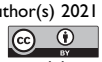
etui.

Transfer
2021, Vol. 27(3) 367–382


Article reuse guidelines:
sagepub.com/journals-permissions
DOI: 10.1177/10242589211028460
journals.sagepub.com/home/trs


Raising the bar? The impact of the UNISON ethical care campaign in UK domiciliary care

Mathew Johnson
University of Manchester, UK

Jill Rubery
University of Manchester, UK

Matthew Egan
UNISON, UK

Summary
This article critically analyses a major trade union initiative in the United Kingdom to raise standards in public contracts for domiciliary care, and in turn to improve wages and working conditions for outsourced care workers. The campaign successfully built alliances with national employer representatives, and around 25 per cent of commissioning bodies in England, Scotland and Wales have signed a voluntary charter that guarantees workers an hourly living wage, payment for travel time and regular working hours. The campaign overall, however, has had only limited effects on standards across the sector, in which low wages, zero-hours contracts and weak career paths predominate. Furthermore, the campaign has not yet yielded significant gains in terms of union recruitment, although there are signs of sporadic mobilisations of care workers in response to localised disputes.

Résumé
Cet article propose une analyse critique d'une grande campagne syndicale menée au Royaume-Uni et visant à relever les normes des contrats publics pour les soins à domicile et, par là même, à améliorer les salaires et les conditions de travail des travailleurs des services de soins externalisés. La campagne a permis de constituer des alliances avec les représentants des employeurs nationaux, et environ 25% des organismes de commissionnement en Angleterre, en Écosse et au Pays de Galles ont signé une charte volontaire qui garantit aux travailleurs un salaire horaire correspondant au minimum vital, le paiement de leur temps de déplacement et des horaires de travail réguliers. Toutefois, la campagne n'a eu dans l'ensemble que des effets limités sur les normes du

Corresponding author:
Mathew Johnson, University of Manchester, Alliance Manchester Business School, Booth Street West, M15 6 PB, UK.
Email: Mathew.johnson@manchester.ac.uk

secteur, caractérisées essentiellement par des bas salaires, des contrats zéro heure et des perspectives de carrière médiocres. En outre, la campagne n'a pas encore permis d'engranger des résultats significatifs en termes de recrutement syndical, même si l'on peut observer certaines mobilisations sporadiques du personnel soignant à la suite de conflits localisés.

Zusammenfassung
Der vorliegende Artikel ist eine kritische Analyse der breit angelegten Gewerkschaftsinitiative im Vereinigten Königreich zur Anhebung der Standards bei öffentlichen Aufträgen im Bereich der häuslichen Pflege, durch die Löhne und Arbeitsbedingungen des Personals privater Pflegeanbieter verbessert werden sollen. Die Kampagne hat erfolgreich Bündnisse mit nationalen Arbeitgeberorganisationen geschlossen, und ca. 25 Prozent der für die Auftragsvergabe zuständigen Stellen in England, Schottland und Wales haben bereits eine freiwillige Charta unterzeichnet, die den Arbeitnehmer:innen einen existenzsichernden Stundenlohn, die Vergütung der Fahrzeit als bezahlte Arbeitszeit und reguläre Arbeitszeiten zusichert. Die Kampagne hatte allerdings insgesamt nur begrenzte Auswirkungen auf die in der Branche herrschenden Zustände mit ihren typischen Niedriglöhnen, Nullstundenverträgen und bescheidenen beruflichen Perspektiven. Darüber hinaus hat die Kampagne bisher noch keinen signifikanten Zulauf an neuen Gewerkschaftsmitgliedern bewirkt, obwohl es Hinweise auf sporadische Mobilisierungen von Pflegepersonal als Reaktion auf lokal begrenzte Konflikte gibt.

Keywords
Domiciliary care, living wages, precarious work, public procurement, trade unions, worker mobilisation

Introduction

In response to the longstanding difficulties of organising and mobilising precarious workers in liberal economic market contexts, trade unions have adopted increasingly pragmatic strategies aimed at delivering tangible outcomes for workers, with or without concomitant increases in union membership. Recent studies show how trade unions in the United Kingdom and the United States have built living wage coalitions with community and faith groups that focus mainly on ununionised workers in deprived urban areas (Bunyan, 2016; Luce, 2004). Unions have also worked with employers and Non Government Organisations (NGOs) to develop voluntary codes of conduct that promote sustainable and ethical business practices (Gold et al., 2020). In the United Kingdom, a number of trade unions have also launched legal cases on behalf of non-members, such as migrant workers in outsourced services (Wynn-Evans, 2021) and bogus self-employed workers in the gig economy (Moore and Newsome, 2018).

