Bevan Foundation Written Evidence to the Fair Work Commission

**Introduction**

The Bevan Foundation is an independent, charitable think-tank that develops solutions to Wales’ most challenging problems. We are grateful for the opportunity to respond to the Fair Work Commission’s call for evidence. Our response is based on our extensive work on poverty and inequality.

The bulk of this response focuses on raising standards at work above the statutory minimum. In our view work that is unlawful should never be tolerated and much more rigorous enforcement action should be taken than at present to eradicate breaches of employment, health and safety and equality legislation.

**Indicators, Measures and Data Sources**

**1.What do you regard as the key indicators of fair work and the characteristics of a fair work employer?**

Fair work, or decent or good work, has attracted a great deal of attention recently and the Bevan Foundation does not wish to repeat what has been done elsewhere.[[1]](#footnote-1) We would, however, add to this literature our view that fair work, by definition, should enable workers to avoid relative income poverty.

Poverty has a major and devastating impact on the lives of people who experience it, affecting everything from a baby’s birthweight to an adult’s risk of ill-health and likelihood of premature death. The latest statistics suggest that around 720,000 people in Wales live in relative income poverty.

The relationship between work and poverty is complex and we are currently investigating it further. However it is clear that work is increasingly not a guarantee of avoiding poverty: in 2014/15 to 2016/17, 360,000 children and working age adults in Wales lived in poverty despite having at least one adult in work, some 60,000 more people in in-work poverty than in 2007/08 to 2009/10. In addition, loss of paid work is a key factor in people falling into relative low income – more than one in five people who experienced a decrease in earned income move into poverty, and a fall in earnings accounted for 63% of all moves into poverty.[[2]](#footnote-2) Moreover, low income during working life is a key predictor of living in poverty in retirement.[[3]](#footnote-3)

While other indicators are important, we would therefore argue that fair work must always:

* Have a rate of pay that is high enough to avoid poverty
* Offer a guaranteed minimum number of hours of work to provide income security to workers
* Include payment of sick pay and maternity pay above the statutory minimum.

The rate of pay that comes closest to enabling workers to avoid poverty is the voluntary Living Wage. Although it is not calculated as the rate needed to avoid relative income poverty, it is the best available measure in being based on a minimum acceptable standard of living as assessed by the general public. Measurement of pay should be accompanied by measurement of job security and terms and conditions.

There are many other aspects of fair or decent work, such as opportunities for progression, health and wellbeing and workers’ voice, but in our view pay and pay-related conditions should be a pre-requisite for any work to be deemed ‘fair’.

Important though fair work is, we urge the Fair Work Commission to see it in the wider context of an inclusive labour market. To us, an inclusive labour market not only includes employment with fair work practices, but it also enables people with diverse characteristics (such as disabled people, black and minority ethnic groups and women) to enter and progress in the labour market, and ensures that there is a range of work opportunities across Wales, not just in its cities.

**3. What unfair work practices are currently experienced in Wales? In what ways is work unfair?**

Wales experiences all the unfair practices reported elsewhere in the UK.[[4]](#footnote-4) Some of those practices, often unlawful, affect a very small number of workers but are extremely harmful, such as modern slavery, extreme exploitation or severe injury at work. However the unfair practices experienced by the largest number of people are:

* Low pay – see annex
* Insecurity – see annex
* Poor terms and conditions
* Lack of training and progression

**4 and 5.**

**What data do you consider necessary or desirable for assessing and monitoring fair work at enterprise, local and national level?**

**What data and data sources are already available and how adequate are they?**

There is a striking paucity of data available for all Wales and virtually no data at local or enterprise level. Data on earnings, temporary and no guaranteed hours working have high margins of error, with analysis below all-Wales level or for particular groups in the population being almost impossible. Data on enterprises is rarely available, and if a company has multiple sites across the UK then Wales data is aggregated into UK or GB reports.

**Promoting Fair work**

**6. The Welsh Government currently seeks to promote fair work through public sector procurement and its economic contract with those receiving government funding; how might these levers be strengthened and given wider effect?**

We welcome more effective use of public procurement and the economic contract to promote fair work. It is entirely reasonable that public moneys should not be used to pay for work undertaken under unfair terms, which simply add to burden on the public sector over time.

However we are concerned that the current approaches are of insufficient scale, do not reach into the sectors or enterprises where the greatest numbers of people working in unfair conditions are found, and are poorly enforced particularly down the supply chain.

Monitoring compliance with contractual terms, including with any sub-contractors, must be an integral part of increasing use of these levers.

