



**Usdaw**  
*Union of Shop, Distributive  
and Allied Workers*



# Insecure Work and Underemployment

Executive Council Statement  
to the 2018 ADM



### **Insecure work and underemployment are serious problems affecting many workers.**

There are at least 1.4 million workers on zero-hours contracts and 865,000 agency workers. Many people working in the gig economy are employed on bogus self-employment contracts.

Underemployment is widespread with workers on short-hours contracts relying on additional hours that are not guaranteed from one week to the next. 2.5 million part-time workers want longer hours and over a million people work part-time only because they cannot find suitable full-time jobs.

This Executive Council Statement assesses the scale of the problem. The Union has run an online survey to ask Usdaw members about their experiences on working hours. Nearly 6,000 members took part in the survey and this has given the Union really detailed information on members' experiences.

Too many Usdaw members are not getting the working hours they need. Many members are relying on additional hours that often are not guaranteed even if they are worked regularly.

Usdaw is campaigning to highlight the problems of insecure work and underemployment. The Government sponsored Taylor Review has been looking at insecure employment. The Union presented our views and experiences to the Review.

Usdaw has also been one of the leading trade unions to raise this issue through the TUC. The Union also lobbied to get Labour manifesto commitments on tackling insecurity at work.

This Executive Council Statement outlines the policies we want to see to tackle insecure employment and problems over working hours.

The Union wants:

- An end to exploitative zero-hours contracts and bogus self-employment.
- Equal pay for agency workers – this would stop employers using agency workers to under-cut established pay rates.
- Workers on short-hours contracts to have more contractual guarantees over regularly worked additional hours.
- Workers to have a statutory right to contracts that reflect the hours that they normally work.

This Executive Council Statement outlines the problems relating to insecure work and underemployment, details the experiences of Usdaw members and proposes a set of policies the Union will campaign for. I urge you to read the statement and join in the debate.

A handwritten signature in blue ink that reads "John Hannett". The signature is written in a cursive, flowing style.

**John Hannett**  
**General Secretary**



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**The TUC estimates that 3.2 million people are in insecure work – that is one in ten of the UK workforce.**

### Zero-Hours Contracts

Workers on zero-hours contracts have no guaranteed hours and often must be available to work when required. Workers have no guaranteed income as hours can vary from one week to the next. Workers on zero-hours are not classed as employees and miss out on many employment rights.

It is estimated, by the Office for National Statistics, that there are 1.4 million zero-hours contracts in the UK economy.

Some commentators claim that the number of people on zero-hours contracts has fallen recently due to the negative media attention employers using zero-hours have received and the pressure from trade unions and the Labour Party to crack down on the exploitative use of zero-hours contracts.

If there has been a drop in the use of these contracts that is good news, but it does not mean insecure work has become less of a problem. Many workers are still struggling on other types of insecure contracts, which do not seem to be on any sort of decline.

### Short-Hours Contracts and Underemployment

Short-hours contracts are where people are contracted to work a small number of hours, such as 10 hours or less.

These types of contracts can work for some people and we know this applies to some members who have parenting/caring responsibilities. However, many workers on short-hours contracts are struggling to get the hours they need to make ends meet. And if they get the additional hours needed these are not guaranteed even if they are regularly worked.

It is a misuse of a short-hours contract if an employee regularly works longer hours over and above their contracted amount of hours. In this situation, employees are not guaranteed the same level of pay each week. Also, many employee benefits are based on contractual hours.

Short-hours contracts do not always get the same media coverage as zero-hours contracts, but they are more widely used. Some employers are using short-hours contracts just to avoid the negative headlines associated with zero-hours contracts. The reality is short-hours contracts can be just as exploitative as zero-hours contracts.

### Underemployment

Zero-hours and short-hours contracts are closely associated with the problem of underemployment. Workers are underemployed when they are working fewer hours than they want and need.

The Office for National Statistics estimates there are 2.5 million part-time workers who want to work longer hours. One million workers are working part-time only because they cannot get a full-time job.

In recent years the number of people in work has increased but hidden behind the statistics is a growing number of underemployed workers unable to get the hours they need. The rate of underemployment is far higher than the unemployment rate.

### Agency Workers

Agency workers have the insecurity of no guarantees on working hours from one week to the next. They also do not have the same employment rights as employees, such as sick pay or protection from immediate dismissal.

