

## High Pay Centre response to the Business and Trade Committee's first call for evidence on the Employment Rights Bill (December 2024)

### Summary:

- The proposed 'Employment Rights Bill' will deliver a much-needed improvement to the workplace protections on offer to employees, which could be instrumental in enhancing job security for the most vulnerable workers
- The Government's stated ambition to boost worker voice and wellbeing in the UK will require the strengthening of channels for management/worker dialogue
- Establishing a more robust framework for employee consultation and participation in decision-making processes could help to boost productivity, raise economic growth and living standards and reduce inequality
- Specifically, regulation surrounding trade unions and employee consultation processes should be updated to ensure meaningful worker consultation on key business decisions
- This submission also highlights additional opportunities to deliver better pay and working lives in Britain by refining the upcoming bill and related measures, including changes to pay ratio reporting, and the provision of information to workers on key employment rights.

### About the High Pay Centre

The High Pay Centre (HPC) is a think tank focused on economic equality, worker voice and responsible business practice. We publish research and analysis, make policy recommendations, issue good practice guidance and host events.

We work with stakeholders from across business, the investment industry, government, academia, trade unions and civil society to identify pathways to a fairer, more democratic, prosperous business and employment culture aligned with the interests of wider society.

Further information about our work is available on our website <https://highpaycentre.org> while our research publications are at <https://highpaycentre.org/latest/publications/> and our good practice guidance covering topics including participatory business governance models, corporate reporting and investor stewardship is at <https://highpaycentre.org/resources/>.

## Background

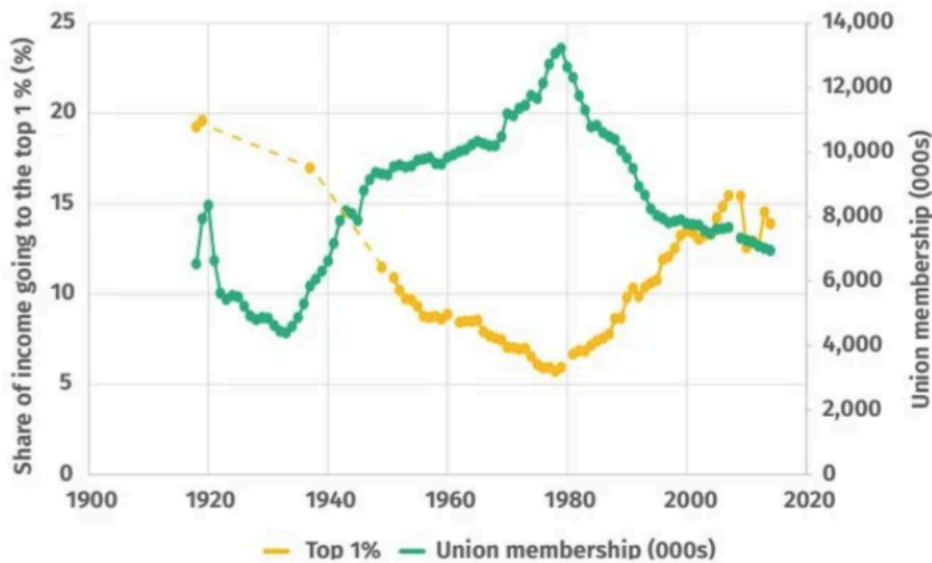
The UK has very high inequality by international standards. The OECD think ranks us 8th most unequal in terms of income inequality of 40 high income countries.<sup>1</sup> This has important implications for living standards. While prosperity is not a zero sum equation where less for those at the top means more for those in the middle and at the bottom or vice versa, it would be naive to think there is no relationship between the two. The share of total incomes captured by the richest 1 per cent in this country has risen in almost perfect synchronicity with the decline in trade union membership (see figure 1) suggesting that as the bargaining power of ordinary workers has weakened, the rich have profited, at least to some extent, at the expense of the wider population.<sup>2</sup> Both the size of the pie and how it is distributed do matter. To raise living standards we need to raise growth, but we also need to ensure the proceeds of growth are distributed evenly.