**7. Should voluntary approaches currently in use (such as the signing up to the Code of Practice on Ethical Supply Chains) be made mandatory?**

The Code of Practice has much to recommend it but we are concerned that as a voluntary code it lacks teeth. It is not clear how many public sector organisations have signed up to the Code, nor are we aware if their compliance with it is monitored.

**8. What are the benefits and problems of (a) voluntary and (b) mandatory approaches as drivers to fair work? (The former would include signing up to voluntary codes of practice, charters or voluntary accreditation schemes. Mandatory approaches would include having to be certified as a Fair Work Employer to access government financial support or public sector contracts).**

A mandatory approach would provide an incentive for organisations to comply with requirements that voluntary agreements do not. It would require monitoring and enforcement to be effective.

**9 and 10.**

**What more should be done to promote fair work within the Wellbeing of Future Generations (Wales) Act 2015?**

**The Welsh government is supportive of social partnership and tri-partite arrangements (bringing together representatives of the government, employers and trade unions). What greater role could social partnership play in delivering fair work in Wales and what structures if any may be needed to assist this?**

Whilst acknowledging that not all the necessary levers to make Wales a fair work nation are devolved to the National Assembly, the Bevan Foundation believes that there are a number of steps that the Welsh Government could take to seek to improve the situation.

*Promoting the real living wage*

Some progress has been made over recent in years in increasing the number of employers who pay the real living wage. At the time of writing of the Bevan Foundation’s *Fair Pay: A Living Wage Wales* report in 2016 only 70 Welsh employers were accredited as living wage employers by the Living Wage Foundation.[[5]](#footnote-5) This has more than doubled over the past two years with 176 employers now accredited.[[6]](#footnote-6) Whilst this progress is to be welcomed, there is a need for significant improvement if we are to ensure that all workers in Wales receive fair pay.

We believe that there are actions that the Welsh Government could take that would increase the number of Welsh workers employed on the real living wage. To date, the Welsh Government has predominantly focused on encouraging the public sector in Wales to pay the real living wage to the workforce that they employ directly. Whilst we welcome any initiative by Welsh Government that seeks to increase the number of workers that earn the real living wage, we believe that this approach is not the correct one.

We are concerned that by focusing on promoting the payment of the real living wage to the workforce directly employed by the public sector, there is a risk that a pay gap could develop between the public and the private sector. In our view this creates two risks for the Welsh workforce. First, we believe that the existence of a public/ private sector gap is unfair. If workers are employed to do the same work, they should be paid the same salary whether they are directly employed by a public body, or not. Secondly, we are concerned that the development of such a pay gap could encourage some public sector bodies to outsource work, in a bid to save costs. This would undermine any objectives developed by this commission to promote fair work. We therefore believe that it is important that public bodies in Wales (including the Welsh Government) take steps to amend their procurement processes to ensure that any private sector contractors, tendering for work, are real living wage employers.

The Bevan Foundation believes that adopting such an approach would not only reduce the risk of a public/ private sector divide developing with regards to pay, but, that it could help develop a living wage movement in Wales. We believe that the Welsh Government should consider replicating the Scottish model of promoting the real living wage. Whilst there are 176 accredited real living wage employers in Wales, there are 1,316 in Scotland.[[7]](#footnote-7) One of the reasons why Scotland has been so successful in increasing the number of accredited real living wage employers has been the creation of a living wage movement via the Scottish Living Wage Campaign.[[8]](#footnote-8) This campaign has been funded by the Scottish Government since 2007, but has drawn on the support of politicians from various parties, a broad range of public and private sector organisations, trade unions and the public at large.[[9]](#footnote-9) We believe that it would be possible to build a similar movement in Wales and that the Welsh Government should look at working with partner organisations to establish such a campaign.

*Target growth in sectors with a positive track record of promoting fair work*

Despite the real progress that has been made in increasing the number of people in work across Wales over the last decade, there is still some way to go. In Wales, for every eight people in work there is one person who wants to work but does not.[[10]](#footnote-10) There is therefore a clear need to increase the number of jobs in Wales to ensure that all people have a fair opportunity to access work.