Since 2011, the number of agency workers has increased by 30%. The Resolution Foundation estimates that there are around 835,000 agency workers in the UK. The number of agency workers is nearly equivalent to the number of workers on zero-hours contracts, but again receives far less media attention.

The Agency Workers' Regulations were introduced to guarantee agency workers equal pay after 12 weeks in a placement. To get around the regulations some businesses use a loophole known as the 'Swedish Derogation'. To avoid the equal pay obligations in the regulations, agencies sign up agency workers to special 'Swedish Derogation' contracts. Due to this loophole, agency workers are often paid significantly less than the core workforce.

The Resolution Foundation also found that 440,000 agency workers were classed as 'permanent' agency workers. This is an alarming statistic as the Union believes that agency workers should only be utilised to cover seasonal and short-term gaps in the workforce. Businesses are permanently utilising agency workers to take advantage of their insecure employment position and to under-cut established pay rates.

## Bogus Self-Employment in the Gig Economy

More and more people in recent years are being defined as self-employed. It is estimated that 4.8 million people are self-employed in the UK.

Self-employment has been a legitimate employment status for many years. However, it is worrying that the increase in self-employment has happened at the same time many more people have begun working in the 'gig economy'.

The 'gig economy' is a term used to describe a person getting paid for the odd jobs or 'gigs' they work. This is different to the traditional employment model of earning a regular wage for a contracted amount of hours. Elements of the gig economy have existed for many years, for example 'cash-in-hand' jobs, such as a builder turning up to a site for a temporary day's work.

However, in our more modern, technologically-driven society, the gig economy has become increasingly characterised by its use of digital apps. It is these digital apps that connect self-employed people with work.

You may have heard of apps like the taxi service, Uber, and the take-away delivery service, Deliveroo. These are the types of businesses that 'employ' people, who are described as self-employed, to carry out work for them; such as driving someone home or delivering food, but without providing them with a contract of employment. These workers are not classed as employees but as independent contractors.

It is this modern practice in the gig economy that has allowed companies like Uber and Deliveroo to bend the rules of traditional employment models that have left workers at the risk of exploitation.

It is easy to blame new technology and apps for the increase in precarious forms of employment, but this is only part of the bigger picture within the world of insecure work. It is important to remember there are many workers on insecure contracts in workplaces that do not use state of the art technology, but they are still being exploited.

It is not the apps and the technology of the gig economy which is the problem; it is old-fashioned exploitation of vulnerable workers by unscrupulous employers.



**In October 2017, Usdaw ran an online survey of members on their experiences of Working Hours. We received just under 6,000 responses. A detailed analysis of the responses is outlined over the next few pages.**

#### Summary

The survey had a good balance between respondents who work full-time and part-time. Just under 40% of members are contracted to work over 30 hours. Around 60% of respondents have contracts for 30 hours or less. This balance reflects Usdaw membership and the composition of the UK workforce.

Workers are regularly working additional hours. While 40% of respondents are contracted to work more than 30 hours, in practice a much larger number (51%) actually work more than 30 hours on a regular basis. Almost two-thirds (64%) of those taking part in the survey regularly work additional hours above their contracted hours.

Workers want guarantees over regularly worked additional hours. For members who work additional hours, two-thirds (68%) would like these extra hours to be guaranteed.

Workers are struggling to get the hours that they need. One in every three respondents (31%) would like to work longer hours. This is what commentators and experts call underemployment. This level of underemployment reflects the wider levels of underemployment across the economy.

However, nearly half (49%) are happy with the hours they work and 20% would like to work fewer hours.

Workers are finding out their shifts and hours at very late notice. One in four members (26%) gets less than one week's notice of their shifts/hours. In total, two-thirds of members (63%) are given less than three weeks' notice of their shifts/hours. Under one in three (30%) work fixed hours that do not change.

Agency workers are being overused and exploited. One in five workplaces (18%) have agency workers, with one in twenty workers (5%) reporting that at least half of the workforce in their workplace are agency staff.

Workers are struggling to make ends meet. 8% of workers taking part in the survey have a second job, with a further 20% looking for a second job.

Insecurity at work and underemployment is adding up to a cost of living crisis. Nearly half of respondents (46%) are not confident that their job will provide them with the income they will need over the next 12 months.