### Figure 1: Trade Union membership vs share of total income going to the richest 1%

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<sup>1</sup> OECD Data. Income Inequality via <https://data.oecd.org/inequality/income-inequality.htm>

<sup>2</sup> Institute for Public Policy Research (2018), Power to the people: How stronger unions can deliver economic justice via <https://www.ippr.org/articles/power-to-the-people>



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Similarly, the UK remains an outlier in terms of worker voice and consultation, ranking 26th out of 28 European countries on the 'European Participation Index' (EPI), which measures worker participation in business decision-making.<sup>3</sup> Just five FTSE 350 listed companies allow a worker director on their boards of directors.<sup>4</sup> It is therefore no coincidence that the UK is simultaneously one of the most unequal and unproductive countries in Europe, given that countries with a higher EPI experience lower levels of income inequality and poverty, as well as higher productivity rates.<sup>5</sup>

Figure 2: Rates of inequality compared to participation score in selected European countries

<sup>3</sup> European Participation Index via <https://www.europeanparticipationindex.eu/>

<sup>4</sup> Financial Reporting Council (2021), Workforce Engagement and the UK Corporate Governance Code: A Review of Company Reporting and Practice via [https://media.frc.org.uk/documents/FRC\\_Workforce\\_Engagement\\_Report\\_May\\_2021.pdf](https://media.frc.org.uk/documents/FRC_Workforce_Engagement_Report_May_2021.pdf)

<sup>5</sup> For examples of research showing the link between worker participation in business decision-making and positive socio-economic outcomes, see Common Wealth (2024) A Firm Partnership via <https://www.common-wealth.org/publications/a-firm-partnership>; Institute for Public Policy Research (2017), Corporate Governance Reform: Turning Business Towards Long-Term Success; Thannisch, R. (2011), Reorienting management remuneration towards sustainability: lessons from Germany. The Sustainable Company: A new approach to corporate governance. Brussels: ETUI.

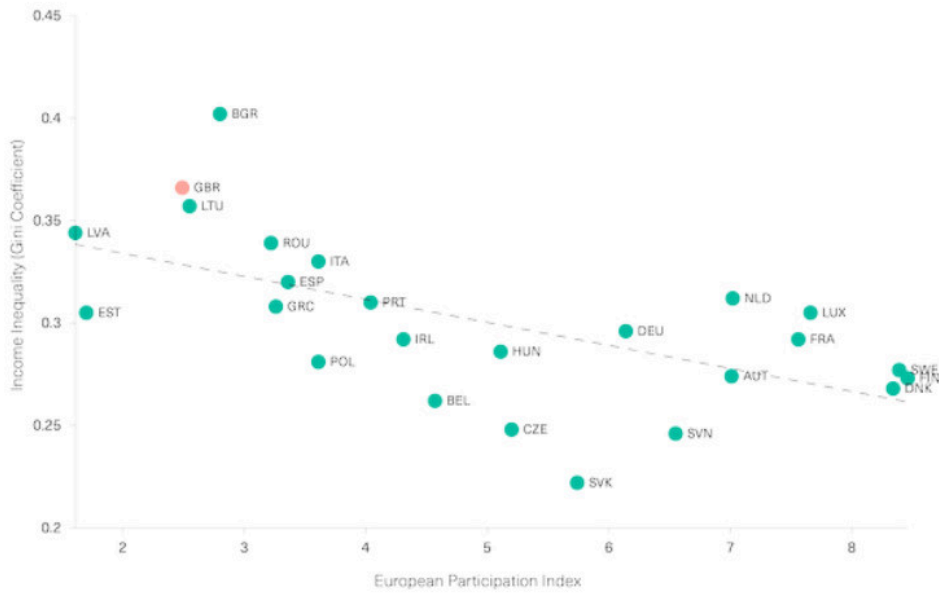
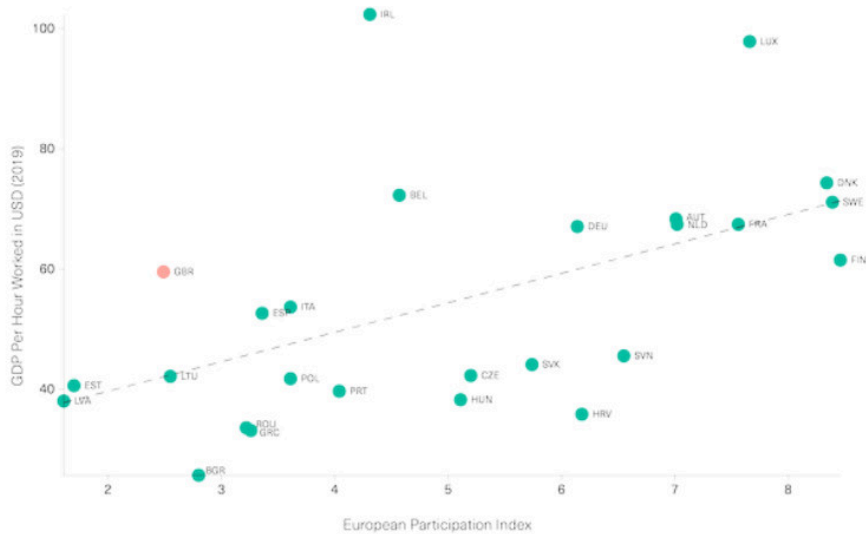


