



**Submission to the 58<sup>th</sup> session of the Committee on Economic, Social and Cultural Rights**

**UNISON Submission – April 2016**

**Abbreviations used in this submission**

ET	Employment Tribunal
FOI	Freedom of Information
HMRC	Her Majesty's Revenue & Customs
LPC	Low Pay Commission
NHS	National Health Service
NLW	National Living Wage
NMW	National Minimum Wage
UKHCA	UK Healthcare Association
UKG	UK Government
ZHC	Zero Hours Contracts

## **I UNISON**

1. UNISON is the UK's largest public services trade union with more than 1.3 million members. Our members are people working in the public services, for private contractors providing public services and in the essential utilities. They include frontline staff and managers working full or part time in local authorities, the National Health Service (NHS), the police service, universities, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector.
2. We have extensive experience of employment relations in small and large organisations including dispute resolution and efficiently negotiating fair pay and conditions for all workers.
3. **This submission is specifically directed to compliance with Article 7 by the UK Government (UKG). UNISON has serious concerns that obligations under this provision are not being met. We seek to highlight this by reference to the example of home care workers in the UK. We:**
  - **provide background context**
  - **discuss specific problems for National Minimum Wage (NMW)/ National Living Wage (NLW) compliance**
  - **set out how we consider Article 7 obligations are not met**
  - **propose areas for questioning of the UKG; and**
  - **suggest concluding observations.**

**Our view is that the homecare sector exposes an acute and troubling picture of failure to enforce minimum pay standards.**

## **II CESC List of Issues October 2015**

4. At paragraph 10 in the list of issues the Committee raised the following:

### **Article 7 – The right to just and favourable conditions of work**

10. Please indicate whether the national minimum wage that has been introduced in the State party provides workers and their families a decent living.

### **III UKG Response to the CESCR List of Issues**

5. At paragraph 53 the UKG responds on NMW:

53. The NMW is designed to protect low income workers and provide an incentive to work by ensuring that all workers receive at least the hourly minimum rates, published on the UKG's website, based on the recommendations of the independent Low Pay Commission (LPC). On 1 April 2016, the UKG introduced a new mandatory NLW for workers aged 25 and above, initially set at £7.20; the independent Office for Budget Responsibility forecasts that the NLW will reach £9 by 2020.

### **IV Summary of UNISON's Submission**

6. UNISON has significant concerns regarding the UKG's compliance with Article 7 in relation to workers in the homecare sector. There are specific factors which contribute to non-compliance with NMW in this sector such as a failure to pay workers for all working time (specifically travel time) and commissioning practices. Difficulties around enforcement of minimum pay standards caused by precarious working arrangements, low pay, low valued work, a lack of pay transparency, barriers to access to justice and weak enforcement practices by the relevant state agency contribute to and result in Article 7 non compliance by the UKG.

## **V Homecare sector background**

7. Approximately half a million homecare workers across the UK perform vital roles on a daily basis. 85% of the homecare workforce are women<sup>1</sup>. They are often employed in precarious employment arrangements on zero hours contracts (ZHCs) whereby they are guaranteed no minimum number of hours each week. Despite this workers frequently work long hours, early in the mornings and late at night.
8. Homecare workers support the elderly and people with disabilities in their own homes. They help people carry out a range of important daily tasks such as getting dressed, having a bath or shower, being assisted to the toilet or ensuring medication is administered. The conditions that homecare service users have are often very serious and wide ranging, for instance dementia, Parkinson's Disease, multiple sclerosis, mobility issues, mental health conditions and people recovering from a stroke. Homecare workers travel between appointments to support many people each day.
9. The support provided by homecare workers means that people can stay in their own homes for longer, keeping them out of far more costly settings such as hospital and residential care. Homecare workers support and assist close to 1 million elderly and people with disabilities across the UK.
10. Historically, homecare services in the UK were exclusively provided by local authorities but in recent decades there has been a significant shift in the way in the provision of these services. 92.1% of all homecare is now provided by independent sector organisations commissioned by local authorities<sup>2</sup>. This change, along with significant reductions in government funding, poor commissioning practices by local authorities and demographic shifts, has served to increase the pressure placed upon homecare workers.
11. A manifestation of poor commissioning practices and a reduction in funding combining together can be found in the increasing in the use of 15 minute homecare visits. Freedom of Information (FOI) requests carried out by UNISON found that in

