Although one could argue for the democratic merits of equality, the lived experience of equality for many is that it means very little to you if you are on the wrong end of the distribution curve.

Any engagement with a discussion on Fair Work, must be clear on its treatment of the distinction between equality and fairness. The Scottish Government's consultation document talks about "tackling *inequalities*", this gets to the heart of where Fair Work stands to be an important feature of Scotland's broader social policy. For those who are marginalised, stigmatised or in more extreme cases instrumentally abused by society's structures, equality policies are only capable of stopping harm, in other words they may protect people from things being done wrong, but don't necessarily achieve 'things being done right'. Fairness has the capacity to administer justice with flexibility, sensitivity and a level of comprehension that leaves equality looking like a blunt and clumsy object. At a more critical level, one could level the charge at politicians of hiding behind the ostensible virtues of equality, knowing that it is a convenient conceit because the reality is that fairness is just too difficult. Fairness involves value judgements, nuance, accommodating diversity and proactively trying to understand others; equality tends to move in the opposite direction, ironing-out the variety and incongruity.

## The threshold between fair and unfair work

The absence of unfair work is not *fair* work. Fair Work is something that reaches much further. This is an important distinction for any Fair Work agenda to consider, since there is evidence of Fair Work being couched in terms that are tantamount to 'not unfair work' as opposed to materially *fair* work. To suggest that there were simple, unequivocal and non-paradoxical characteristics that can be used to construct a clear framework for Fair Work would be to diminish the complexity of the societal dynamics that constitute fairness. However, such a task is not impossible and acknowledging that there is a gap between *unfair* work and *fair* work is a constructive step in sincerely engaging with the question of what constitutes Fair Work. This response notes that the Scottish Government's consultation document presents measures of Fair Work that are better characterised as measures of 'not unfair work', rather than substantively *fair* work. For example, representing measures of 'respect', the consultation document presents avoidance of 'fatal injuries' as a feature. We cite this as an example of an assumption that the absence of unfair work (death in service being the most terminal example of an unfair work event) is tantamount to *fair* work. We propose that a liminal space exists between *unfair* work and Fair Work, called the 'not unfair work' zone.



This zone will display good practice insofar as not being injurious, harmful or discriminatory towards workers, but it may not manifest practices that can be truly transformative to them, to the economy and to society. Acknowledgement that aspirations for a Fair Work Society must be framed around manifestly *fair* constitutions of work, rather than *not unfair* constitutions will underpin any agenda that is serious about doing something significant.

## Intersectionality

Intersectionality is a substantive feature of all the discussions presented in this report. It was such a prominent theme that it became redundant to highlight it since it was evident in every section. Therefore, we draw the reader's attention to two key aspects of intersectionality (defined in its broadest sense). [1] The intersection of characteristics associated with marginalised groups, for example disability and gender or gender and part-time work, are often central to the barriers individuals face in accessing fair work. The manner in which such intersectionality 'conspires' against people in work is manifest beyond the work itself. An example in this report is of people in in-work poverty, which disproportionately affects immigrants, women and disabled people. The intersectionality of in-work poverty and the marginalisation of specific groups is deeply intermeshed, and the impacts can be the exacerbation of health conditions or disability, and the amplification of structural inequities that stigmatise groups such as immigrants, women and disabled people. The solution of this does not solely lie in the work itself, but in recognising that fair work intersects with other social systems. The complexities of intersectionality can only be attended to by fair work if fair work is handled in a way that allows it itself to intersect with other moving parts of the social fabric. [2] A core mission of a *Fair Work Society* should be using intersectionality as its guiding light. The threshold between 'not unfair work' and Fair Work could be characterised around sensitivity to intersectionality. What that really means is that a truly ambitious Fair Work agenda would see itself as not simply avoiding harm or entrenchment of inequities, but of being an instrument of improvement. An ambitious Fair Work agenda would see the workplace as an environment in which broader structural inequities could be addressed and improved upon.

## A fair and just society

Work, at a macro level, shapes and is shaped by broader society. The working environment is often responsible for structural unfairness in the first place. Therefore, any Fair Work agenda needs to be cognisant of the contact it will have with the other moving parts of society such as welfare, healthcare, housing, education, justice, the environment, infrastructure, international relations. Just as intersectionality is key to Fair Work in its discrete and contained definition, *integration* is key to Fair Work at a macro level; integration with the other tectonic plates of social policy that make it part of improving Scotland as a place to live. As the section on 'fulfilment' in this report shows, *work-life balance* is a fallacy, but harmony between one's life inside of work and outside of work is an ingredient in fulfilment. Fair Work is something that can facilitate this, something that actively contributes to making the contact points between work and health, education, housing *etc.* harmonious, mutually supportive and transformative in the sense that together they make life better than it would be without that relationship.

## Effective Voice

*“For individuals, the opportunity to have an effective voice is crucially important. Having a say at work is consistent with the broader suite of rights available to citizens in democratic societies.”*

[\[The Fair Work Convention\]](#)

Themes highlighted in this section

*Work  
Types*

*Collective Bargaining*

*Neuro-  
diversity*

*Disability*

*Gender*

***Voice is only effective when different voices are recognised and understood. Not all workers are the same and ‘voice’ may in itself be a challenge for them. Employers need to be careful not to characterise the idea of voice in a normative way. For example, the demonstrative use of voice may be the most inappropriate and challenging means of exercising ‘effective voice’ for neurodivergent workers.***

## Effective Individual and Collective Voice in the Gig Economy

### Work Types

### Collective Bargaining

Participants interviewed as part of Myhill, Sang and Richards' (2021) study exploring the quality of jobs in the gig economy reported limited opportunities for individual or collective voice. Attempts by delivery platform operators to gather 'feedback' from workers were generally perceived as being box-ticking exercises whilst opportunities for collective voice were limited by the absence of Union representation. This absence of opportunity to have a say at work was normalised by participants with a sense that people would be more likely to leave a job than challenge perceived poor decision making.