On the one hand, the emergence of such innovations repudiates claims that trade unions reinforce labour market dualism by protecting insiders at the expense of peripheral workers (Palier and Thelen, 2010). On the other hand, as we explore, the use of largely non-confrontational tactics to challenge injustice and win concessions may detract from longer-term capacity building. These tensions and trade-offs pose questions for theories of how union renewal and collective worker action can be achieved (Holgate et al., 2018; Kelly, 1998).

In this article we critically evaluate an innovative and multi-faceted campaign in the United Kingdom led by the largest public sector trade union, UNISON, which focused on improving the

pay and working conditions of domiciliary care workers, the majority of whom are employed by private sector providers working under contract to local (municipal) authorities. In order to evaluate the progress of the campaign launched in 2012, we draw on interview data gathered as part of a larger project on precarious work (2015–2016), the insights of a national trade union organiser working on the campaign, and also secondary data on pay and working conditions across the domiciliary care sector.

The public campaign hinged on building alliances with national employer representative bodies in order to highlight problems of low pay and precarious work in domiciliary care, and to put pressure on national government to increase funding. The public campaign was complemented at local level by tripartite charters signed by local authority commissioners, private sector employers and trade unions, which offered workers a true living wage and improved terms and conditions, as well as greater contractual security. In the absence of sustained funding increases across the sector, however, and with only weak institutional mechanisms with which to leverage ripple and spillover effects, the gains from the campaign and charter have so far remained highly localised. The implications for the position of precarious workers in the domiciliary care sector, as well as the future of organising and capacity building, are discussed below.

Organising and mobilising precarious workers

Trade unions across Europe face significant challenges in respect of representing and securing positive outcomes for precarious workers. Falling membership density and declining collective bargaining coverage have weakened the unions' institutional power and legitimacy, and the steady erosion of so-called 'standard employment relationships' over the past 30 years has arguably undermined the recruitment of new members (Carver and Doellgast, 2020; Holgate et al., 2018).

For some, the appropriate response is to find ways to mobilise precarious workers around perceived injustices at work, and to support them in collective action in pursuit of redress (Kelly, 1998; López-Andreu, 2020). The success of this approach in securing concessions from employers, while also building solidarity and bargaining power, hinges on three elements. The first is the effective framing and articulation of grievances at work (often by union leaders), while the second is attributing the blame for these grievances to an identifiable other, usually the employer or management. The third and final element is to develop a sense of collective efficacy, that is, a belief that acting collectively will rectify their grievances (Kelly, 1998). While these three conditions are not sufficient, they have been argued to be necessary for workers to take action in the form of strikes, overtime bans or go-slows in order to put pressure on employers (Badigannavar and Kelly, 2005). Although such mobilisations may be short-term and goal-oriented, the process of actually participating in collective action can foster lasting solidarity as the divergent interests of workers and management are laid bare (López-Andreu, 2020). Trade unions may also recruit members following industrial action, either because employees are seeking individual insurance against future disputes or because they have developed a heightened appreciation of union effectiveness (Hodder et al., 2017).

Nevertheless, precarious workers' limited structural power and the fear of counter-mobilisation on the part of employers have proven to be significant barriers to mobilisation in low paying sectors, such as cleaning and elder care (Crosby, 2009; Murphy and Turner, 2014). The fragmentation of collective bargaining as a result of outsourcing weakens worker voice, and it may be difficult for workers to identify a counterpart against whom they can mobilise: should it be their direct employer or the client firm at the head of the supply chain that shapes working conditions through their purchasing decisions (Connolly et al., 2017; Grimshaw et al., 2015; Rubery, 2015)?

For others, the challenge is more fundamental and reflects the need to engage successfully in 'deep' workplace organising in peripheral sectors in which the workforce is often fragmented and worker interests are disparate (McAlevey, 2016). In this way, long-term capacity building entails bringing in a diverse range of new members, rather than simply mobilising existing ones, and creating spaces for the formation of shared interests and goals among the rank-and-file rather than simply accepting priorities imposed by leaders (Holgate et al., 2018).