An approach to job creation that has proven successful internationally is to target growth sectors.[[11]](#footnote-11) When selecting which sectors to target for investment, however, there is research that suggests that whilst there are some growth sectors that may make a significant contribution to Wales’ economy by boosting Gross Value Added (GVA) these are not necessarily the same sectors that should be target if we wish to create fair work and to reduce poverty.[[12]](#footnote-12)

We believe that it is important that the Welsh Government targets its support to those growth sectors that can play an active role in reducing poverty,[[13]](#footnote-13) and conversely considers its role in promoting sectors with a track record of unfair work. As set out in the annex to this response, there are four sectors in Wales which have a long record of employing a high proportion of their staff on low pay contracts. We are concerned that whilst continued Welsh Government investment in these sectors may help to increase the number of people in work, it risks entrenching the problem of low pay and unfair work in Wales.

*Promote the development of an inclusive labour market*

The Bevan Foundation believes that when considering whether work is fair or not, there must be consideration of the wider labour market. Such factors include whether access to work is open to all without discrimination, career progression and consideration about what support is made available to workers if they are absent from work or their pension provision. This response has highlighted examples of how we are currently falling short in Wales with regards to a number of these factors.

One of the difficulties with the present situation in Wales is that there a number of different departments and individuals at both UK level and at a Welsh level who have responsibility for various aspects of promoting fair work and creating an inclusive labour market. This leads to the implementation of ad-hoc solutions with a lack of joined up thinking about how to make work fairer across the board. In Scotland, the Scottish Government has made a clear commitment to creating a fair and inclusive labour market in its Scottish National Economic Strategy.[[14]](#footnote-14) As in Wales, not all levers to create an inclusive labour market are devolved to Scottish Government, but this commitment has provided stakeholders in Scotland with a clear direction for their work and makes it easier for both public and private sector organisations to work in partnership to develop better outcomes. We believe that there is an opportunity for the Fair Work Commission to provide similar direction in Wales and that it is important that such direction is not only provided in the short term but also in the longer term.

*Learning new skills and careers advice and guidance for adults*

Low paid workers in the UK would value more opportunities to take part in work related training to improve their skills.[[15]](#footnote-15) Upskilling in this way could allow workers to seek career progression opportunities to increase their salaries. Research by the Bevan Foundation and by the Wales Centre for Public Policy highlight that there are important shortcomings in our current approach to skills development and job progression.

The Bevan Foundation’s report - *I want to be something: better opportunities for young people* found that there are several barriers that prevented young people without five good GCSEs from gaining access to further training or from entering the workforce.[[16]](#footnote-16) These young people often end up entering the labour market in low paying occupations and find it very difficult to move on from these positions. Some of the reasons for why workers in low paid jobs find it difficult to move one are set out in the Wales Centre for Public Policy’s report *Promoting job progression in low pay sectors.* In many sectors where low pay is most prevalent, there are limited opportunities for career progression.[[17]](#footnote-17) This means that there are limited incentives for employers and employees to engage with skills development programmes.[[18]](#footnote-18) We believe that it is therefore important that Welsh Government seeks to work in partnership with further education colleges, employers, employees and trade unions to ensure that workers are provided with an opportunity to develop the new skills that will assist them in their careers.

*A balance between flexibility and work security*

Another priority of low paid workers is that they are provided with opportunity for flexible working. It is important however to strike a balance in how this flexibility is provided. The instability that is often associated with zero hour contracts or some forms of self-employment can have a real damaging effects on the wellbeing of workers.[[19]](#footnote-19) One way to achieve this balance may be to explore how to increase the amount of high quality part time work that is available.

Research undertaken by the JRF suggests that there is a shortage of good quality part time roles in the UK labour market.[[20]](#footnote-20) Part time workers are paid less per hour than their colleagues in full time work, and the shortage of posts means that many part time jobs are filled by staff who are overqualified[[21]](#footnote-21) Increasing the provision of good quality part time work could provide individuals who have commitments that prevent them from working full time with a route back into work, and it could provide those workers who desire the flexibility afforded by a zero hours contract with a more stable source of employment. To ensure that such workers are not at a disadvantage however, it is vital that steps are undertaken to eradicate the pay gap between full and part time workers. It is our belief that the Welsh Government should look to work in partnership with employers and employee representatives to see how an increase in the number of part time posts can be generated, in a fair way.

**Annex**

Too many Welsh workers are currently in unfair work. Over recent years the number of people in work in Wales has risen steadily. At the end of the 2017/18 financial year the employment rate in Wales stood at 72.7%, higher than it has been for over a decade.[[22]](#footnote-22) Despite this, the number of people living in poverty in Wales has not reduced over the same period. Over half of those living in poverty in Wales live in working households.[[23]](#footnote-23) Unfair working practices are contributing to this problem.

