

1. What do you believe are the barriers to delivering Fair Work

As the Mental Health Foundation's expertise is in public mental health, we are particularly concerned about the barriers to fair work as these relate to preventing mental health problems.

The world of work is changing. As a result of the coronavirus pandemic more and more of us are being asked to work differently, with the pace of change accelerating. For some, increased remote working brings ever increasing demands on productivity, expanding outcomes, and increasing working hours, with consequential impacts on work life balance and risk of psychological hazardsⁱ. On the other hand, longstanding barriers to mentally healthy workplaces persist, risking unfairness in the workplace to people who experience a mental health problem.

There are several ways that labour practices are changing, e.g., a rise in zero-hours contracts, automation of previously manual jobs, and unsocial working hours. Taken together, these changing practices are increasing job insecurity, with consequent increased risk of mental health problems such as depression, anxiety, and mental exhaustionⁱⁱ. Most recently, a study exploring job insecurity during the pandemic found that job insecurity and financial concern was related to greater depressive symptomsⁱⁱⁱ.

All told, mental ill health costs Scotland around £11bn a year^{iv} and it is estimated that mental health problems cost Scottish employers £2billion per year^v. In 2017, more than one and a quarter million working days were lost due to self-reported work-related stress, depression, or anxiety – that's around half of all working days lost due to ill health that year.

A lack of flexibility in workplaces can be a barrier for people with mental health problems. The types of reasonable adjustment that can make it possible for people with a mental health problem to continue in work often require flexibility, e.g., in working hours, the workplace environment, time off to attend medical appointments, and in other ways. Where employers are inflexible in their approach to work practices, this can hinder employment of people with mental health problems.

Furthermore, there is a great deal of stigma which employees face in being able to discuss their mental health with their employer. A survey of 1,165 Scottish workers conducted by See Me in 2015 found that 55% of respondents felt that someone with a mental health problem would be unlikely to disclose their condition for fear of being moved to another post or passed over for promotion^{vi}.

Stigma can hinder fair work in different ways, including:

- Prejudice and discrimination at the recruitment stage that can lead to people with experience of a mental health problem being rejected for jobs.
- Bullying in the workplace based on mental health status which can cause stress to people with mental health problems and put their mental health at risk.
- Prejudiced attitudes among managers leading to fewer promotional opportunities for people with mental health problems.

- Prejudiced attitudes leading managers to assume that people absent due to mental ill health will be less likely to recover, and as a result not providing reasonable adjustments or adequate flexibility^{vii}

With the continuing emergence of new variants of COVID-19 in Scotland, and with many employees eager to continue working in a hybrid format^{viii}, there is a heightened challenge for employers to support the mental health of their employees.

The change to home and hybrid work practices may have led to less mental health support for employees even among employers who may have had good systems in place for physical workplaces before the pandemic. For example, people with mental health problems who had arrangements for reasonable adjustments prior to the pandemic may have found that those adjustments were no longer adequate for either working from home or hybrid working.

Lack of knowledge of how to provide a mentally healthy workplace is another barrier that persists. Many employers lack the knowledge and skills to provide a mentally healthy workplace, and this can make it very difficult for employees who have a mental health problem to sustain employment.

Wider employment prejudice and discrimination experienced by people based on any of the protected characteristics under equalities legislation is both a risk factor for mental health problems and clearly represents a barrier to their experiencing fair work, which in turn can negatively affect their mental health. It is vital that the Government's 'Fair Work' agenda ensures that everyone has an equal opportunity to achieve good quality employment.

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

Anti-stigma campaigns should be implemented in workplaces to develop mentally healthy cultures. See Me Scotland has developed an invaluable four-step improvement plan for workplaces to make continuous improvements to their culture, practice, and policies, to directly tackle stigma and discrimination^{ix}. The plan includes a range of supporting resources outlining how to talk about mental health in the workplace, reasonable adjustments, a full guide to discrimination in work and making the case for a plan to an employer.

Increasing job security and improving employment terms and conditions would mark a decisive step towards creating mentally healthy workplaces. Specific measures will be outlined later in the response. However, when taken together, these responses would ensure that employees have the working conditions and workplace culture in place required to support good mental health.