Figure 3: Productivity levels compared to participation score in selected European countries



These characteristics of both unequal outcomes and a lack of voice at work create a powerful case for a new programme of employment rights fit for the modern era of work, with an emphasis on job security and stability; trade union rights and collective bargaining; and worker voice.

This submission is strongly supportive of the direction of the Employment Rights Bill and submits the below evidence with a view to refining and supplementing a much needed piece of reform rather than recommending wholesale changes.

Given the relevance to the High Pay Centre's area of research and analysis, this submission focuses mostly on questions relating to the issues of worker voice and business governance. Much of the evidence is drawn from our *Charter for Fair Pay*, published last month setting out a series of policies aimed at fostering a more democratic and inclusive business culture, through reforms to employment rights plus corporate governance and reporting plus more accountable investment stewardship. The full report can be found here:

<https://highpaycentre.org/a-charter-for-fair-pay/>.

### **Will the proposed trade union reforms improve working relationships between workers and businesses, and hence, productivity and enable voice at work?**

**Worker Voice:** The new Government has frequently and rightly emphasised the need to strengthen worker voice as being a core driver of the new programme of Employment Rights. On the first full page of the 'Make Work Pay' document setting out Labour's agenda prior to the general election, sets out plans "back working people to take their voice back," one of three references to worker voice on that first page alone.<sup>6</sup>

Updating trade union legislation will undoubtedly provide a degree of the worker voice that the government seeks, enabling individuals to make a free and informed choice on union membership and strengthening their position in negotiations over pay and working conditions.

However, voice at work should not be limited to areas like pay, hours and holidays. Workers should be active participants in key business decisions more widely.

Worker input into decision-making processes would better align corporate behaviour with the interests of working people and rebuild public trust in business. Moreover, an enhanced sense of ownership within the firm is associated with greater employee morale, encouraging workers to remain in their position for longer.<sup>7</sup> This can lead to higher incomes for ordinary

<sup>6</sup> Labour's Plan to Make Work Pay via <https://labour.org.uk/wp-content/uploads/2024/06/MakeWorkPay.pdf>

<sup>7</sup> Oxfam. (2024). Getting Ahead of the Curve on Dynamic Materiality. Joint Agency Discussion Paper via [https://webassets.oxfamamerica.org/media/documents/Getting\\_Ahead\\_of\\_the\\_Curve\\_on\\_Dynamic\\_Materiality.pdf?\\_gl=1\\*13xwkp\\*\\_ga\\*MTk2MzUyMTA5MC4xNzEwMTk0MTMz\\*\\_ga\\_R58YETD6XK\\*MTcxMTY0NTYzNS4yLjAuMTcxMTY0NTYzNi41OS4wLjA](https://webassets.oxfamamerica.org/media/documents/Getting_Ahead_of_the_Curve_on_Dynamic_Materiality.pdf?_gl=1*13xwkp*_ga*MTk2MzUyMTA5MC4xNzEwMTk0MTMz*_ga_R58YETD6XK*MTcxMTY0NTYzNS4yLjAuMTcxMTY0NTYzNi41OS4wLjA).

workers and help reduce potentially destabilising turnover within the firm. Additionally, workers bring valuable front-line experience into the decision-making process, leading to better decisions grounded in practical reality and ultimately better business performance.