Precarious work in domiciliary care

Domiciliary or home care includes a range of personal care duties, such as helping older people with washing, dressing and cooking, as well as the administration of medication in a client's own home. As demand for services rises, and clients' medical and support needs – such as dementia – become more complex, domiciliary care workers are increasingly faced with a broader and deeper set of responsibilities (Atkinson and Crozier, 2020; Hebson et al., 2015). Despite the significant size of the domiciliary care sector in England, there are a number of entrenched challenges that make it difficult terrain for trade unions to organise and mobilise workers. Around 500,000 workers are employed in domiciliary care (compared with around 300,000 in residential care without nursing) and it is a strongly gendered profession: nearly 85 per cent of the workforce is female (Skills for Care, 2020). Wages across the sector are low: mean hourly pay for private sector workers directly delivering care[1] in 2020 was £8.97 (€10.42). This was 3 per cent above the statutory minimum wage of £8.71 (€10.12) for workers aged 25 and over, but 4 per cent lower than the higher 'true' UK living wage of £9.30 (€10.81), which takes into account the cost of living.[2] The majority of domiciliary care workers in the private sector (56 per cent) are engaged on zero-hours contracts, under which there is no legal obligation between employers and workers to provide or perform work, resulting in fluctuating earnings from week to week (Skills for Care, 2020).

The intensely personal and emotionally demanding nature of care work can be rewarding, but tight control of the labour process, including electronic monitoring to demarcate 'productive' time, such as contact with clients, and 'unproductive' time, such as travel and other breaks between appointments, has partly eroded the discretionary effort on which services rely (Atkinson and Crozier, 2020; Hebson et al., 2015; Moore and Hayes, 2017). There are issues of labour turnover in the care sector, but the surprisingly high level of job satisfaction that workers report is also strongly influenced by alternative opportunities which, particularly for women, may be other low-paid and precarious work in cleaning, catering and retail (Hebson et al., 2015). This in turn reinforces a low sense of entitlement to higher wages, an issue that is compounded by a perceived lack of effectiveness in collective action through trade unions (Cox et al., 2007). Many local authority care services were outsourced in the 1980s and 1990s, which shifted workers beyond the scope of collective bargaining agreements. Furthermore, during the 2000s trade unions were unable to halt the acceleration of outsourcing of care work to avoid the costs associated with the deserved upgrading of mostly female care workers (Beirne et al., 2019). On top of that, some trade union branches pressured women workers to accept inferior deals for back pay in order to protect mostly male manual workers from downgrading (Deakin et al., 2015).

1 Including care workers and senior care workers.

2 The rate calculated by the independent Living Wage Foundation to provide a decent minimum standard of living; see: https://www.livingwage.org.uk/ (accessed 17 March 2021).

Currently, local authorities buy 70 per cent of all domiciliary care, and more than 97 per cent of domiciliary care is provided by the independent sector, which mainly comprises private for-profit firms (Pursch and Isden, 2018). Given the high proportion of small and micro firms across the sector, trade union branches have to weigh up the costs and benefits of organising workplace by workplace, where in each instance only a handful of members may be gained, many of whom may join primarily for casework support rather than the prospect of engaging in collective action (Waddington and Kerr, 2009). Across the UK domiciliary care market, there are around 9000 registered providers, two-fifths of which are small and medium enterprises (20 staff or fewer). There is also significant 'churn' in the market, with close to 1500 registrations and de-registrations each year (Pursch and Isden, 2018), as well as significant workforce turnover. At any one time more than 112,000 posts are estimated to be vacant in social care, equivalent to 7.2 per cent of the total. At the same time, around 430,000 workers leave their job each year, which equates to a turnover rate of over 30 per cent (Skills for Care, 2020).