Organisations and workers would jointly benefit from more effective mechanisms for employee voice which can be aided through collective representation by Trade Unions. In addition, technology can serve to enhance effective voice by providing new ways for workers to discuss collective issues and to organise. This study found that gig workers use social media forums and Whatsapp groups online in order to discuss work-related issues in addition to accessing social support (ibid). For further context, this is a subject covered in the 'Fair Work Podcast' episode on Representation.

## Legislation that Diminishes Effective Voice

### Collective Bargaining

Research by Richards investigated the reality of collective bargaining under the Trade Union Act 2016. The recent legislation diminishes the collective voice of employees unless unions build capacity to beat the voting thresholds set out in this act. Richards demonstrated how that was possible with the proposal of an organising model to be used by local and full-time union activists. There has been substantial impact associated with such, not least in terms of several branches of the University and College Union successfully defending threats of compulsory redundancies in the wake of the Covid-19 pandemic.

## The Neurodiverse Voice

*Neuro-diversity*

*Collective Bargaining*

Research that involved Professor Sang, Dr Stewart and Dr Richards highlights that communication at work is a key issue for neurodiverse employees.

Richards and Sang have worked with the Transport Salaried Staffs' Association trade union for nearly a decade on their "neurodiversity project". The project involves training specialised lay union reps to represent, individually and collectively, the interests of some of the most historically disadvantaged employee groups. Such rep work involves individual neurodivergent employees having their voice heard through reps that challenge management decisions surrounding discipline, capability and performance. Such reps also give voice to neurodivergent employees through bargaining and negotiating policy and practice related to the interests of the neurodivergent workforce. Several UK unions (e.g. NASUWT) have replicated the work of the TSSA giving new voice to people working across the UK's teaching profession. However, more work is needed to understand what 'voice' means at work for neurodivergent people and other marginalised workers.

Organisations would benefit from having a range of ways their employees can be heard. Employees have diverse characteristics – it is important to ensure representation from everyone including those who may have barriers to communicating in traditional ways.

## Voice Credibility in Relation to Health & Gender

*Disability*

*Gender*

Research by Zapata, Sang and Richards on the experiences of people living with disabling pain shows that workers have concerns around the credibility of their narratives. This is impacted by their understanding of power dynamics within their workplaces, but also their leaders' openness or capacity to understand disabling conditions. Moreover, it has been found that women tend to face an additional layer of discomfort in workplaces when needing to disclose impairments. This shows that Equality Acts might legally protect people's rights in their workplaces, and avert some type of discrimination; however, it does not assure that people are freely encouraged reveal any chronic illnesses.

# Opportunity

*“It is a reasonable aspiration to want work that is fair – and for fair work to be available to everyone. Fair opportunity allows people to access work and employment and is a crucial dimension of fair work.”*

[\[The Fair Work Convention\]](#)

Themes highlighted in this section

*Work Types*

*Neuro-  
diversity*

*Disability*

*Pay &  
Finances*

*Gender*

**Fairness in opportunity should not see barriers to entry or progress simply as items to be removed, this is because the often gendered or biased way in which 'merit, performance or contribution' are constituted within an organisation's practices, policies and culture is what create barriers in the first place.**

**Accessing Fair Work** is contingent on circumstances. Multiple dimensions of health, socioeconomic status, education, gender, and other responsibilities intersect with how opportunities are accessed. Barriers are an implicit feature of discussions on access. Some barriers are disproportionately experienced, especially among marginalised groups in relation to the most aspirational jobs and professions. Equally, the removal of some barriers can disproportionately advantage groups who are otherwise not disadvantaged, for example in startup funding or due to systemic inequities in educational outcomes.

## Gender Pay Gap

*Gender*

*Pay & Finances*

Access to Fair Work is only possible if remuneration is fair across gender and other protected characteristics. There remains much debate over the definition and framing of gender-related issues of remuneration. As *The Economy, Jobs and Fair Work Committee* discussed on 7 March 2017 ([see video from 1m30s](#)), pay calculations often only consider full-time employees and therefore exclude around half of working women, thus misrepresenting the reality, especially since part-time positions are usually offered lower *pro rata* salaries than their full-time equivalents.

## Enterprise should be at the forefront of Fair Work

*Work Types*

It is tempting to focus predominantly on larger employers for the Fair Work agenda, however, most registered businesses are SMEs and the Scottish Government has a specific focus on driving the economy through enterprise (e.g. Scotland Can Do). Enterprise is often characterised as being an environment where poor work-life balance and less secure work are features, however these are not inherent characteristics to enterprise. Such features are cultivated in a culture that prioritises profit maximisation, optimised valuations, and growth at all costs. *Security* is difficult to reconcile with enterprise in theory, but only when defined through a more traditional, normative view of free-market enterprise. Conversely, enterprise could be argued to embody the value of Fair Work, particularly fulfilment, opportunity and voice.