*Low Pay*

Low pay continues to be an issue in Wales. Research undertaken by the Resolution Foundation found that in 2017, 250,000 workers in Wales (21 per cent of all workers) earned less than 2/3 of the median hourly (£8.30) putting them in low paid work.[[24]](#footnote-24) At least a quarter of Welsh workers earn less than the real living wage (£8.75 an hour).[[25]](#footnote-25)

Low pay is not a problem that is concentrated in one area of Wales. Only in 6 Welsh local authorities do the 25th percentile of workers earn more than the real living wage.[[26]](#footnote-26) Of these six, only in one, Monmouthshire, do the 20th percentile of workers earn more than the real living wage.[[27]](#footnote-27) In the remaining 16 local authorities, the 30th percentile of workers earn the real living wage in 11, meaning that in 5, workers do not earn more than the real living wage until the 40th percentile.[[28]](#footnote-28) These local authorities are, Blaenau Gwent, Conwy, Denbighshire, Gwynedd and Pembrokeshire.[[29]](#footnote-29) It is therefore vital that we develop solutions to fair work that can positively impact on the lives of workers right across Wales.

Whilst low pay is a problem across the whole of Wales, there are certain industries that employ a higher proportion of workers on low pay contracts. In 2016, the Bevan Foundation published *Fair Pay: A Living Wage Wales*. That report found low pay was a particularly prominent issue within four industries:

* Accommodation and Food Service Activities Industries
* Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles Industry
* The Arts, Entertainment and Recreation Industry
* Administrative and Support Service Activities Industry

The most recently available data suggests that low pay is still a significant problem within each of these four industries with very little, if any progress made in increasing the proportion of staff earning the real living wage.[[30]](#footnote-30)

It is not just in these four industries that low pay is a problem. Whilst a relatively small proportion of workers in the Human Health and Social Work Activities Industry (20 per cent) the Education Industry (10 per cent) earn below the real living wage, the high number of staff employed within these sectors mean that thousands of workers are employed on low paid contracts.[[31]](#footnote-31) In terms of the numbers of workers receiving less than the real living wage, there is no significant difference between the Accommodation and Food Service Industry and the Human Health and Social Work Industry.[[32]](#footnote-32)

Low pay is not just dependent on geography and industry. In Wales, a high number of workers are concentrated in some of the occupations that provide the lowest pay. The median pay for elementary occupations (jobs such as cleaners) and sales and customer service occupations are less than the real living wage.[[33]](#footnote-33) When combined an estimated 242,000 workers an employed in these occupations.[[34]](#footnote-34)

*Job Security*

The relationship between insecure work and poverty is one that has risen in prominence over recent years. Concerns about the growth of the gig economy in particular has drawn significant attention, with many people concerned that workers within the sector face a higher risk of poverty than the general population. Whilst the growth of the gig economy and zero hours cont**r**acts has been the source of considerable debate in recent times, there is still very little evidence that can reliably highlight how significant a problem insecure work is in Wales.

Available data suggests that those working in a self-employed or part-time capacity are more likely to live in poverty in Wales than the general population.[[35]](#footnote-35) There is an extensive body of academic literature, however, that does highlight some of the short comings of the current approach to calculating rates of relative income poverty amongst self-employed workers, suggesting that we may be overestimating the numbers of self-employed workers living in poverty.[[36]](#footnote-36)

The available data also suggests that whilst there has been a growth in the proportion of the Welsh workforce working in a self-employed or in a part time capacity, this growth has been relatively modest.[[37]](#footnote-37) In March 2008, 12.8 per cent of the Welsh workforce were self-employed, and by March 2018 the figure stood at 14.5 per cent.[[38]](#footnote-38) The proportion of the Welsh workforce employed on a part time basis had increased from 26.7 per cent to 28.1 per cent over the same period.[[39]](#footnote-39) Whilst there does seem to be a shift away from forms of employment that places workers at a lower risk of poverty towards higher risk types of employment, this is not significant enough to explain why in-work poverty rates in Wales have not fallen.

While the relationship between the gig economy and poverty in Wales may not be clear, it is worth noting that those working within the sector are at a heightened risk of unfair work in other ways. Self-employed workers for example, are less likely to have a pension than employees, placing them at a greater risk of living in poverty in later years.[[40]](#footnote-40) There is some research that suggests that uncertainty around working hours and earnings can affect workers physical and mental health.[[41]](#footnote-41) It also remains to be seen whether changes in technology will increase the number of people working under such arrangements at a faster rate than what has currently has been the case.