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<sup>1</sup> National Minimum Data Set for Social Care, Skills for Care, April 2016, <https://www.nmds-sc-online.org.uk/reportengine/GuestDashboard.aspx?type=Gender>

<sup>2</sup> An Overview of the Domiciliary Care Market, United Kingdom Homecare Association, June 2015, [http://www.ukhca.co.uk/\(S\(qoday452pflmljta1fwkehz\)\)/pdfs/DomiciliaryCareMarketOverview2015.pdf](http://www.ukhca.co.uk/(S(qoday452pflmljta1fwkehz))/pdfs/DomiciliaryCareMarketOverview2015.pdf)

2013 found that 69% of local authorities commissioned 15 minute homecare visits whilst the number had increased to 74% by 2015<sup>3</sup>. This usually results in homecare workers having to carry out many different visits during their working day<sup>4</sup>. The UK Home Care Association (UKHCA), which represents homecare providers, estimates that homecare workers spend 19% of their working day travelling between homes<sup>5</sup>.

12. In the homecare sector the failure to pay travel time goes hand-in-hand with non-compliance. Many homecare workers are only paid for the time spent in the homes of the people they care for and do not get paid for the time they spend travelling between visits. This is despite such travel time making up a significant proportion of their day as indicated above. Combined with already low pay rates for homecare workers this leads to a major problem with non-compliance with the NMW/NLW across the whole sector. Not paying for travel time results in the average pay of homecare workers being pulled down below the NMW/NLW.
13. The low commissioning rates for care that are paid by many local authorities are another major factor in non-compliance. This is the hourly rate paid by each local authority for the companies they commission to provide care for elderly and disabled people in their area. From this hourly rate staff costs (wages, training, equipment etc), overheads and profit must be met.
14. The UKHCA specify a rate under which they believe that NMW compliance is unlikely to occur. They believe that local authorities need to commission care at £16.16 ph to be NMW compliant. In 2015 they found that only 14% of local authorities across the UK had hourly rates that would mean that compliance was likely. At least five local authorities in Greater London alone commissioned at under £10 an hour. This makes it very difficult, if not impossible, for providers to be able to ensure that their homecare workers are paid at the least the NMW. This situation has only worsened

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<sup>3</sup> Councils still insisting on 15 minute visits, UNISON, January 2016, <https://www.unison.org.uk/news/press-release/2016/01/three-quarters-of-councils-still-insisting-on-15-minute-homecare-visits-for-elderly-and-disabled-people-reveals-unison-report/>

<sup>4</sup> Illustrative example of a working day based on a real UNISON member's rota: homecare worker "Wendy" has 15-20 appointments on a typical working day. Her working day will be a series of appointments with different people as follows: [07:00-07:30][07:45-08:30][08:30-09:15][09:15-10:00][10:00-10:30][10:30-11:00][11:00-11:30][12:00-12:30][12:30-13:00][13:15-13:30][13:30-14:00][18:45-19:00][19:00-19:30][20:30-20:45][20:45-21:00][21:00-21:30][21:30-22:00]. She must travel between each appointment. Where insufficient time is given to travel between appointments she must make up the time, either by cutting a visit short or by staying late. She is routinely not paid for any travel time.

<sup>5</sup> A Minimum Price for Homecare, United Kingdom Homecare Association, November 2015, [http://www.ukhca.co.uk/pdfs/AMPFHC\\_150719.pdf](http://www.ukhca.co.uk/pdfs/AMPFHC_150719.pdf)

since the introduction of the NLW in April 2016 for all workers aged over 25 because the margin between NLW rate and commissioning rate has narrowed even further.

15. Attitudes to commissioning practices by local authorities also play a role in many homecare workers being paid below the NMW/NLW. Last August, UNISON submitted a series of FOI requests to all the local authorities in England and Wales that have a responsibility for social care asking them whether they specify a contractual condition that homecare providers pay homecare workers for time spent travelling between visits. The findings show that just 21%, 38 out of 174, of local authorities make it a contractual condition for care providers to pay for workers' travel time even though this is working time for the purposes of calculating the NMW<sup>6</sup>.
16. These factors contribute to the endemic non-payment of the NMW/NLW in the homecare sector. In 2013 the National Audit Office has reported that up to 220,000 homecare workers in England are lawfully paid below NMW<sup>7</sup>. Similar investigations by Her Majesty's Revenue & Customs (HMRC), the government body with responsibility for NMW enforcement, of care providers between 2011 and 2015 have found that 41% were non compliant with the NMW<sup>8</sup>. The Resolution Foundation has calculated that care workers are "collectively cheated of £130m" a year due to sub minimum wage pay<sup>9</sup>.