Scotland's size, educational infrastructure, research/science base and sincere orientation towards green transition mean that it is in a position to make enterprise a catalyst for Fair Work,



rather than an impediment to it and there are already outstanding pockets of best practice. The Scottish EDGE awards offer generously termed grant/loan awards to startup businesses within which the 'EDGE Pledge' incorporates a pledge to donate 1% of any proceeds of a trade sale or IPO to the EDGE fund to support future Scottish startups. Scottish EDGE awards funding in a mix of grant/loan funding. They are seen as a fair and flexible lender, offering a wide range of terms to businesses who are awarded funding, designed to work with the nature, size and rate of development of the business. The result is that the loan repayments perform significantly better than industry averages for conventional lenders and entrepreneurs know that by repaying their loans they are feeding back into a fund that will support future Scottish entrepreneurship. The organisation also offers support and training to its entrepreneurs as they develop their businesses, which installs some of the broader Fair Work apparatus around people in the enterprise space, not least it creates some of the safety and security that is implicitly absent in traditional venturing environments. [Ekos, who conducted an independent economic review of Scottish EDGE published in 2020,](#) included the fair work agenda among three key recommendations from their research that Scottish EDGE should engage with further, demonstrating that enterprise is an important part of the fair work landscape in Scotland. The *Economy, Jobs and Fair Work Committee* discussed enterprise and regional economic development on [22 May 2018](#) and the reconciling of enterprise and Fair Work should be a central feature of any plan to stimulate a Fair Work economy. Some of the thinking here is informed by MacLaren's (2010, 2014, 2015) research on economic development through enterprise.

## *The Care Burden in Work*

<i>Work Types</i>	<i>Gender</i>
-------------------	---------------

There are 1.25 million sandwich carers in the UK. These are people caring for an older relative as well as bringing up a family. 68% (850,743) are women.

Age UK (2019) reports that there are 1.25 million sandwich carers in the UK. A sandwich carer is one who is caring for an older relative as well as bringing up a family, of these 68% (850, 743) are women. State support is over-stretched and inadequately funded meaning that the burden of eldercare is increasing and continues to fall disproportionately on female workers. Current research funded by The British Academy/Leverhulme and undertaken by Waite and Harrison (2020) examines the caregiver burden for those looking after individuals living with dementia. Findings to date indicate that more could be done to provide workplace support for employees as they transition into becoming carers. Interview evidence shows that female participants have retired early or left employment to assume caring responsibility. For some, being in work and having access to office technology helped in managing financial matters for those living with dementia. However, for others workplace hours coincided with the office-hours for banks,

council offices and other institutions resulting in additional pressure and ultimately to them leaving full-time employment. There is an opportunity for guidance to employers on how to develop a workplace policy to support those undertaking eldercare.

### *Opportunity Reported as Feeling Fairer in the Gig Economy*

#### *Work Types*

When exploring aspects of opportunity in relation to gig work, Myhill, Sang and Richards (2021) found that the lower barriers to entry within the gig economy were generally perceived positively by participants, particularly for those who had little prior work experience or who were returning to work after an extended absence. In addition, despite an absence of opportunity for more traditional, linear career progression, reference was made to opportunities for personal and skill development. For example, one participant talked about the ability to diversify his skills by picking up ad-hoc ‘gigs’ through a hospitality platform, which he perceived as being beneficial to his longer-term career development within the hospitality industry. Indeed, progression was commonly perceived by participants as something which extended beyond formal promotion/progression procedures within their current workplace and several participants referred to their work within the gig economy as providing a steppingstone to longer term career opportunities.

### *Confounding Inequities for Marginalised Workers*

#### *Work Types      Neuro-diversity      Disability      Gender*

When discussing opportunity, it is important to recognise existing barriers to entry embedded within traditional work processes including in recruitment and promotion practices. An inflexible application of selection may discriminate against individuals who have had to take a career break in order to manage, for example, caring responsibilities or as a result of ill health. In addition, lengthy application and assessment processes which are unrelated to someone's ability to do a certain task may serve to indirectly discriminate against groups of individuals including those with disabilities or for whom English is not a first language.

A prevailing trend within the economy has led many organisations to dismiss their responsibility to create value for society. The focus has been put into creating value for themselves (productivity and efficiency) instead of creating it for their people. This issue has brought an array

of discourses around ableism which questions who adds more value to the workplace. In this sense, research by Zapata, Sang and Richards has confirmed that people living with disabling conditions tend to have more precarious work conditions, particularly, part-timing. Moreover, disabled people tend to judge their work as less valuable than their abled-bodied peers, promoting them to leaveism (working during rest time, to compensate 'lost' hours due to illnesses). Hence, there are not equal opportunities nor a fair field for workers under these conditions. Barriers to entry to work may be due to a demand for full-time employees when people with chronic health conditions or those with caring responsibilities may wish or only be able to work part-time.

There is a similar story for neurodiverse workers, opportunities in the job market are not equitable. Autistic people are much more likely to be unemployed, and when they do have work they fear losing it or they may stay accept underemployment (work below their level of qualifications and experience) due to the barriers of gaining a job in the first place. Autistic people report facing a lack of understanding and knowledge about autism and associated spectrum disorders that leads to the working environment being less accessible and limiting. They regularly experience being engaged with in an unsupportive way in every sector of social participation, work, healthcare, social care, and social activities (Stewart et al., 2021 Autistica Social Care Grant Development Award).