Increasing employers' knowledge of how to support employees' mental health is vital for ensuring mentally healthy workplaces. We welcome the Short-Life Working Group on Employment and Mental Health and the opportunity to participate, however a longer-term initiative to support mentally healthy workplaces is needed. The Scottish Government should extend the term of the Short-Life Employment and Mental Health Working Group

and develop a suite of actions for mentally healthy workplaces, working in partnership with employers, unions, employees, and relevant third sector organisations to ensure that employer guidance and helplines (online and telephone) are based on the most up-to-date and evidence-based information.

Furthermore, employer guidance should underscore duties to prevent prejudice and discrimination against people of all protected characteristics listed in the Equality Act (2020), including those with experience of a mental health problem.

Lastly, employers should review reasonable adjustments for employees regularly to reflect changes in work practices to maximise flexibility for employees.

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

As stated above, we recommend that the Scottish Government extend the term of the Short-Life Employment and Mental Health Working Group for the remainder of this parliament. The scope of the Group should expand to develop and monitor a suite of actions for mentally healthy workplaces, working in partnership with employers, unions, employees, people with lived experience of mental health problems and relevant third sector organisations.

We specifically recommend that an evaluation is conducted of the capacity and awareness of current mental health advice available to employers by telephone, especially small and medium-sized employers, with a view to consideration of the potential to expand current capacity.

Minimum Income Guarantee (MIG)

Recent research on Universal Basic Income carried out by the Foundation found that the conditions imposed on benefits recipients may be an important factor that can hinder good mental health, notwithstanding the benefit income they may receive^x. We are concerned that an approach to a minimum level of income that focuses only on the provision of money will not in itself be sufficient to support good mental health.

It is also *how* this income is acquired that is critical for supporting good mental health at an individual level. Our rapid review explored the impact of various universal basic income-type studies on mental wellbeing. It found a correlation between removing income conditionality and improved mental health outcomes for recipients, suggesting that removing conditionality could have positive mental health effects for benefit recipients.

Therefore, the Mental Health Foundation is calling for the Scottish Government to include mental health as a core consideration and on-going area of evaluation throughout the development and implementation of a Minimum Income Guarantee (MIG).

Furthermore, any pilots of a Universal Basic Income (UBI) by the Scottish Government should include a similar mental health component.

Lastly, this approach should also be applied to all four-day working week trials coordinated by the Scottish Government in partnership with local authorities.

Guidance for employers to support employee mental health

Typically, workplace wellbeing programmes and approaches focus on individuals by targeting things like healthier eating, physical exercise, smoking cessation, and stress management. While these programmes have shown positive and cost-effective outcomes for individuals, it is also crucial that workplace wellbeing takes a whole-workplace approach by addressing the working environment factors (social and physical) that impact health and wellbeing^{xi}.

In 2018, the Foundation published a document titled 'How to support mental health at work'^{xii}. This contains guidance for employers and details how to support employee wellbeing. Specifically, it provides an employer checklist for creating mentally healthy workplaces which covers issues including employee engagement exercises, developing compassionate line management relationships, addressing discrimination as well as valuing employee diversity and lived experience.

We welcome plans to produce updated mental health guidance for employers. We recommend that Scottish Government guidance for employers on mental health be reviewed regularly to take account of emerging practice.

Supporting a living wage in Scotland

Finally, the Scottish Government should:

- **Ensure no publicly procured contract uses zero-hours contracts.**
 - **Establish a new certification scheme for businesses who want to work with the public sector to ensure they meet good work criteria, i. e., not using zero-hours contracts, collective bargaining, paying the Scottish Living wage, and having a clear carbon reduction plan.**
- 4. If Scotland had full control over employment law, which issues would you like to see addressed as a priority in order to deliver fairer work in Scotland?**

A living wage for all

In 2020, research conducted by the Poverty Alliance found that 15.2% of the Scottish workforce were paid under the Real Living Wage (RLW)^{xiii}. Due to a combination of rising inflation, rising gas and electricity prices, and a recent rise in National Insurance (NI) amongst other factors – Citizen's Advice reports that a third of Scots are worried about being able to pay for food and other essentials^{xiv}.