1. For example, see Joseph Rowntree Foundation, Falling short: the experiences of families living below the Minimum Income Standard and Dr Claire Evans, In-work poverty and the search for decent work for women in Wales: A literature review [↑](#footnote-ref-1)
2. <https://gov.wales/docs/caecd/research/2014/140409-dynamics-low-income-summary-en.pdf> [↑](#footnote-ref-2)
3. Joseph Rowntree Foundation, UK Poverty: Causes, Costs and Solutions [↑](#footnote-ref-3)
4. For example Bevan Foundation, Fair Pay, A Living Wage Wales and Dr Claire Evans, In-work poverty and the search for decent work for women in Wales: A literature review [↑](#footnote-ref-4)
5. Bevan Foundation, Fair Pay, A Living Wage Wales [↑](#footnote-ref-5)
6. <https://www.livingwage.org.uk/accredited-living-wage-employers?items_per_page=224> [↑](#footnote-ref-6)
7. <https://www.livingwage.org.uk/accredited-living-wage-employers?items_per_page=224> [↑](#footnote-ref-7)
8. Bevan Foundation, Fair Pay, A Living Wage Wales [↑](#footnote-ref-8)
9. ibid [↑](#footnote-ref-9)
10. Bevan Foundation and the Wales Co-operative Centre, Creating an Inclusive Economy in Wales [↑](#footnote-ref-10)
11. Joseph Rowntree Foundation, UK Poverty: Causes, Costs and Solutions [↑](#footnote-ref-11)
12. Public Policy Institute for Wales: Supporting Progression in Growth Sectors [↑](#footnote-ref-12)
13. For examples of such sectors see Bevan Foundation and Wales Co-operative Centre, Creating an Inclusive Economy in Wales [↑](#footnote-ref-13)
14. Public Policy Institute for Wales, Harnessing Growth Sector for Poverty Reduction [↑](#footnote-ref-14)
15. Joseph Rowntree Foundation, UK Poverty: Causes, Costs and Solutions [↑](#footnote-ref-15)
16. Bevan Foundation, I want to be someone, better opportunities for young people [↑](#footnote-ref-16)
17. Wales Centre for Public Policy, Promoting job progression in low pay sectors [↑](#footnote-ref-17)
18. ibid [↑](#footnote-ref-18)
19. Joseph Rowntree Foundation, Falling short: the experiences of families living below the Minimum Income Standard [↑](#footnote-ref-19)
20. Joseph Rowntree Foundation, UK Poverty: Causes, Costs and Solutions [↑](#footnote-ref-20)
21. ibid [↑](#footnote-ref-21)
22. Annual Population Survey [↑](#footnote-ref-22)
23. Stats Wales - Percentage of all individuals, children, working-age adults and pensioners living in relative income poverty for the UK, UK countries and regions of England between 1994-95 to 1996-97 and 2014-15 to 2016-17 (3 year averages of financial years) [↑](#footnote-ref-23)
24. Resolution Foundation, Low Pay in Britain 2018 [↑](#footnote-ref-24)
25. Annual Survey of Hours and Earnings [↑](#footnote-ref-25)
26. These are Caerphilly, Cardiff, Monmouthshire, Neath Port Talbot, Torfaen and the Vale of Glamorgan – Source Annual Survey of Hours and Earnings [↑](#footnote-ref-26)
27. ibid [↑](#footnote-ref-27)
28. ibid [↑](#footnote-ref-28)
29. ibid [↑](#footnote-ref-29)
30. Bevan Foundation, Fair Pay, A Living Wage Wales [↑](#footnote-ref-30)
31. ASHE Table 5.5a Hourly Pay Excluding Overtime - Industry [↑](#footnote-ref-31)
32. ibid [↑](#footnote-ref-32)
33. ASHE Table 3.5a Hourly Pay Excluding Overtime - Occupation [↑](#footnote-ref-33)
34. ibid [↑](#footnote-ref-34)
35. Stats Wales - Working age adults in relative income poverty by economic status of household [↑](#footnote-ref-35)
36. For example, see Institute of Labour Economics, Poverty and Material Deprivation among the Self-Employed in Europe: An Exploration of a Relatively Uncharted Landscape [↑](#footnote-ref-36)
37. Stats Wales: Status of employed persons by Welsh local authority and measure [↑](#footnote-ref-37)
38. ibid [↑](#footnote-ref-38)
39. ibid [↑](#footnote-ref-39)
40. Resolution Foundation, Just the job – or a working compromise? The changing nature of self-employment in the UK [↑](#footnote-ref-40)
41. Joseph Rowntree Foundation – Falling Short, Experiences of families below minimum income standards [↑](#footnote-ref-41)