The moral and social duty that individual care workers often feel to protect the needs of vulnerable clients may also preclude strike action (Murphy and Turner, 2014), and efforts to foster the shared interests and identity necessary to build collective efficacy (Kelly, 1998) may be impeded by the fragmented and isolated nature of the workforce. Care workers often work alone or in pairs and travel between their own home and those of clients, and rarely visit their employer's office, particularly in rural areas. A particular challenge for mobilisation in the domiciliary care sector is that of identifying a 'significant other' to whom blame can be attributed as the source of injustices. Without this focus the basis for collective action may be compromised. As Rubery (2015) argues, the fragmentation of employment systems through outsourcing and subcontracting often means that the 'true' employer is obscured. This attribution problem arises in domiciliary care because of the complex nature of the relationships between central government (who sets the overall funding parameters for domiciliary care), local authority commissioners (who actually purchase care from the private sector), and private sector providers (operating under strong cost competition). The tight financial constraints imposed by central government have effectively forced local authorities to impose on providers a time-and-task model of commissioning, which results in a neo-Taylorist model of employment marked by low wages, job insecurity and episodic working that does not reward discretionary effort (Atkinson and Crozier, 2020; Hebson et al., 2015; Moore and Hayes, 2017). In this context, it is unclear who is really responsible for the injustice (for example, low pay, long hours and insecure contracts) and therefore who should be the target of mobilisations, such as strike action.

New repertoires of contention

These entrenched challenges in precarious and gendered industries have prompted a range of responses within the trade union movement. Larger unions have made concerted efforts to foreground issues of gender equality in mobilising efforts (Cullen and Murphy, 2018), and have attempted to reach out to migrant workers through community networks and activists (Lopes and Hall, 2015). A debate has also arisen around the appropriate structures and strategies needed to successfully build representative capacity among highly precarious workers, such as those in the gig economy. Smaller unions, such as the Independent Workers of Great Britain (IWGB), have had more success in organising, for example, Uber drivers than larger general unions, who have found themselves pulled between representing gig economy workers, while seeking to denounce and delegitimise platform companies (Aslam and Woodcock, 2020). Unions have also attempted to regain lost ground from 'no-win no-fee' lawyers by pursuing legal cases on behalf of bogus self-

employed workers to challenge their exemption from basic protections, such as minimum wages and holiday pay (Moore and Newsam, 2018; Wynn-Evans, 2021).

Unions have also turned to broader campaigning activities that build public and political awareness of precariousness in important frontline service roles, such as retail and hospitality (Murphy and Turner, 2016). This social and community organising is a response to the changing contours of class relations, shaped by the interplay of workplace and social identities (Moore, 2011), and the development of broader coalitions may also facilitate the emergence of lay leaders rooted in communities who can often articulate the shared experiences and grievances of highly marginalised groups, such as migrant workers (Lopes and Hall, 2015; Tapia, 2019). Social campaigns, however, often prioritise the short-term pursuit of 'winnable issues', such as payment of a true living wage, over the long-term objective of capacity building (Bunyan, 2016), and involve the development of transient alliances with employers, state actors and NGOs in order to secure concessions for workers (Carver and Doellgast, 2020; Murphy and Turner, 2016). This approach hinges on the development of coalitional power through public campaigns to compensate for the loss of traditional institutional and associative power provided by collective bargaining and social partnership (Connolly et al., 2017).

Unions may also see corporate social responsibility (CSR) initiatives as potentially an easier basis on which to start regular negotiations with employers than more substantive workplace issues (Gold et al., 2020), but short-term concessions made in the name of CSR may merely be window-dressing and will not be codified in collective agreements (Meardi et al., 2021). There are also questions about whether top-down campaigns built on fragile alliances between unions, campaigners and employers translate into increased bargaining power and collectivism among low-paid precarious workers. Furthermore, a largely non-confrontational approach to dealing with workplace issues may not be sufficient to stimulate the virtuous circle between worker action and increased worker organisation envisaged by mobilisation theory (Kelly, 1998).

Research context and methods

In this article we explore a novel approach to improving pay and conditions for outsourced workers in the care sector, led by the United Kingdom's largest public sector trade union, UNISON. We explore the development and implementation of the campaign and the accompanying Ethical Care Charter, as well as the balance between new and traditional repertoires in securing agreement from national and local policy-makers. We then explore the immediate effects on wages, job security, and terms and conditions for care workers covered by the Charter, as well as the potential ripple effect through collective bargaining and any spillover effects into other geographical areas. We also explore the impact of the campaign and Charter on the recruitment and mobilisation of outsourced care workers. Our qualitative data are drawn from one case study conducted for an European Commission-funded six-country study of precarious work in 2015–2016.[3] The case study draws primarily on five interviews with UNISON officials at national, regional and local level – one of whom was a national officer closely involved in the development and implementation of the Charter – and gathered feedback from branches on the Charter's impact on recruitment and organising. These data are complemented with six interviews with local commissioners (four

3 DG Employment, Social Affairs and Equal Opportunities VP/2014/004, *Industrial Relations and Social Dialogue*.

in the north of England and two in London) and one provider, who offered a grounded perspective on the practicalities and impact of adopting the Charter.