# Security

*“Security of income can contribute to greater individual and family stability and promote more effective financial planning, including investment in pensions.”*

[\[The Fair Work Convention\]](#)

Themes highlighted in this section

*Work Types*

*Health & Wellbeing*

*Pay & Finances*

*Collective Bargaining*

**More than many other features of Fair Work, security intersects with the broader social fabric: unemployment rates, education, the social safety net, housing, and health. Work can only provide security if it sits against a robust backdrop of these other elements. Of course, Fair Work is part of a robust social fabric, but a stable family and sustainable financial health cannot be cultivated through Fair Work alone**

# Compassionate Health & Safety

## Health & Wellbeing

Beyond the basic hygiene factors of legal standards of health and safety in the workplace, safety should be about a compassionate and caring approach to the environment work creates. Therefore, safety from a Fair Work perspective should be about more than mitigating risk, but instead recognise that safety extends to psychological safety and wellbeing. Efforts to see safety through a compassionate lens will have direct impacts on employee wellbeing but equally reduce substantive risks from a legal 'health and safety' perspective too, it is likely also to increase productivity.

Such an approach folds into security since a compassionate view on safety will support people to practice their work in a sustainable manner, allowing more effective planning for the future which will achieve aspects of the 'security' agenda, such as financial security.

# Worker Status & Defending 'Fair' Features Such as Pensions

## Work Types      Collective Bargaining      Pay & Finances

Employment status has a significant impact on security with those employed as 'workers' or 'independent contractors' having limited access to key social and employment benefits including sick pay. In addition, such workers are denied formal job security with a lack of protection from unfair dismissal or any guarantee in regard to the ongoing provision of work, contributing to high levels of financial insecurity.

One of the most effective means of securing Fair Work for all is by empowering individuals to say no to work which is *not fair* or 'decent'. However, this is undermined by the absence of an effective social safety net.

Dr Richards' work has principally been of most use/value in defending jobs, especially well-paid, open-ended and high-skilled jobs. The organising work is also currently important because of the impending attempts to defend pensions in the Higher Education sector.

It is important that employees understand the benefits of a work pension and other benefits. Employees should be able to understand these benefits fully so that they are empowered to make decisions about their future. If it is differentially more difficult for some to become employed then they are less likely to say no to work that is not fair or decent - perhaps someone who wishes to work part-time, have flexible working conditions, or, as noted above, autistic people. When a job is created, it is important to recognise its value to society at a broader level.

The jobs that are prioritised, privileged and disproportionately rewarded at present are those that leverage the most value for organisations that are manifestly acting with myopic self-interest. The ideal of *enlightened self-interest* has arguably drifted so far from the original readings of Adam Smith and Alexis de Tocqueville that many organisations (across public, private and thirds sector) have ceased to do much *good* through their practices at all. A measure of this is how disabled and caregiving workers experience disproportionately poor security, because the value of their work is calculated entirely in terms of what it does (or does not do) to the bottom line.

# Fulfilment

*“Fulfilment can also arise from positive and supportive workplace relationships that promote a sense of belonging and this overlaps strongly with respect as a dimension of fair work.”*

[\[The Fair Work Convention\]](#)

Themes highlighted in this section

*Work Types*

*Disability*

*Pay & Finances*

*Gender*

***There are many structural, intersecting obstacles with fulfilment. Some of these obstacles are as basic as fair pay, others are around the cultural stereotypes associated with work types, such as gig workers. The pandemic has also shown us that fulfilment is being achieved by truly flexible working arrangements.***

## Fulfilment Starts with Fair Pay

### Work Types

### Pay & Finances

Fulfilment is umbilically linked to fair pay. Evidence from careworkers gathered in Dr Stewart's research shows that they report fulfilment in the work they do, but they would just like it to be paid better, that there be more resource for training within the job, and that there be improved routes for professional development. Research carried out elsewhere in the UK by the Bureau of Investigative Journalism found that over 40% of gig economy workers in their sample of Deliveroo drivers were working for below the minimum wage. Once essential maintenance costs and 'fallow time' were factored in, the majority of such workers are estimated to work below minimum wage.

## Decoupling Fulfilment from Skills

### Work Types

Whilst 'low skilled' work such as food delivery is often depicted as unfulfilling, interviews with individuals working in the gig economy provided positive accounts of fulfilment. For example, individuals undertaking courier work referred to the health benefits of keeping fit at work whilst those providing taxi services valued the opportunities for social interaction.

It is important to ensure that messages about what fulfilment means at work encapsulates a diverse range of activities and skills sets. Previously undervalued work, such as delivery and courier services, can also be fulfilling and assumptions that such work is not fulfilling because it is not highly skilled may contribute to labour shortages currently seen in sectors such as the care sector. Further research is needed in order to understand what people working in different occupations find fulfilling about their jobs in order to improve communications about job benefits/opportunities which may help to more effectively aid job-worker fit.

## Flexibility Can Foster Fulfilment

### Work Types

### Pay & Finances

### Disability

### Gender

Working from home has helped several people to manage their health conditions better. Research by Zapata, Sang and Richards has confirmed that people living with long-term conditions have been able to feel more comfortable in an online work environment, improving



their self-regulation in terms of medications, breaks, sleep, among others. However, they are still struggling on motivation and attachments. Although remote working has improved conditions for those who can do so, there is still a gap on their capacity to progress in the workplace. This is explained by the question on their productivity (as discussed in the Opportunity section). Moreover, the practice of homosociality (associating solely with people similar to the self) is more subtle and cannot be identified. Hence, disabled people could be segregated in workplaces.

Something that is evidenced by the experiences of many 'gig' platform workers, particularly food delivery services, is that flexibility is something many platforms promote as being a benefit of the work they offer. However, the reality is that such platforms match their 'piece rate' pay to demand and therefore peak times become the only times when comparatively fair pay can be earned. This results in such work being inflexible and coercive, the incongruence between the publicised benefits and the lived reality erodes fulfilment.