Trade unions are an obvious vehicle for delivering worker voice in this way. To this end the new 'Modern Framework for Industrial Relations' should formalise rights to consultation on key business practice issues for recognised trade unions. Definitions of meaningful consultation provided in the framework could include the following:

- Provision union of information on key business practice issues in a timely manner, in order to solicit and feed in the views of the workforce
- Regular access to senior decision-makers, enabling them to raise the views and suggestions of the workforce on key business issues
- Accountability on the part of employers for explaining how they have considered and acted upon the views of the employee base

**Union Access:** The bill's commitment to granting unions the right to access to the workplace is a key feature of the proposed changes to union regulation and represents a vital component of a healthy industrial relations framework. Trade unions are a vital part of a functioning democracy and workers need to be able to make a free and informed choice on union membership.

Clearly, a definition of what represents 'reasonable' access is critical to the success of this measure.

Unions must be allowed sufficient time on the premises to speak with all relevant workers. It is also unreasonable to expect workers to take time out of breaks or their non working hours to meet with unions. Letting staff take time out of their working day for a meeting that will take at most a matter of hours out of annual working time is not a major sacrifice to ask of employers. Naturally, employers should retain the right to reasonable notice and to protections from excessive access demands. However, unions should also be granted the right to make periodic returns to the workforce to account for potential staff turnover and new employees.

Furthermore, as workforces become increasingly remote and the primary means of communication shifts to digital platforms, it is important that union access legislation includes

provisions for digital access. This would enable them to effectively maintain close communication with their members in today's rapidly evolving job market. Specifically, it should include the right to electronic communication with workers under specified circumstances, as well as ensuring that information regarding the relevant union is accessible via the digital platform used by the employer.

### **Are there weaknesses or loopholes in the Bill that could be exploited or have unintended consequences?**

**Awareness of Rights:** The draft bill's provision requiring employers to inform all staff of their right and options with regard to trade union representation will be hugely beneficial in terms of raising awareness of democratic rights within the workplace.

It would require little additional effort or burden if this information was provided as part of a mandatory statement also summarising other key employment rights, such as those related to consultation, sick pay and holiday pay.

This small amendment would be simple to arrange and would not meaningfully inconvenience employers - the government could produce a template statement that they would simply distribute to new starters alongside other information provided during the onboarding process.

However, it would make a huge difference to young workers, migrant workers, workers in workplaces with high staff turnover and low institutional knowledge of employment rights, workers who work in isolation and others who may lack awareness of their rights.

Raising awareness could lead to much better application and enforcement of rights. It would also be fairer on responsible employers by making it harder for exploitative competitors to cut corners.

**Management Interference in Union Activity:** We welcome the proposals on limiting management interference in the union recognition process as set out by the government's 'Modern Framework for Industrial Relations'. This agenda provides a great opportunity to address other potential loopholes in the current employment rights framework that, if not addressed by future regulation, employers may continue to exploit to the detriment of workers across the country.

For instance, most recently, management at an Amazon warehouse in Coventry was reported to have created a "culture of fear" through intimidatory tactics, aiming to prevent union recognition.<sup>8</sup> Such tactics include staff being pressured into multi-hour anti-union

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<sup>8</sup> Partington, R and Stewart, H. Amazon workers in Coventry lose union recognition ballot by handful of votes via <https://www.theguardian.com/technology/article/2024/jul/17/amazon-workers-union-recognition-gmb-vote>

seminars, perpetuating power imbalances and information asymmetries that deny unions their right to operate freely and the corollary right of workers to proper representation. The UK could follow the lead set by the ‘Protecting the Right to Organize’ Act proposed in the US senate in 2023, which contained provisions to outlaw attempts to influence workers through tactics such as compulsory attendance at anti-union presentations, as well as further limitations on employers scope to manipulate workplace votes on union recognition.<sup>9</sup>