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<sup>6</sup> Calling Time on Illegal Wages in the Homecare Sector, UNISON, March 2016, <http://static1.squarespace.com/static/54d8d47ce4b04c14f194e93b/t/5707ac8d60b5e990b70e7ef0/1460120720384/Calling+time+on+illegal+wages+in+the+homecare+sector.pdf>

<sup>7</sup> Adult Social Care in England: Overview, National Audit Office March 2014 <https://www.nao.org.uk/wp-content/uploads/2015/03/Adult-social-care-in-England-overview.pdf>

<sup>8</sup> National Minimum Wage Low Pay Commission Report Spring 2016, The Low Pay Commission, March 2016 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/507455/10493-TSO-Low\\_Pay-ACCESSIBLE\\_05.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507455/10493-TSO-Low_Pay-ACCESSIBLE_05.pdf)

<sup>9</sup> The scale of minimum wage underpayment in social care, Resolution Foundation, Feb 2015, <http://www.resolutionfoundation.org/publications/the-scale-of-minimum-wage-underpayment-in-social-care/>

## VII Problems with NMW/NLW enforcement

17. UNISON contends that non-compliance on this scale is able to flourish because of difficulties in relation to enforcement. There are a number of sector specific issues around enforcement. Firstly, the nature of the workforce and the work that they do. Homecare workers are a vulnerable workforce with precarious employment. The nature of the work means that many of them spend their working time without seeing any colleagues which can increase their sense of isolation.
18. The majority of homecare workers are also now employed on ZHCs. ZHCs contribute to the perception that homecare is not a desirable career choice and that the work is not valued. This combines with other poor employment practices in the sector such as non-payment of travel time and low levels of unionisation to worrying effect. Almost inevitably, homecare has one of the highest levels of staff turnover in the UK economy with rates exceeding 30% a year.
19. The precarious nature of the working arrangements mean that many care workers are fearful of reporting their employer in case it jeopardises their employment. UNISON has represented care workers who have seen their hours cut as a consequence of reporting non-payment of the NMW.
20. There is also low awareness within the workforce of their rights, for instance, that care workers should be paid for their travel time, and about the avenues for redress including a dedicated, state funded helpline. For instance it was revealed that only 11 homecare workers called the helpline to formally complain about non payment of NMW in 2011-12, and a further 19 the following year<sup>10</sup>.
21. Secondly there is a lack of transparency around pay. Workers are not provided with a NMW/NLW compliance calculation they can verify at the point of payment. This means that workers do not know whether or not they have been paid correctly. This adds to the burden of challenging their employer. This has been recognised by the independent LPC in their recent report<sup>11</sup>. In their report the LPC have recommended that the UKG:

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<sup>10</sup> House of Commons, Hansard, 10 June 2013, <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130610/text/130610w0002.htm>

<sup>11</sup> Low Pay Commission Report: Spring 2016, The Low Pay Commission, March 2016, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/507455/10493-TSO-Low\\_Pay-ACCESSIBLE\\_05.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507455/10493-TSO-Low_Pay-ACCESSIBLE_05.pdf)

*“reviews the current obligations on employers regarding provision of payslips and considers introducing a requirement that payslips of hourly-paid staff clearly state the hours they are being paid for.”*

22. UNISON has won a number of cases across the social care sector<sup>12</sup>, including all the largest employers, on behalf of our members where they have not been paid in compliance with the NMW. A common theme with all of these cases is that the amount recorded on payslips as payable did not correspond with the amount of money the workers were legally entitled to. This is largely because travel time is not treated as working time by the majority of employers and is either not included at all or in full when calculating payment to workers. It is not paid for nor is it not listed on payslips.
23. Many homecare workers are not given records, or permitted to retain records, of their working rotas which would allow them cross-reference their working time with the amount that they have been paid in order to verify their pay. Indeed, some care providers now send homecare workers their rotas electronically to mobile phones and they are then automatically deleted after a care appointment has been completed. The lack of pay transparency makes it difficult for workers to establish their claims. Sometimes this information can be obtained through litigation but in UNISON’s experience this can be a difficult and time-consuming process.
24. Thirdly, there are concerns in relation to access to justice. Reforms to the UK labour courts, Employment Tribunals (ETs), act as a barrier to enforcement for many workers. An option for workers wishing to tackle non-compliance is for them to take their employer to an ET. In order to pursue a claim a worker must pay to first file a claim and then again to proceed with the claim to a hearing before a judge. This is an obstacle to low paid and often vulnerable workers being able to access justice.
25. Workers must pay £160 to file a claim and a further £230 to proceed to hearing for a claim that they have not been paid NMW/NLW (these fees rise to a total of £1,200 if the worker also claims they have been dismissed for asserting their right to be paid NMW/NLW). Systems in place to relieve very low paid workers of the requirement to pay ET fees are set so low that they are not available in full for someone earning