Workers want more job security, guarantees over hours and improved employment rights. An overwhelming 98% of survey respondents agreed that they believed workers should have a right to contracts that reflect their normal hours.



# Udaw Working Hours Survey

Total Replies: 5,965

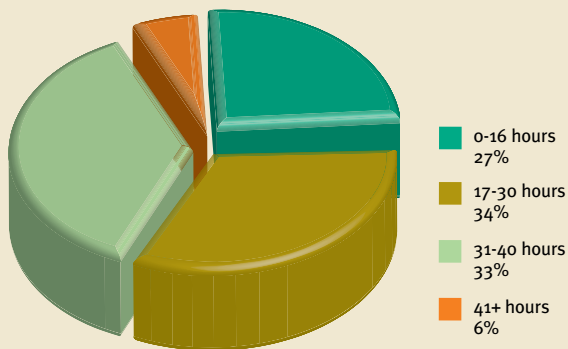
## Question One – How many hours a week are you contracted to work?

Answer	Number of Responses	%
0-16 hours	1628	27%
17-30 hours	2012	34%
31-40 hours	1972	33%
41+ hours	353	6%

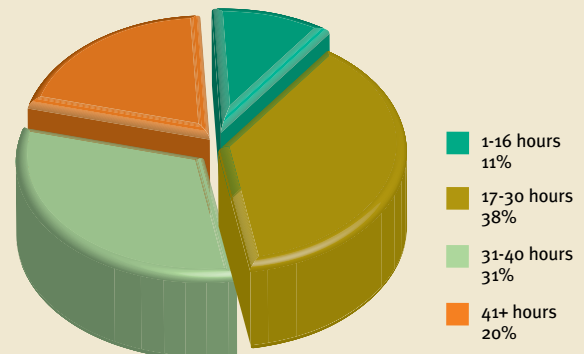
## Question Two – How many hours a week do you actually work in an average week?

Answer	Number of Responses	%
1-16 hours	654	11%
17-30 hours	2246	38%
31-40 hours	1871	31%
41+ hours	1194	20%

### How many hours a week are you contracted to work?



### How many hours a week do you actually work in an average week?



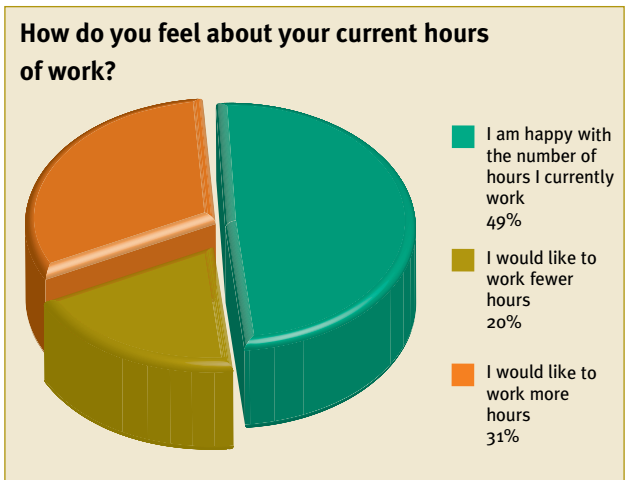
## Question Three – Do you regularly work additional hours (above those that you are contracted to work)?

Answer	Number of Responses	%
No	2164	36%
Yes	3801	64%



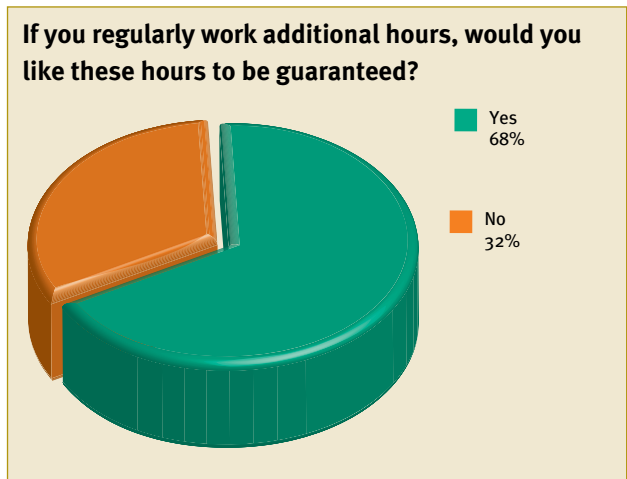
**Question Four – How do you feel about your current hours of work?**