# Respect

*“Respect at work enhances individual health, safety and wellbeing. Dignified treatment can protect workers from workplace-related illness and injury and create an environment free from bullying and harassment.”*

[\[The Fair Work Convention\]](#)

Themes highlighted in this section

*Work Types*

*Collective Bargaining*

*Neuro-diversity*

*Health & Wellbeing*

*Pay & Finances*

**We see that people’s experiences of respect cut across industry level collective bargaining contexts and micro interaction contexts at work. All of which are moderated by work types and personal circumstances that alter how respect is constituted and engaged with.**

**Respect is a human thing.** Research revealed that the use of algorithmic and digital management techniques had a negative impact on levels of job satisfaction and commitment. Participants reported feeling like they were ‘just a number’ and the absence of human interaction served as a stimulus for worker misbehaviour. The automation of the management process may have a negative impact on respect at work.

## *Respect at a Collective Level*

### *Collective Bargaining*

### *Pay & Finances*

Dr Richards’ work on trade union organising shows that access to collective bargaining is a key feature of *Respect*. Ensuring that respect is seen through the prism of acknowledging and engaging with collective bargaining will enhance Fair Work.

Working against IWP is part of the road to well-being and dignity at work for many hundreds of thousands of people and their families in Scotland. Dignity and respect at work is therefore an intersectional function of welfare and social support.

## *Stigma of Ill-Health*

### *Health & Wellbeing*

The current global interest in wellbeing at work has codified wellbeing as a UN Sustainable Development Goal, at the national level. UN reports, to date, highlight that longer working hours in OECD countries pose a significant threat to the advancement of national wellbeing. In much professional services work, however, over-work seems to be not only an accepted norm, but one actively celebrated by senior managers as a key vehicle for career advancement (CABA report 2019). In such cases workplace illness increases as employees are placed in competition against each other, and those who self-report ill-health and workplace stress are seen as acting against the commercial goals of the firm, and become repositioned as ‘weak’ or ‘unproductive’ (Weir et al., in review). The celebration of over-work and subsequent stigma of ill-health can create hostile working environments where respect is ‘earned’ according to the level of individual productivity and fee generation for the employer. Getting away from this mindset is crucial.

## Apprentices & Bullying

### Work Types

### Neurodiversity

Respect is also reflected in how specific job types are treated. The *Economy, Energy and Fair Work Committee* discussed apprenticeships and graduate apprenticeships on [5 March 2019](#), a meeting that featured students from Heriot-Watt University. Some of this discussion highlighted how apprentices can be treated as second class workers and be subjected to bullying without obvious recourse or support channels. With unemployment and skills gaps an ever-present pressure, the work associated with training and skills development, such as apprenticeships, needs to be resourced so that respect and dignity are protected. Further, the intersection of work and education is a vital function of developing the economy and the work aspect of this must embody respect and nurturing.

This is also an important issue for autistic people - that they are respected and their needs are met. Neurodiverse people can be more at risk of bullying and harassment and may find communication difficult.

# Recommendations & Conclusions

## *'The 6th Element': Intersection*

Although we recognise that Fair Work as a policy needs to have boundaries, in a consultation such as this it is important to stress the manner in which any future policy agendas that concern work will be required to integrate with other policy areas (as mentioned at the beginning of this report and highlighted at points within). Another element we highlighted at the beginning of this response was intersectionality. The relationship between intersectionality in the lived experience of workers and the interconnectedness of work policy to wider society is so profound that we recommend an extension of the dimensions of the Fair Work Convention framework to include a 6<sup>th</sup> element. This 6<sup>th</sup> element could be thought of as acknowledging the *systems thinking* part of the puzzle, we are calling it *intersection* to represent the importance of intersection at a micro level for individual workers and at a macro level between social systems, but it could also simply be referred to as 'a fair and just society'.

Part of the importance of incorporating a dimension that purposefully looks to establish the contact zones between other elements of the social system is in relation to sustainability and a *just transition*. An engineering colleague at Heriot-Watt University, Professor Susan Krumdieck is a world leader in transition engineering and her work is informed by a systems engineering paradigm. The single largest threat to the economy and, by extension, work is climate change. Beyond the other salient intersectionalities presented in this response, the overwhelming need to prioritise a sustainable and just transition within our economy is alone a reason for the Fair Work agenda to tackle the way in which it will and must intersect productively and cooperatively with its policy neighbours. Attention towards sustainability (and social responsibility) would not only allow Fair Work to fit more tightly with climate change actions, but it would also head off needless damaging impacts on employees, their families, as well as public funds and the health service caused by poor and unsustainable forms of work, or irresponsible ways of managing people. Richards and Sang's (2021) work evidences this need by showing that much of the conventional thinking and practice related to Human Resources management and policy is responsible for the existence and perpetuation of in-work poverty. They demonstrated this using large sample for work of this nature, given the challenges of identifying participants and securing participation, thus the need to be bold, ambitious and transformative in our thinking is called for empirically, not just theoretically.

Research by CREWs members (Sang et al., 2021) has shown the impact that gynaecological health conditions can have on women and trans and non-binary people's ability to access and stay in good work. Work which is inflexible, male dominated and with high demands is located in a wider societal context of the marginalisation of women's voices. As such we see women concealing menstruation, pain and other aspects of menstrual disorders and menopause at work. However, the current framework of Fair Work makes it difficult to accommodate the intersection of

employment with wider societal institutions of healthcare and embedded gendered inequalities. We would argue that revision of the Fair Work Framework should work in collaboration with the Women's Health Plan, National Disability Strategy, and the Covid Economic Recovery (including the desire for a well-being economy).