Findings

In 2012 UNISON launched a nationwide public campaign to highlight the problem of poor care standards, and low-paid and precarious work in the private sector. A central objective of this campaign, and the Charter that accompanied it, was to show how the long-term underfunding of domiciliary care, and the reliance on the private sector to deliver care, had created a highly fragmented and price-sensitive market, which in turn has eroded the quality of employment and care. Rather than simply criticising private providers, however, UNISON sought to show how the time-and-task nature of commissioning by local authorities, adopted in order to stay within strict financial constraints, has in effect imposed a low-road employment model characterised by low pay, zero-hours contracts and limited career prospects.

UNISON released a report in 2012 entitled *Time to care*, which was intended to be a rallying cry for organisers and branch officials within the union, as well as to build public pressure on national and local politicians to take seriously the challenges within domiciliary care. UNISON gathered survey data from care workers that exposed the normalisation of low pay and zero-hours contracts across the sector; 58 per cent of respondents also reported not being paid for time spent travelling between client visits. Paying providers only for contact time resulted in 'call cramming', whereby multiple visits lasting sometimes as little as five minutes are scheduled within a short time. This practice often results either in clients' needs being unmet, or in care staff working unrecorded overtime in order to provide the personal care and social contact that clients require. This research evidence crystallised the challenges faced by care workers, and identified a number of areas in which pressure could be put on national and local government to act.

Campaigning and coalition-building

National officers within UNISON recognised that care workers had long been neglected, and that the onset of 'austerity' policies in 2010 had inevitably increased the focus on protecting existing local government standards. Rather than pushing for extensions of existing collective agreements or insourcing of services, the focus of the Charter was on winnable issues identified by the research, such as payment of the true living wage, payment for travel time and a move away from zero-hours contracts. These employment conditions were linked with the commissioning of longer minimum visits to allow for higher quality interactions between care workers and clients, and a broader commitment among local authorities and providers to training and development, which, it was hoped, would raise the status of the profession and help care workers to build sustainable careers. The Charter was seen by UNISON as a pragmatic approach to raising standards at a time when the union nationally had limited resources to launch strategic organising drives, and local branches were dealing with significant local cuts as a result of austerity.

Crucially, the campaign and the Charter were also a way for UNISON to build new alliances and coalitions with employers, commissioners, service users and the public in order to increase pressure on central government to address the funding shortfall for local authorities. UNISON found unlikely allies in two employers' representative bodies: the Local Government Association (LGA), which represents 350 local authorities in England, Scotland and Wales, and the home care provider's representative body, the UK Home Care Association (UKHCA).

Since the onset of financial austerity in early 2010, the LGA has consistently and publicly raised significant concerns about the steady withdrawal of central government grants, and the increasing pressure on locally collected property taxes as a result of an ageing population and rising demand for services. For example, the LGA has estimated that adult social care could account for nearly 60 per cent of locally collected taxes by 2030 (up from less than 40 per cent in 2018) and the gap between projected spending needs and current budgets could reach £18bn per year. The LGA has also raised concerns about the financial viability of individual local authorities as a result of sustained downward pressure on budgets, and recognises that many councils do not pay 'fair fees' to private providers of care services.

In a similar vein to the LGA, the UKHCA has long been lobbying central and local government for increased funding, and has argued that contracts are becoming increasingly unviable for their members, because of the low rates paid by local authorities, which make it difficult to recruit and retain staff. The UKHCA developed a formula for domiciliary care fees which allows for staff costs and overheads. It estimated that as of April 2020 the minimum hourly rate needed to provide good quality domiciliary care with allowances for staff training and travel time was £20.69. However, fewer than 15 per cent of local authorities are thought to pay the minimum recommended amount, which undermines providers' ability to offer safe and stable services, and to comply with legal requirements, such as the statutory minimum wage (UKHCA, 2018). The UKHCA's priorities appear to be oriented as much towards business viability as towards improving working conditions, but evidence suggests that 66 per cent of local authorities have reported one or more providers either going into administration or handing contracts back (Women's Budget Group, 2018).