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<sup>12</sup> MiHomecare’s staff £2,500 back pay for travel time, BBC, January 2016, <http://www.bbc.co.uk/news/uk-wales-south-west-wales-35260953>



NMW/NLW working a full time 37.5 hour week and not at all if they have a partner who also works full time earning NMW/NLW.

26. It is important to put these fees into context. The total fee for a non compliance claim without dismissal is £390. A worker who works 37.5 hours per week on NMW will earn £251.25 gross, and a worker on NLW £270 gross. Fees are paid from net pay by workers. The fees for the right to argue that they have not been paid “minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract”<sup>13</sup> is the equivalent to almost 2 weeks net pay. It should also be remembered that these fees are in addition to any representation fees incurred. Workers may be required to pay more than they stand to recover in order to enforce the minimum pay standard.

27. UNISON has supported members doing this, but it has taken over a year for our members’ cases to be resolved. The average length of time for these type of cases to progress through the ET system in 2014-15 was 74 weeks<sup>14</sup>. This is a very long time for workers who are at risk of hours being arbitrarily reduced by employers who take advantage of their ZHC status.

28. Fourthly, there are major problems with the other main enforcement route, HMRC. HMRC is the statutory body responsible for NMW/NLW compliance. In 2014 the UKG introduced a policy of naming and shaming employers found to be non-compliant with the NMW. However, only 13 separate care providers have been exposed. Arrears of £47,956.39 have been identified for a total of just 210 workers in this process. All of the providers named to date have also been very small and localised providers. Further, of the 13 care companies that have been named and shamed the majority have been identified as owing arrears to just 1 care worker at their company.

29. Given that care workers will routinely be employed on the same terms and conditions this raises serious questions as to whether HMRC are failing to extend their investigations to see whether other care workers at these companies are also being

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<sup>13</sup> General Comment No.23 (2016) on the Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Right which states that “this is the definition relied upon by the ILO Committee of Experts on the Application of Conventions and Recommendations in a number of its Reports and other documents.”

<sup>14</sup> House of Commons, Hansard, 3 February 2016, <http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-02-03/25609/>

paid below the NMW and whether they are consequently failing to recover arrears for these workers.

30. In February 2015 the UKG ordered HMRC to carry out a proactive investigation into the six largest care providers to see if they were paying their workers below the NMW. However, over a year on the investigation has not been completed and no findings published.
31. In March 2016 the process that is in place for when an employer has been found to be non-compliant with the NMW was revealed by the UKG. HMRC will recover arrears solely for the care worker who contacted them to make a complaint about non-payment of the NMW. HMRC will not take action on behalf of the other workers at that same company. Instead the employer is allowed to self-correct and is supposed to pay back the arrears owed to other workers with little oversight<sup>15</sup>. This creates a very difficult tension in UKG attitude to NMW compliance. On the one hand care employers may be publicly named and shamed for non-payment of the NMW with great fanfare from the UKG but then HMRC simultaneously trusts employers deemed in another context to be worthy of shame to pay back the money they owe to the rest of the workforce in the absence of scrutiny, public or otherwise.
32. Although, the information provided about the above self-correction process revealed that HMRC have an assurance process (of sorts) in place to ensure that employers self-correct, it is UNISON's strong contention that this is highly insufficient.<sup>16</sup> UNISON considers that there are significant problems in taking an approach of self-correction with care employers. When care workers are paid below the NMW many will be unaware how much arrears they are owed because as outlined above the systemic lack of pay transparency means that pay slips are often extremely confusing, opaque and contain significant omissions.
33. There is a real risk that an employer who has been asked to self-correct by HMRC may only pay their workers a fraction of the arrears that they are actually owed. If an

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<sup>15</sup> House of Commons, Hansard, 2 March 2016  
<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-02-23/28094/>