This response has also mentioned apprenticeships and skills. Scotland is known to have a wider 'access gap' than the rest of the UK, despite students not paying tuition fees. This is a feature of Scotland's educational landscape that informed the David Hulme Institute's 2015 report on social mobility in the UK, in which it called Scotland 'Elitist'. There are multifaceted reasons for this, which include the distribution of wealth and school catchment arrangements, as well as the ways in which access to Further and Higher Education is capped due to tuition fees. Notwithstanding the forces at play, the access gap is umbilically linked to Fair Work, since an inequitable Primary and Secondary education system will be reproduced in labour market outcomes. This is another example of the need for sincere engagement with other policy fields when designing a Fair Work agenda.

### *Consider 'Health & Safety' under the Security Dimension*

There is a question over the positioning of 'health' in the Fair Work Framework. The consultation document (p.15) lists several health-related measurements under the 'Respect' category. Although we recognise the logic to this grouping, we offer an alternative logic. All the sentiments on security also apply to health and safety. Analogous to '*privacy & security*' in online settings – we suggest that there is a benefit in considering them together. Under the Scottish Government's briefing document for this consultation, an example is given of reducing fatal injuries under the 'respect' dimension. As noted in our introduction, we would expect a Fair Work agenda to be operating at a part of the spectrum where the notion of dying at work was a problem being confronted by a different agenda. Therefore, our suggestion of moving considerations of health and safety into security has both a 'push' and a 'pull' factor to it. The 'push' is that respect and dignity at work represents such a dynamic and far-reaching feature of Fair Work that to address it in amongst concern for health and safety rather diminishes its importance. The 'pull' is that security, which is couched principally in financial terms by the Fair Work Convention, has close interdependence with health and safety. A word we have used in this response in relation to health and safety is *compassion*. We see compassion being *the* operative differentiator between 'not unfair' health and safety and *fair health and safety*. Thus, we propose that for Scotland's Fair Work agenda, this dimension be called *Compassionate Health, Safety & Security*. This would allow more meaningful, comprehensive and 'fair' measures to populate the 'security' dimension and accommodate more direct focus on important areas, such as disability, age, menopause and menstrual health, chronic conditions, as well as ideas related to psychological safety and wellbeing.

Some recent research points to drug and alcohol use as necessary for identity formation in workplaces (specifically Todd Bridgman's work) and we've seen an increase of workers in professional services firms turning towards medication to deal with workplace stress. Recent research by Howard et al. (2021) suggests increased drug use as a maladaptive strategy to the pandemic. Given Scotland's longstanding social trends in relation to substance abuse, a recognition of the intersection between health, safety and security may be useful.

Everyone should be able to work without it damaging health, but also those with health conditions should have an equitable workplace, which does not damage their health and therefore threaten their safety and security. Despite all of this, rather than thinking of which aspects of work are damaging, we should try to enhance the aspects of work which are beneficial to health. As we said in our opening remarks, there is a gap between 'not unfair work' and Fair Work. This means that a Fair Work agenda for Scotland as it transitions has the opportunity to focus on the positives and the aspirational characteristics of Fair Work. We can acknowledge that the punitive, malevolent or unsavoury characteristics of unfair work are things we are trying to avoid, but also maintain a focus on the characteristics of work that sit beyond the gap and beyond the threshold of truly Fair Work, work that is transformative for society as a whole across its complex and interconnected systems. Perhaps the most ambitious and bold point we raise is the suggestion that a Fair Work agenda is an opportunity for candour about improving some aspects of broader society and the experiences of many marginalised groups; work is the engine room of the economy and it can be the engine room for a transition that transcends economic improvement, but makes Scotland an attractive place where people want to work, live and thrive.

## Part 2: The Consultation Questions

### *Fair Work in The Current Economic Context*

*What do you believe are the barriers to delivering Fair Work given the current economic challenges in Scotland?*

Pay and Distribution of Wealth  
Decline of Collective Bargaining  
Socially Irresponsible HRM  
Disintegrated Policy  
Confounding Social/Economic Conditions

Shareholder primacy – businesses run to please shareholders and provide dividends often at the expense of long-term viability of the business and/or good employment conditions. Average age of business has dropped from 55 years in 1950s to only 15 years in 2017/18.

Pay levels of CEOs disproportionate to lowest paid employees. Does not reflect the added value in an organisation and results in high concentrations of wealth that are not redistributed fairly.

There is little sense of social responsibility from organisations as employers and drivers of economy. Little value given to the place of the workforce in creating not only (productive/efficient) outcomes but also meaningful work experiences. The worker being seen as an economic asset decreases their value.

Poor quality of management/HR management – far too many manage as they see fit, not in-line with codes of conduct, FW, professional ethics, and sometimes barely in line with the law.

The decline of collective bargaining – sectoral bargaining at the very least is required to alleviate many of the problems related to in-work poverty.

Lack of integration of ongoing initiatives and strategies, for example, why is there little engagement with Fair Work in the Women's Health Plan?



Insecure housing/lack of proper social security – people pushed into jobs which are ‘bad’ because of poverty

Uncertain economic climate – businesses often seek to keep costs low/are discouraged from investing in growth. Labour is often the first thing to be cut or hollowed-out through diluted or insecure contracts.