Answer	Number of Responses	%
I am happy with the number of hours I currently work	2908	49%
I would like to work fewer hours	1178	20%
I would like to work more hours	1879	31%



**Question Five – If you regularly work additional hours, would you like these hours to be guaranteed?**

Answer	Number of Responses	%
Yes	2744	68%
No	1302	32%
Not applicable	1919	



**Question Six – How much notice are you usually given of your shift/hours?**

Answer	Number of Responses	%
Less than one week	1535	26%
1-2 weeks	1250	21%
2-3 weeks	947	16%
4 weeks or more	433	7%
I work fixed hours which do not change	1800	30%

**Question Seven – What proportion of colleagues at your workplace are agency workers?**

Answer	Number of Responses	%
None	4874	82%
Less than half	746	12%
About half	197	3%
More than half	128	2%
All	20	1%

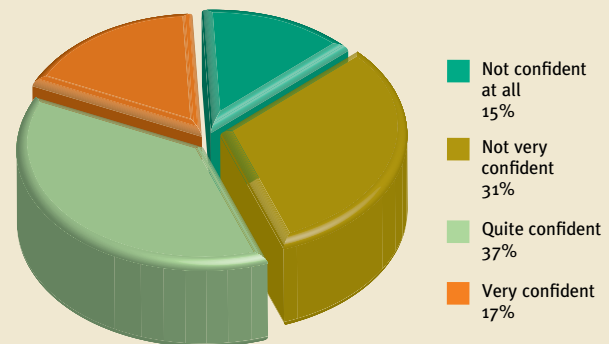
**Question Nine – How confident do you feel that your main job will provide you with the income that you need over the next 12 months?**

Answer	Number of Responses	%
Not confident at all	870	15%
Not very confident	1862	31%
Quite confident	2237	37%
Very confident	996	17%

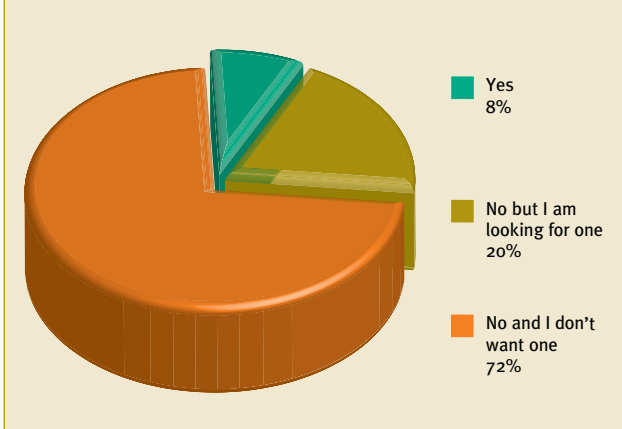
**Question Eight – Do you have a second job?**

Answer	Number of Responses	%
Yes	485	8%
No but I am looking for one	1166	20%
No and I don't want one	4314	72%

**How confident do you feel that your main job will provide you with the income that you need over the next 12 months?**



**Do you have a second job?**



**Question Ten – Do you think that workers should have a right to contracts that reflect their normal hours?**

Answer	Number of Responses	%
Yes	5851	98%
No	114	2%

**We have heard about the rise of insecure work – in the media ‘zero-hours contracts’ and ‘the gig economy’ take up countless column inches – but how are these issues affecting workers? What is the day-to-day impact for Usdaw members?**

Usdaw members tell us every day how they are struggling to cope with their working patterns. Some are experiencing stress and anxiety over a lack of job security, struggling to juggle caring responsibilities with changing shift patterns, others are finding it hard to strike a work-life balance that works for them and their families.

### Retail

One of the major challenges for Usdaw members is that of short-hours contracts. In retail there has been a shift to contracting workers for just a small number of hours – often between five and fifteen hours.

Short-hours contracts work for some people but it is clear that they can be misused. Many of our members tell us that they are regularly and consistently working additional hours and that they rely on these additional hours to pay their bills – but with no guaranteed level of regular earnings this can create uncertainty regarding bills and planning for the future.