There is strong public support for a statutory living wage. Working with the University of Cambridge, Swansea University, the University of Strathclyde and Queen's University Belfast, the Mental Health Foundation has led an ongoing, UK-wide, repeated cross-sectional study of how the pandemic is affecting people's mental health. In the most recent wave of results (September 9-16-2021) for this UK representative sample, 28% of respondents put 'the UK Government introducing a statutory living wage obligation on employers' in their top three policies of importance^{xv}. This was second only to the UK Government 'setting out a clear vision for the future'.

Research highlights the strong link between income inequality and poor mental health, with low-income earners consistently experiencing relatively higher levels of stress and anxiety compared to relatively higher earners^{xvixvii}. Furthermore, Children and adults living in households in the lowest 20% income bracket in Great Britain are two to three times more likely to develop mental health problems than those in the highest^{xviii}.

With a sizable portion of the Scottish workforce not being paid the RLW, and with the cost of living rising, the NMW should be set at the same rate as the RLW and increase in-line with the rate of inflation.

Zero-hours contracts

The percentage of UK-workers on a zero-hours contract was relatively stable at around 0.8% between 2000-2012. However, since then this figure has steadily increased, to accounting for 2.8% of all those in work in 2017^{xix}. Over the course of the Coronavirus pandemic, this figure has further risen, reaching 3.3% of the workforce at the height of the pandemic^{xx}.

Evidence suggests that for the vast majority, ZHC are a necessity rather than a choice and they are overwhelmingly associated with low pay, income & hours insecurity, and underemployment^{xxi}. They also allow employers to designate individuals as 'workers', rather than 'employees', and afford them fewer entitlements and employment protection rights^{xxii}. For example, the requirements for statutory maternity, paternity pay, sick pay and redundancy pay, can be hard to meet for 'workers' on ZHC's, as they rarely have shifts scheduled in advance and are not receiving a guaranteed income^{xxiii}. Additionally, it is clear from analyses that such contracts disproportionately affect those who are already vulnerable, namely young, part-time, women and those belonging to ethnic minorities, working in the hospitality, health, and social care sector^{xxiv}. For instance, while only 2.5% of white men were on zero-hours contracts in the last three months of 2020, this rose to 4.1% among men and 4.5% among women belonging to ethnic minorities^{xxv}.

It is therefore perhaps unsurprising that evidence of their negative mental health impacts is growing. A recent study of 7,700 people in England found that those who were on zero-hours contracts were at greater risk of reporting feelings of depression and anxiety^{xxvi}. Qualitative studies have also repeatedly identified they are associated with increased stress, low job satisfaction and a poor-work life balance^{xxvii,xxviii}. Others have demonstrated the considerable risk to the physical health of those employed on such contracts, with one study

identifying a COVID-19 related mortality rate amongst those on ZHC, which was twice that of the general population^{xxix}.

Many EU countries have banned the practice of zero-hours contracts, e.g., France, Austria, Estonia, Luxembourg, and Belgium. Furthermore, many more countries have heavy regulations on their use including Germany, Ireland, Italy, and the Netherlands.

The Scottish Government should develop measures to mitigate the negative mental health effects of zero hours contracts and boost rights and entitlement protections for people on such contracts.

5. **What is the most important thing that you or your organisation can do to help Scotland become a Fair Work Nation?**
 1. The Mental Health Foundation is a Living Wage employer.
 2. In April of this year, the Foundation launched a six-point action plan for race and diversity within the organisation, on foot of an independent review.
 3. The Mental Health Foundation is seeking to participate in relevant MIG group workstreams to ensure that the development and implementation of the policy has a mental health component.
 4. Further to the Foundation's contribution to the Short-Life Employment and Mental Health Working Group, we are keen to be an active member of any future mental health and employment Scottish Government initiative, and any future of work commission established by the Scottish Government.
 5. The Foundation will continue to develop evidence-based guidance for employers to support the mental health of their employees.

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