The move to a work-from-home model for most sectors during the pandemic has seen digital access reproduce embedded structural inequalities. It is estimated that over 800,000 people face digital inequality (<https://committees.parliament.uk/writtenevidence/22159/html/>). Can we achieve the ideals of Fair Work when such digital barriers remain in place? (See: Richards & Sang, 2021)

*What do you believe are the opportunities for delivering Fair Work in the current economic climate in Scotland?*

Attracting Talent  
Coordinating with Sustainability & Transition Economy

Opportunities to encourage voluntary approach with a focus on sustainability (promoting benefits of investment in human labour and costs of failing to do so).

Given the voluntary nature of FW I would expect it, in its current form, to be made increasingly irrelevant. Employers are allowed to take low road approaches when facing problems, which has a habit of reinforcing and in some cases making key problems worse. FW could be used to “brand” Scotland as a good place to work and do business.

There is a fertile field here considering the shortage of specialised workers in Scotland (as in the entire UK), there is an opportunity to encourage organisations to deliver Fair Work as a tool to attract talent. This experience can be measured and demonstrated as positive.

## Further Actions to Deliver Fair Work

*Please set out any further actions you think the Scottish Government should take to deliver Fair Work for everyone. This may include for example any further support you think is needed.*

Grass roots empowerment & education

Policy Integration

Non-government branded parallel agency

Employer Accreditation

Streamlined recruitment practices (workers having to spend hours filling out repetitive applications and undertake personality assessments prior to even getting an interview is demoralising and does little to demonstrate someone's suitability or commitment to a job).

Changes to housing system with caps on private rentals and costs associated with owning second homes.

People should be empowered with knowledge of their legal rights. Basic legal skills and knowledge of employment law should be taught in schools. Fair Work should be taught at all schools, colleges and universities – an accreditation system to demonstrate commitment and competency would help a lot in such a situation.

Integrate national (devolved and reserved) strategies e.g. the National Disability Strategy, Women's Health Plan as well as working with leading NGOs e.g. Autistica who have prioritised employment for autistic people as a goal.

The introduction of a parallel agency to run the Fair Work agenda would make it visible and palatable to the business world. Fair work has to be tailored for each organisation, considering their strengths and challenges. Hence, the general policy designed by the Scottish Government can also be successful if the policymakers are trained on how to do so. Considering the extent and scope of the policy, perhaps considering a 'non-government branded' soft apparatus of roll-out would be beneficial. The Scottish Government could look to the success of 'Scotland Can Do' as a non-branded lever of Government in fostering and stimulating enterprise as an example of how a Fair Work Society may be fostered. This would accompany the process and support organisations in a satisfactory articulation of the Fair Work framework and also its application.

There should be an employer accreditation scheme too. Non-FW employers should not be allowed to tender for publicly funded contracts. There is precedent for this in sustainability where many elements of voluntary carbon disclosure eventually became mandated requirements for all companies in 2006.

*Please set out any other actions you think are required to deliver Fair Work for everyone, including who should take this action.*

Cultural shift in who we celebrate  
Corporate Governance & Recruitment

Who is celebrated/promoted in society and how does that happen? The media has the capacity to shape cultural norms and there is a myopic focus on individual wealth. In the 1970s, the founder of the Swedish clothing retailer H&M, Erling Persson, proudly presented his tax cheque to the Swedish State in a press call when it became clear it was the largest single tax bill ever paid by an individual. Although this example is adjacent to fair work, our society lauds publicity and celebrity on individuals who erode the rights and conditions of workers in the pursuit of their own personal wealth, which they then find mechanisms to avoid paying tax on. The system of structural advantage that is concentrated among a small group of people who are then widely identified and celebrated as role models is deleterious to an agenda of instituting Fair Work. In the same way that wellbeing and happiness have established themselves as metrics for individuals to adopt in contrast to wealth or earnings, organisations should be celebrated/promoted/singled-out as role models for Fair Work when they cultivate and embody it in contrast to focusing on 'billionaire founder xyz' and their net worth.

Changes to system of corporate governance to discourage wealth maximisation of shareholders at the expense of long-term viability of businesses or societal contributions in terms of paying tax. For example, changes should be made to the enforcement mechanisms and reporting requirements under s.172 of the Companies Act 2006 to enhance the effectiveness of this provision in encouraging a long-term business culture. Improving levels of co-determination through the mandated requirement for workers to be represented at board level could also help to ensure that corporate growth and profit did not come at the expense of fair working conditions.

Changes to recruitment practices (organisations) would allow more inclusive, equitable and accessible means of gaining employment. For example, the technology utilised by some platform companies allowed workers to develop a digital CV and profile which was submitted to the client/employer when the worker chose to apply for a listed job through the click of a button. In addition to minimising the time spent on the application process, the live document also allowed workers to easily track prior work experience and include recommendations from past clients/employers within their career profile. There is also growing evidence that artificial intelligence technology used to evaluate behaviour is trained on predominantly white male subjects, which means people of colour and women (and particularly women of colour) are punitively evaluated. Many largescale recruitment devices now employ technology that 'sifts' applicants before they encounter a human assessor at a later stage, which means that recruitment technology runs the risk of entrenching systemic inequities by training itself in a manner that does not question or seek to confront these inequities. This training is biased in two ways, one because the technology itself is developed by being tested on a non-representative sample of society, and two because the evaluation criteria that their algorithms are built upon are informed by the values defined by an industry that is already non-representative. This means that in functionality terms minority groups are not seen, and in value terms the practices and behaviours that may be specific to some groups are not understood or valued by the assessment process. There is a call in AI for 'supervised autonomy' whereby artificial intelligence is able to deliver the efficiencies it offers to things such as recruitment processes, but human supervision will allow for this autonomy to be moderated and adjusted for fairness.