In addition, some companies base employee benefits on contractual earnings/hours. Therefore, employees may be losing out on certain benefits such as annual leave and holiday pay. Usdaw is working hard to ensure that benefits are calculated on actual hours worked not just basic contractual hours.

Kirsty, a retail worker, told us:

*“I am contracted to 12 hours but work way more than that every single week. My company requires you to work with only 24 hours of notification that your shift has been changed, they do not take into consideration childcare arrangements.*

*“I cannot afford to take a week’s holiday as I will only be paid 12 hours, my holidays should reflect the average number of hours I work every week and not my contract.”*

### Warehousing and Transport

Whilst many workers in retail are struggling to find the hours they need, people working in other industries, such as professional drivers and warehouse workers, find they are required to work over their contracted hours, often with very little notice, making a proper life-work balance and caring arrangements very difficult.

Kate, a warehouse worker, reported:

*“I am contracted to work 37.5 hours a week. The company often wants us to work overtime over the week, and often requires work on a Saturday or Sunday at normal rates.*

*“We only find out on the day, or the day before, about how many hours we will work and about our start and finish times. I am a single mother of two children and it is very difficult for me.”*

## Drivers

Due to a national shortage of professional drivers, workers in this industry are particularly under pressure to work additional hours to meet distribution needs.

Some Usdaw members have encountered difficulty in reducing their working hours, for instance as they approach retirement age, as companies do not want to lose the driver-hours.

Drivers' working hours are covered strictly by the Working Time Directive, but some employers use 'periods of availability' (PoAs) to avoid counting waiting time as hours worked. This means that drivers are effectively on shift, unpaid, waiting at depots to move to another job. When taking PoAs into account, many drivers work more hours than the 48 hour average weekly limit.

John, a driver, explained:

*"I often work over 50 hours a week. The company don't pay overtime, but on the end of a period seating us on POA to make sure we are not crossing the Working Time Directive."*

*"Long hours have always been a way of life in HGV driving, that's why most companies have a low basic rate, because extra overtime hours are always expected. 60/70+ is normal when you factor in POA."*

## Agency Workers

There has been a marked increase in the use of agency workers by employers in many of Usdaw's sectors including distribution, transport, and food manufacturing.

Agency workers have some rights but often miss out in terms of sick pay, pension provision and other benefits enjoyed by the core workforce.

Tony, an Usdaw rep, reported:

*"Agency workers at my workplace are very unhappy with the way they are treated. These guys come into work, many have spent up to £6 just to get to work, when they arrive they find that they are sent home after one hour."*

*"This is totally unfair as they should be employed for the whole shift. Agencies should do more to help their workers; people have rent to pay and families to feed."*



### Background

**Usdaw and the TUC have lobbied the Government for several years now on the issue of insecure employment and following increased public pressure and the growing debate around zero-hours contracts, a review was ordered into working practices within the modern economy.**

The review was led by Matthew Taylor and pays particular attention to the gig economy. The Taylor Review was published in July 2017. The Government then took until February 2018 to respond to the proposals; a response which merely launched a number of further consultations.

### Key Recommendations

A key theme of the report is that the gig economy has put too much power into the hands of employers as well as highlighting the problems of zero-hours and short-hours contracts.

However, the Government has been slow to put the report's key recommendations into action. We are still waiting for the Government to:

- Ban the Swedish Derogation in the Agency Worker Regulations.
- Provide a right to request a contract that reflects the hours worked.
- Implement a higher National Minimum Wage rate for non-guaranteed additional hours.
- Develop better workforce relations through strengthening employee voice.

The delays in implementing the recommendations have been partially attributed to Brexit negotiations but the Government is ideologically reluctant to intervene in what they see as a 'free market' and they have tended to see basic employment protections as 'red tape'.

### Usdaw's Position

Most of the media attention on the Taylor Review has been in regards to the gig economy, bogus self-employment and the growth of zero-hours contracts.

From an Usdaw perspective we must not overlook the problem of insecure employment in traditional sectors that Usdaw organises in like retail and distribution. For example, we know that there are millions of part-time workers who want longer hours. We also know that many workers on short-hours contracts are consistently being asked to work over and above their contracted hours.

Usdaw wants to see every worker have a right to a contract that reflects their normal working hours.