<sup>16</sup> House of Commons, Hansard, 9 March 2016  
[http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-04/29823/?\\_cdosy1=TQ1e\\_QA89GCimA4MOKcYFeZz\\_mvZc04NJL1Lj\\_I2SooOGEcduEoczeZbGhOWU-cqr\\_sdZZUBmyuX20gpbHvFfM1VI3ObRXNabKOWyAMZT-08uYjlyBu46dXtTLIDhay](http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-03-04/29823/?_cdosy1=TQ1e_QA89GCimA4MOKcYFeZz_mvZc04NJL1Lj_I2SooOGEcduEoczeZbGhOWU-cqr_sdZZUBmyuX20gpbHvFfM1VI3ObRXNabKOWyAMZT-08uYjlyBu46dXtTLIDhay)

employer has engaged in long term, systemic non-compliance UNISON expresses concern that HMRC trusts them to voluntarily to fully self-correct in the absence of any apparent scrutiny and/or sanction. Even if HMRC were to contact care workers to carry out a cursory assurance check, the care workers would not be in a position to properly gauge whether they were being paid all the arrears they were owed. Despite this, HMRC are able to state that they have carried out their assurance checks and avoid carrying out proper investigations.

34. The wide spread issues of non-compliance in the homecare sector in the UK significantly undermines care standards and condemns a large proportion of the workforce to poverty. Unlawfully low pay rates also fuel high staff turnover and send out a message that care workers do not deserve to be respected for their work, their work is not valued. Furthermore, this wide scale non-compliance also sends out a message to the recipients of care that they do not deserve to be respected by society with provision of care paid for in compliance with minimum wage standards.
35. Not paying for travel time, even though it is working time, encourages the practice of 'call clipping' whereby homecare workers leave their visits early in order to cut down on the amount of time they have to spend working for free. This goes against the best practice guidance produced by the National Institute for Health and Care Excellence which states that homecare workers should have travel time built into their schedules<sup>17</sup>.
36. Poorer levels of care in the social care system inevitably lead to more pressure and costs being placed upon the NHS. Too many good experienced care workers are forced to leave the sector because they cannot afford to stay. This takes place at a time when it is estimated that the adult social care sector in England alone will need to add approximately 1 million workers by 2025 in response to population ageing and the implied increase in the numbers of people with disabilities<sup>18</sup>. Any efforts to try and recruit more staff are doomed to fail unless the UKG takes steps to address the pay compliance issues within the sector.

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<sup>17</sup> Home care: delivering personal care and practical support to older people living in their own homes, National Institute for Health and Care Excellence, 2015 <https://www.nice.org.uk/guidance/ng21>

<sup>18</sup> The Future Care Workforce, International Longevity Centre 2014  
[http://www.ilcuk.org.uk/images/uploads/publication-pdfs/Future\\_Care\\_Workforce\\_Report.pdf](http://www.ilcuk.org.uk/images/uploads/publication-pdfs/Future_Care_Workforce_Report.pdf)

## **VII Article 7 Submission**

37. UNISON submits that the above is in contravention of the UKG's ICESCR Article 7 obligations. It is not sufficient for the UKG to report that the NMW is designed to protect low income workers and provide hourly minimum rates. The issue which needs to be scrutinised by the Committee is the effect of the NMW. The list of issues asked the UKG to indicate whether the NMW "provides workers and their families a decent living". For such minimum standards to be effective, to provide a decent living, they must be enforced and be enforceable.
38. The work that homecare workers do is undervalued. Care work is regarded as women's work, it is not valued. Labour planning is poor and workers bear the brunt of this in the form of extensive ZHC use. This leads inevitably to stress, high staff turnover and the reduction in care standards. As indicated above, this in turn has a knock on effect for the mental and physical health and well being of both workers and recipients of care – as such there may also be contraventions of Article 12 standards, which the Committee may wish to consider based on submissions by other organisations.
39. UNISON has broad concerns that the NMW and NLW are not in fact true living wages and as such do not provide a decent living for workers and their families. However, there doubtless will be other organisations who can make submissions on this point. Our focus in this submission is – whether a living wage or not - that the minimum pay standards are not being adhered to across an entire sector and that this is a result of a failure by the UKG to ensure that these standards are enforceable by low paid workers.
40. Home care workers in the UK do not earn a fair wage or a decent living, because they are systemically not being paid in compliance with minimum wage standards. Where a worker is not in receipt of either pay which reflects the work done or pay which complies with minimum pay standards or both then they cannot be said to be in receipt of either a fair wage or a wage which provides for a decent living.
41. The main issue regarding fair wages is that homecare workers are not paid for the work that they are doing. Travel time is not included in the pay calculation despite this being a legal requirement. In addition to breaching any applicable contractual terms this also has the effect of breaching minimum pay standards.