## Fair Work and Employment Powers

*If Scotland had full control over employment law, which issues would you like to see addressed as a priority in order to deliver fairer work in Scotland?*

Worker Status  
Trade Union Law  
Flexible Working  
Intersectionality

Changes to employment status removing category of worker (e.g. removing third employment status) to end trade-off between security and flexibility, particularly when the reality is that gig work is often inflexible due to peak demands and unfair pay.

Move to a 4 day working week to improve work life balance and help address productivity crisis

Right to increase hours (35 hour/week contracts as default)

Right to demand flexible working, rather than request it

Employment and trade union law isn't a devolved issue – some key changes to the law will have to come from Westminster, e.g. the Equality Act needs to be strengthened in work situations, employees need rights to demand more hours and flexibility, the TU Act 2016 needs to be repealed or ways to allow members to vote in the workplace or electronically.

Right to repeal TU Act 2016, and bring in new industrial relations legislation surrounding TU recognition and collective bargaining which embeds women's health, socially responsible human resource management, eliminating misogyny, racism and ableism at work

Improved enforcement system – end reliance upon individuals challenging unfair or exploitative employment practices

Right to disconnect – the digital burden and encroachment of work in non-working periods and environments requires some legal engagement to help define safe and healthy boundaries.

Meaningful robust Equality Legislation which embeds intersectionality

FW should have a basis in law, i.e. breaches would have a basis of challenge in an employment tribunal

Changes to social security system are essential. For example addressing the Universal Credit system, which discourages people/removes ability for people to save as anyone who has £6,000 in the bank has their benefits reduced with a cap of £16,000. This was not the case previously with tax credits. Housing is important too - unaffordable costs of living push people into bad jobs.

## *Further Ideas*

*What is the most important thing that you or your organisation can do to help Scotland become a Fair Work Nation?*

Fund research into Fair Work  
Coordinate training based on current expertise and research

It is essential that the Fair Work agenda brings workers and organisations along with it. That has two sides, one is to accurately gather an understanding of what the current constitution is of Fair Work in Scotland, the other side is to account for the barriers, tensions and conflicts in designing and implementing a Fair Work agenda. CREWs could provide understanding of what 'fair' work means to different people by conducting research amongst different sectors/occupations.

We have expertise in providing effective disability training, training that is in the spirit of the Equality Act 2010

*Anything else relevant to Scotland becoming a Fair Work Nation and any further ideas you might have on the action that will be needed to achieve this.*

Scotland is famous for its writers and storytellers (for example, Booker Prize-winning Heriot-Watt graduate Douglas Stuart, who wrote *Shuggie Bain*). Involving the creative arts in imagining a Fair Work Society may help shape the agenda in a way that complements the harder, data-driven side of formulating plans

# References

- Age UK, (2019), *Breaking Point, The Social Care Burden on Women*, March 2019, Available online at <https://www.ageuk.org.uk/contentassets/c3dac0771e614672b363c5fe7e6f826e/breaking-point-age-uk.pdf>
- Howard, K., Grigsby, T. J., Haskard-Zolnieriek, K. B., Deason, R. G., & Howard, J. T. (2021). Pandemic-related work status is associated with self-reported increases in substance use. *Journal of Workplace Behavioral Health*, 1-8.
- Myhill, K., Richards, J. and Sang, K. (2021) 'Job quality, fair work and gig work: the lived experience of gig workers', *International Journal of Human Resource Management*, 32(19), pp. 4110–4135. doi:10.1080/09585192.2020.1867612.
- Richards, J. and Ellis, V. (2021/Online Early), "Organising to beat the Trade Union Act 2016's voting thresholds: A case study from the University and College Union", *Personnel Review*.
- Richards, J. and Sang, K., (2021), "Socially irresponsible human resource management? Conceptualising HRM practice and philosophy in relation to in-work poverty in the UK", *The International Journal of Human Resource Management*, 32(10), pp. 2185–2212.
- Richards, J. (2020/Online Early), "Putting employees at the centre of sustainable HRM: A review, map and research agenda", *Employee Relations*.
- Richards, J. and Sang, K. (2019). The intersection of disability and in-work poverty in an advanced industrial nation: The lived experience of multiple disadvantage in a post-financial crisis UK. *Economic and Industrial Democracy*, 40(3), pp. 636-659.
- Richards, J. and Sang, K. (2016), "Trade unions as employment facilitators for disabled employees", *The International Journal of Human Resource Management*, 27(14) pp. 1642-1661.
- Richards, J., & Sang, K. (2015). In work poverty: lessons for employers and HR practitioners. Paper presented at CIPD conference for applied research, 2015, London, United Kingdom.
- Waite, K. and Harrison, T. (2020), *Dementia-friendly Financial Services: Lasting Power of Attorney and the Caregiver Burden*, British Academy/ Leverhulme Small Grant SRG1920/101289 Online at <https://www.thebritishacademy.ac.uk/funding/ba-leverhulme-small-research-grants/past-awards/2019-20/>
- Weir, K., Kokkinidis, G., Marx, U., Stoborod, K and Tsaousi, C. (2021/in review). Accounting for wellbeing and workplace health in the accounting profession. Submitted to *Accounting, Auditing & Accountability Journal*.
- Krumdieck, S. (2019). *Transition engineering: Building a sustainable future*. London: CRC Press.