The Taylor Review recommends a right to request a contract to reflect normal working hours. The Government has now weakened this to a proposal for a right to request a more predictable contract. Usdaw believes we must go further than a 'right to request'. Usdaw will continue to make the case for workers to have a statutory right to a contract to reflect a worker's normal working hours.

The introduction of a premium rate for non-guaranteed hours would also help by ensuring that those members who are being called upon to work more hours are compensated for this 'flexibility'. Setting a higher National Minimum Wage for non-guaranteed hours would be a good start – but only a start, as all workers should benefit from a right to premium pay for working additional and unsocial hours.

Complex contractual arrangements such as banked hours, annualised hours and non-guaranteed overtime also need to be considered and reviewed when working out how workers can be guaranteed a premium rate for working non-guaranteed hours.

## Collective Bargaining and Employee Voice

In the gig economy, traditional forms of collective bargaining are limited. The remote and isolated nature of atypical workers makes it difficult to raise problems through the normal mechanisms.

The Taylor Review recommends that employees should have a greater voice in the workplace, specifically promoting the Information and Consultation of Employees (ICE) Regulations. The review recommends that the regulations should be extended to include employees and workers and that the threshold for implementation should be reduced, from 10% to 2% of the workforce making the request.

Usdaw recognises the value of the Information and Consultation Regulations. Any legislation that opens up the channels of communication between the employer and employee is important. Information and consultation is good but we also want to see recognition of trade unions in the workplace and collective bargaining.

Usdaw wants to see a simpler process for statutory trade union recognition with more workers being given a choice on whether they want a trade union recognised in their workplace. This will form a key part of our response to the Government on the issue.

## What Next?

In November 2017 the Government released their Industrial Strategy White Paper, which outlines their vision for the UK economy with increasing focus on solving the productivity puzzle. Usdaw has long pressed for the introduction of an industrial strategy and this has become even more important with Brexit on the horizon.

However, the recent decision by the Office for Budget Responsibility to halve its forecast of the UK's long-term productivity trend to 1% shows that the UK is not making any real progress on this issue.

Usdaw welcomes the fact that the Government has finally accepted the need for an industrial strategy but the white paper is disappointing. In many ways it is too little, too vague, too late. For too long the debate around improving productivity has been based on cutting jobs, hours, terms and conditions. In the long-term none of this is healthy for business, workers or the economy.

To raise productivity in the economy, workers need to have job security, improved employment rights and more of a say in the business where they work. The Taylor Review goes some way to highlighting this issue but the continual delay in putting the key recommendations into practice indicates that the Conservative Government do not really understand the cost of insecure employment, not just on individual workers, but to wider society through underemployment and lost productivity.



### Background

**In 2014, Usdaw’s Annual Delegate Meeting agreed an Executive Council Statement on ‘Zero-Hours and Short-Hours Contracts’. We set out a clear case to tackle the misuse of zero-hours and short-hours contracts and for all workers to have a right to contracts that reflect workers’ normal working hours.**

That statement formed the basis for our campaigning work, and since then we have continued to listen to members to develop our policies.

### The Key Commitments the Union is Asking For

#### From the Government:

- A ban on exploitative zero-hours contracts.
- A right for all workers to a contract that reflects their normal working hours.
- An end to the Swedish Derogation loophole in the Agency Workers’ Regulations.
- Action to tackle bogus self-employment.
- £10 per hour National Living Wage for all workers from the age of 18.
- Stronger collective bargaining rights, to give workers a say on their terms and conditions.

#### From Employers:

- Contracts with guaranteed hours that reflect normal working patterns.
- Consultation with workers on their pattern and number of hours.
- A real living wage for every worker, with enough hours to afford a decent standard of living.

### Campaigning with the TUC

Udaw plays an important role within the Trades Union Congress (TUC), which is widely considered to be the national voice of working people. We work closely together to ensure that our policies are reflected in theirs.

TUC policy has been at the centre of public discussion around insecure work, most recently with its Great Jobs Agenda, which calls for measures such as minimum notice periods for allocating and changing shifts and contracts that reflect normal working patterns. This has contributed to the mounting pressure on the Government to tackle insecure work.

Udaw submitted a motion on Insecure Work to the TUC 2017 Congress, and spoke in support of the Great Jobs Agenda, where we shared our members’ experiences of exploitative contracts.