42. The lack of pay transparency means that workers have difficulties in knowing that they are being paid in contravention of the law. Even where they suspect this to be the case they face unnecessary hurdles in enforcing their rights as outlined above.
43. The UKG has the power under domestic NMW legislation to make regulations to require employers to provide workers with information, before or at the point of payment, from which the worker can verify that they have been paid in compliance with the NMW<sup>19</sup>. UNISON considers that this would be an important first step in bringing about the required transparency so that workers can ensure they receive a fair wage.
44. **UNISON respectfully requests that the Committee seek clarification from the UKG on what steps they will take to bring greater transparency to the pay systems for workers so that they can properly verify and challenge that they are being paid in accordance with minimum legal standards.**
45. Workers are subject to hardship as a result of the work arrangements. This has detrimental impact on them and their families. The effect of not being paid lawfully, very low wages and precarious employment is that workers are compelled to work longer hours in order to support their families. This has the effect of them being absent from the family home and unable to support their families non-financial needs. This is a particularly significant issue for workers with personal caring responsibilities for children, partners and/or elderly relatives. Given that the homecare sector is predominately a female workforce and women also bear the disproportionate burden of caring responsibilities we would note that there are also issues to be addressed in respect of Article 3 compliance for the UKG.
46. In General Comment No. 23 (2016) on the Right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights) the Committee suggest that
- “where workers have precarious contracts, supplements to the wage, as well as other measure to guard against arbitrariness, may be necessary in the interests of fairness to mitigate the lack of job security”.*

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<sup>19</sup> s.12 National Minimum Wage Act 1998

47. The reality for many homecare workers is that they do not receive the minimum wage and should they seek to address their treatment they find that they are ‘zeroed down’ – that is to say their hours are arbitrarily reduced in response to any attempt to assert their rights. The fact that they are employed on ZHCs creates a climate of fear for workers and a sense of impunity for unscrupulous employers. This is recognised by the UKG commissioned Cavendish Review which highlighted the unsuitability of ZHC in the care sector<sup>20</sup>.

**48. UNISON respectfully requests that the Committee seek clarification from the UK Government on what steps they will take to guard against this arbitrariness in order that workers are treated fairly and protected.**

49. General Comment No. 23 (2016) also proposes that

*“for the clear majority of workers, fair wages are above the minimum wage. Wages should be paid in regular, timely fashion and in full.”*

As indicated above, homecare workers are not paid wages in compliance with the minimum wage and they cannot be said to in receipt of fair pay. Indeed, approximately 20% of home care workers are not paid in compliance with the national minimum wage. The prospect of above minimum wage pay is beyond their reach.

**50. UNISON respectfully requests that the Committee seek clarification from the UKG on what action will be taken to address these high levels on non compliance and to progress matters so that the “clear majority” of home care workers are in receipt of above minimum wage pay.**

51. In order for remuneration to be properly assessed as providing for a decent living workers must receive, and be confident that they will receive, payment that reflects the work that they have done and is in compliance with the minimum pay standards.

52. Where a worker then experiences difficulties in enforcing minimum pay rights this issue becomes even more critical. If enforcement of minimum standards are

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<sup>20</sup> The Cavendish Review: An independent review into Healthcare Assistants and Support Workers in the NHS and social care settings, Department of Health, July 2013, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236212/Cavendish\\_Review.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236212/Cavendish_Review.pdf)

effectively placed out of reach of low paid, vulnerable workers the UK Government cannot be said to be compliant with Article 7 obligations.

53. In the UK the two routes for enforcement of NMW standards (ETs and HMRC) present specific challenges to low paid workers as outlined above. The UKG is in breach of Article 7 in failing to ensure effective labour inspections and is failing to ensure the application of minimum wage provisions in practice.

54. **UNISON respectfully request that the Committee seek clarification from the UKG on what steps it will take to ensure low paid workers have effective, accessible and prompt avenues for enforcement of minimum wage rights.**

## VIII Proposed Concluding Observations

55. UNISON respectfully invites the Committee to conclude that the UKG is in breach of Article 7.

56. UNISON respectfully invites the Committee to conclude that the UKG should take all reasonable steps to address this as a matter of urgency, specifically, by utilising available actions under existing domestic law which would provide, inter alia, greater pay transparency for workers.

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