In particular, the government must consider these issues when implementing its promise to introduce electronic balloting, given the potential for management interference to be expressed digitally. The positive impact of union representation on wages and overall workplace conditions is irrefutable, and there is good grounds to suggest that this can lead to broader improvements in business productivity.<sup>10 11</sup> However, these benefits will remain under constant threat and inaccessible to a significant portion of the UK workforce unless the potential for employer interference in democratic processes is eradicated via legislative change. This would guarantee that workers have the fundamental right to make a free and informed choice regarding union membership and recognition.

### **Are there areas of employment law not covered by the Bill that weaken workers’ protections?**

**Works Councils:** Works Councils’ play a significant role in granting crucial consultation rights to employees in Europe, providing workers with the right to elect representatives from the workforce to be consulted on business decision-making by management. The introduction of the ‘Information and Consultation Regulations’ (ICE) in 2004, which established the right to a similar model of consultation in the UK, has had limited success in terms of creating a similar culture of consultation and dialogue in Britain.

Moreover, the consultation mechanisms established by ICE have often been dominated by management, preventing effective consultation and undermining genuine worker voice.<sup>12</sup> Largely, this has been the result of vague legislation that fails to provide a comprehensive definition of what constitutes meaningful and effective consultation, enabling management to

<sup>9</sup> Congress.GOV. H.R.842 - Protecting the Right to Organize Act of 2021 via <https://www.congress.gov/bill/117th-congress/house-bill/842>

<sup>10</sup> For examples of research demonstrating the link between declining trade union membership and rising inequality see OECD. (2018). OECD Employment Outlook via [https://www.oecd-ilibrary.org/employment/oecd-employment-outlook-2018\\_empl\\_outlook-2018-en?itemId=/content/publication/empl\\_outlook-2018-](https://www.oecd-ilibrary.org/employment/oecd-employment-outlook-2018_empl_outlook-2018-en?itemId=/content/publication/empl_outlook-2018-) ; Deakin, S and Pourkermani, K. (2024). The Economic Effects of Changes in Labour Laws: New Evidence for the UK. Digital Futures at Work Research Centre; Jaumotte, F and Osorio Buitron, C. (2015). Power from the People. Finance & Development, IMF March 2015, Vol. 52, No. 1.

<sup>11</sup> Barth, E, Bryson, A and Dale-Olsen, H.. Union density effects on productivity and wages via <https://academic.oup.com/ej/article/130/631/1898/5824627>

<sup>12</sup> Dobbins, T, Dundon, T, Cullinane, N, Hickland, E, Donaghey, J. Employment regulation, game theory, and the lacuna in employee participation in liberal economies via [https://highpaycentre.org/wp-content/uploads/2024/11/STA0924292460-001\\_aFFT\\_A-Charter-for-Fair-Pay\\_v8.pdf](https://highpaycentre.org/wp-content/uploads/2024/11/STA0924292460-001_aFFT_A-Charter-for-Fair-Pay_v8.pdf)



dictate terms. As a result, workers have typically been consulted solely on inconsequential, surface-level topics, rather than on issues that directly and profoundly affect them.<sup>13</sup>

Introducing greater clarity on the rights of councils, while also making it easier for workers and unions to establish them, could ensure that councils are knowledgeable and actively contribute to company strategy in a way that more accurately reflects workers' needs.