We have also taken our Insecure Work Campaign to the TUC’s sister organisations, the Scottish Trades Union Congress, the Irish Congress of Trade Unions and the Wales Trades Union Congress. We have put motions forward to all of their conferences encouraging them to make insecure work a campaigning priority and calling for action from the relevant devolved administrations.

### Lobbying Government

Udaw has consistently pushed the Government for better protection against insecure work. We have highlighted all of the issues outlined in this statement in our evidence to consultations by the Department of Business, Enterprise and Industrial Strategy, Low Pay Commission, Scottish Parliament, Welsh Assembly and Northern Ireland Executive.

One of the most significant inquiries has been the Taylor Review, as outlined in Section 4 of this document. Usdaw attended a number of discussion events around the country and submitted written evidence advocating the Union’s key policies.

The Taylor Review did not go as far as we would have liked in its recommendations. However, the ending of the Swedish Derogation, the right to a higher minimum wage for working hours above those that are guaranteed, and even the right to request a contract that reflects normal hours, are all positive developments. The next step will be to put pressure on the Government to ensure that these changes are implemented.

## Usdaw for Labour

Usdaw's links with the Labour Party give us the opportunity to put forward policies for their campaigns and manifesto. In 2016, in the party's Workplace 2020 consultation, we called for the party to prioritise improvements to the National Living Wage, and tackling the exploitative use of zero and short-hours contracts.

We were, therefore, pleased to see that in its 2017 election manifesto, Labour pledged to:

- Give all workers equal rights from day one, whether part-time or full-time, temporary or permanent.
- End zero-hours contracts.
- Increase the National Living Wage to £10 per hour.

Usdaw lobbied successfully to get the following commitment in the Labour Manifesto:

*“As well as legislating against zero-hours contracts, there are many more workers on short-hours contracts (some only guaranteed a few hours per week), but who regularly work far more. We will strengthen the law so that those who work regular hours for more than 12 weeks will have a right to a regular contract, reflecting those hours.”*

With another election possible at any time, it is vital that we keep these issues high on the agenda, and that is why Usdaw moved a high profile motion, which was supported by other unions and CLPs, at the 2017 Labour Party Conference on Tackling Insecure Work.

While we continue to press the current Government for reform, it is clear that only Labour is committed to tackling insecure work. That is one of the reasons why Usdaw will be campaigning to get a Labour victory at the next election.





**Across the UK, workers are facing a squeeze on living standards. Too many people are trapped in low paid, low hours, and insecure work.**

Flexible working can be extremely useful for both workers and employers, but the flexibility needs to be a two-way process. The law as it stands does not do enough to fix the imbalance of power between workers and employees.

Many workers who are employed on short-hours contracts are regularly working additional hours which are not guaranteed. These workers need more financial security and more of a say on their hours.

Agency workers are being used excessively by some businesses, to undercut terms and conditions. They need better protection from the Agency Workers' Regulations to ensure that they are treated equally.

Underemployment is an issue for many of our members in the retail sector, who want to work more hours and are even forced to take a second job, just to make ends meet. However, there are also issues in other sectors, such as distribution, with people being expected to work excessive hours.

The world of work is rapidly changing, and it is vital that employment law keeps pace with those changes. Employers should not be allowed to falsely define workers as self-employed to avoid their responsibilities.

The Taylor Review was an ideal opportunity to address these issues. However, it fell short of recommending that workers should have a right to a contract that reflects their normal working hours. There were some useful recommendations in the Taylor Review, and we need to keep the pressure on the Government to take action in this area.

Insecure employment has been a central theme in Usdaw's campaigning work for several years. We continue to make the case to the Government and employers for a real Living Wage for all workers and for contracts that guarantee enough hours for a decent standard of living.

Through our links with the Labour Party and TUC, and direct lobbying of the Government, we will continue to campaign for improved employment rights for workers, including a ban on exploitative zero-hours contracts and a right for all workers to a contract that reflects their normal working hours.

We want to see stronger collective bargaining rights, to give more workers a voice at work and enable us to organise every workplace. In those companies where we already organise, we will use our negotiating structures to ensure that issues around hours of work stay on the agenda and that our members' concerns are heard.



# Usdaw

*Union of Shop, Distributive  
and Allied Workers*



**Improving workers' lives – Winning for members**

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