Reform of the ICE regulations is necessary to clarify workers' rights to consultation on firm decision-making by outlining a clear regulatory definition of what genuine consultation entails, requiring management to engage with democratically selected representatives on a regular basis; to share key information with the representatives; and to comply with the agenda determined by those individuals. The government should also establish a stronger and more active communication link between management and the employee base. Namely, firms could be required to regularly report back to the workforce regarding the results of any employee consultation, helping to ensure accountability and foster meaningful dialogue. Furthermore, loopholes within the existing legislation must be closed to prevent the continued ineffectiveness of consultation bodies. Specifically, current regulations enable employers to utilise 'pre-existing agreements' (PEA's) for consultation, rather than requiring the establishment of a vehicle for employee consultation. There is no obligation, however, that these meet the already vague and substandard minimum requirements outlined by the ICE regulations. Therefore, it should be explicitly stated that any PEA must comply with any new standards developed by the government to ensure effective consultation.

Evidence of the impacts of works councils abroad highlights their potential to significantly enhance job security and incomes for workers nationwide. In Germany, for instance, works councils were found to reduce the employee quit rate by 7.6%, while wages were found to be approximately 15% to 18.5% higher in firms with councils.<sup>14</sup> <sup>15</sup> Additionally, firms with works councils were shown to be 12% to 25% more productive.<sup>16</sup> <sup>17</sup> This supports the intuitive conclusion that granting workers a voice and stake in the firm they work for

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13 Dobbins, T, Dundon, T, Cullinane, N, Hickland, E, Donaghey, J. Employment regulation, game theory, and the lacuna in employee participation in liberal economies via [https://highpaycentre.org/wp-content/uploads/2024/11/STA0924292460-001\\_aFFT\\_A-Charter-for-Fair-Pay\\_v8.pdf](https://highpaycentre.org/wp-content/uploads/2024/11/STA0924292460-001_aFFT_A-Charter-for-Fair-Pay_v8.pdf)

14 Addison, John T, Teixeira, Paulino and Zwick, Thomas. (2006). The Impact of Works Councils on Wages via [https://www.researchgate.net/publication/5081225\\_The\\_Impact\\_of\\_Works\\_Councils\\_on\\_Wages](https://www.researchgate.net/publication/5081225_The_Impact_of_Works_Councils_on_Wages)

15 Pfeifer, C, (2011). Works councils, union bargaining and quits in German firms. *Economic and Industrial Democracy*. 32(2) via <https://journals.sagepub.com/doi/abs/10.1177/0143831X10377806>

16 Hübler, Olaf and Uwe Jirjahn. (2003). Works Councils and Collective Bargaining in Germany: The Impact on Productivity and Wages. *Scottish Journal of Political Economy* 50 (September): 471-491 via <https://onlinelibrary.wiley.com/doi/abs/10.1111/1467-9485.5004006>

17 Mohrenweiser, Jens. (2022). Works Councils, GLO Discussion Paper, No. 1103, Global Labor Organization (GLO), Essen via <https://www.econstor.eu/bitstream/10419/259295/1/GLO-DP-1103.pdf>

enhances their motivation to contribute more to the company's success.

**Pay Transparency:** Various reforms over the past decade covering equal pay for equal work, gender pay reporting and pay ratio disclosures have advanced transparency regarding the pay-setting practices of the UK's largest employers. However, these measures could be further refined to more effectively identify instances of egregiously high or low pay, ensuring that unfair or disproportionate pay awards are brought to attention and addressed.

Pay ratio disclosures require companies with a premium UK-listing to disclose the pay of the CEO compared to the employees at the 25th (lower quartile), median and 75th (upper quartile) percentage points of the pay distribution of the UK employee population (on a full time equivalent basis). These disclosures provide a welcome insight into the pay culture of some of the UK's leading employers - however, they contain a number of loopholes. Indirectly employed workers are excluded from the calculation, even if they spend the majority of their working time on behalf of the company in question. The 2024 Labour general election manifesto committed to addressing this anomaly. Pay ratio disclosures also contain little data on top earners between the CEO and the 75th percentile - this group often contains a small number of employees paid significant sums of money with potentially significant opportunity costs (in terms of pay for lower earning workers or investment in research and development, for example) and therefore merits greater scrutiny. Finally, pay ratio disclosures only apply to listed companies, even though the question of equitable pay distribution is relevant to all large employers.

In public and voluntary sector organisations and in the banking sector, expenditure on top earners is disclosed via the publication of the number of staff in pay bands beyond certain thresholds. This provides stakeholders with an insight into intra-organisation pay inequality and is important context for all staff and unions in pay negotiations in terms of clarifying what is spent on the highest earners, proportionality in respect of factors like workload or levels of responsibility and the hypothetical potential to redistribute pay from those at the top to everybody else. Applying an approach to disclosure of the pay of top earners based on pay banding would be a sensible reform that would promote consistency across sectors. Examples of recent applications from Barclays and the Home Office are pasted below:

#### Figure 4: Pay of high earners at Barclays<sup>18</sup>

<sup>18</sup> High Pay Centre (2023), *Rethinking reward: High Pay Centre Analysis of FTSE 350 pay ratios*  
<https://highpaycentre.org/wp-content/uploads/2023/12/EMBARGOED-HPC-2023-PAY-RATIOS-REPORT-1.pdf>

Euros	Identified staff that are high earners as set out in Article 450(f) CRR
1,000,000 to below 1,500,000	301
1,500,000 to below 2,000,000	122
2,000,000 to below 2,500,000	61
2,500,000 to below 3,000,000	39
3,000,000 to below 3,500,000	29
3,500,000 to below 4,000,000	22
4,000,000 to below 4,500,000	16
4,500,000 to below 5,000,000	11
5,000,000 to below 6,000,000	7
6,000,000 to below 7,000,000	5
7,000,000 to below 8,000,000	1
8,000,000 to below 9,000,000	1
9,000,000 to below 10,000,000	3
10,000,000 to below 11,000,000	-
11,000,000 to below 12,000,000	1

Figure 5: Pay of senior Home Office staff<sup>19</sup>

Pay Remuneration Bands	SCS within the range as at end of March 2023	Percentage
£70,000 - £75,000	17	4.93%
£75,000 - £80,000	53	15.3%
£80,000 - £85,000	72	20.8%
£85,000 - £90,000	55	15.9%
£90,000 - £95,000	27	7.83%
£95,000 - £100,000	27	7.83%
£100,000 - £105,000	15	4.35%
£105,000 - £110,000	15	4.35%
£110,000 - £115,000	11	3.19%
£115,000 - £120,000	16	4.64%
£120,000 - £130,000	7	2.03%
£130,000 - £135,000	7	2.03%
£135,000 - £145,000	7	2.03%
£145,000 - £150,000	8	2.32%
£150,000 - £155,000	4	1.16%
£170,000 - £175,000	1	0.29%
£175,000 - £180,000	1	0.29%
£180,000 - £185,000	1	0.29%
£185,000 - £190,000	1	0.29%
<b>Grand Total</b>	<b>345</b>	<b>100%</b>

The issue of top pay is important to the employment rights agenda because research shows that workers' perceptions of fairness are shaped by how their pay compares to those performing a similar role, but also where it is situated within the broader organisational pay scale. As previously noted, understanding internal pay distribution can be crucial in informing pay negotiations, helping to boost incomes and reduce internal inequalities. This exemplifies how transparency is a vital component of stronger worker voice.

<sup>19</sup> High Pay Centre (2023), *Rethinking reward: High Pay Centre Analysis of FTSE 350 pay ratios*  
<https://highpaycentre.org/wp-content/uploads/2023/12/EMBARGOED-HPC-2023-PAY-RATIOS-REPORT-1.pdf>

Therefore, rights to information on pay distribution and the expenditure on pay of top earners should be a key part of the Government's programme to raise incomes and living standards and reduce inequality by helping working people win a fairer share of the wealth created by their labour.

## **Conclusion**

The Employment Rights Bill represents an important step toward empowering workers through enhanced representation, job security and voice.

Enhanced worker voice in particular affords the opportunity to create a more democratic, participatory business culture more aligned with the interests of wider society. The benefits in terms of pay and working conditions and wellbeing for employers are obvious - but through improved employee engagement, better feedback from frontline workers and increased public faith in business, more meaningful worker voice and more effective dialogue would also bring significant gains for employers.

We hope the Committee will consider this submission accordingly, and advocate for implementation of a bold Employment Rights Bill with worker voice at its core.