The LGA and the UKHCA have also worked in tandem to highlight concerns about underfunding. For example the government policy, announced in June 2015, of rebranding the statutory national minimum wage as the National Living Wage in April 2016, with an expressed ambition to reach at least 60 per cent of median earnings by 2020 (up from around 54 per cent in 2015) led to a joint briefing by the LGA and the UKHCA. In this briefing the parties argued that this higher minimum wage would, without significant additional investment, lead to a potentially 'catastrophic failure' of the care system (LGA, 2015). In response, central government provided some 'transitional funding' to offset the impact of further cuts in revenue budgets, but the chair of the LGA, Lord Porter, acknowledged that any extra cost pressures, whether from rising demand or policies such as the National Living Wage, would have to be funded by councils making cuts elsewhere.

The main objective of the campaign, from the trade union perspective, was to place precarious work in the care sector firmly on the political and policy agenda, and in particular to draw attention to the growing issue of zero-hours contracts. UNISON formally gave evidence to parliamentary commissions over the use of zero-hours contracts in domiciliary care[4] and also at the UK Labour Party's national conference. UNISON's campaigning also tied in with a number of other trade union campaigns around zero-hours contracts in retail and logistics.

Strengthening local partnerships

Tackling problems of low pay and precarious work clearly requires public sector commissioners to invest in public supply chains. On its own this may be insufficient and there is also a need to codify

4 https://www.parliament.uk/external/committees/commons-select/communities-and-local-government-committee/archived-news-2015/news/2017/adult-social-care-full-report-published-16-17/ (accessed 17 March 2021).

higher workforce standards in contracts in order to prevent providers from simply drawing higher management overheads and profits from increased fees, a particular risk where the increases are confined to individual local authorities, as national chains may be willing to raise pay in only some areas (Grimshaw et al., 2015). National officers within UNISON advised and supported local branches to apply pressure to individual local authorities in order to improve commissioning practices through the adoption of a voluntary Ethical Care Charter (ECC). The aim of the Charter was to leverage existing relationships between branch officials and local authority commissioners and sympathetic politicians, while also creating space for activists to reach out to care workers in the private sector. Although social care is funded from general taxation, it is actually commissioned and contracted by 206 individual local commissioning bodies in England, Scotland and Wales. These bodies are a mixture of unitary and county councils working with local health services (Clinical Commissioning Groups in England and Integration Joint Boards in Scotland). Through the Ethical Care Charter, UNISON branches aimed to impress upon local decision-makers the negative consequences of cost competition and fragmentation, while also providing a practical mechanism through which standards could be improved.

In order to launch the Charter, UNISON national officers attended regional and local meetings to raise awareness of the national campaign, and to offer advice and guidance on how to launch local campaigns. Local branch officials used their existing relationships formally to request meetings with commissioners and politicians to discuss revising and restructuring contracts to embed higher standards. Activists and organisers also used public meetings to ask politicians difficult questions about the quality of care provided to elderly residents and the low-paid and insecure work that local authorities were creating through 'low-road' contracting.

The Ethical Care Charter is organised into three stages, aligned with the commissioning process. The first stage refers to the basic principle of meeting clients' needs rather than 'time-and-task' contracting, and sets out a commitment to avoiding 15 minute visits (or shorter) and 'call cramming'. The second stage emphasises continuity of care by recommending that clients have the same care worker (where possible) and clear procedures for handling complaints. The final stage makes an explicit recommendation that councils commit resources to providing a true living wage and an occupational sick pay scheme for contracted staff. Although the union remains fundamentally opposed to the fragmentation of public services through outsourcing, the Charter was designed both to raise the profile of historically underpaid and undervalued care workers, while also putting pressure on local authorities to take responsibility for securing decent working conditions throughout their externally contracted workforce.

The key points of the Charter from an employment perspective were:

– workers should be paid for travel time between visits;
– zero-hours contracts should not to be used in place of guaranteed hours contracts; and
– all domiciliary care workers should receive a true living wage

In many cases this required local authorities to redesign contracts and to move away from spot contracts back to block contracts that guarantee providers a reliable number of hours for each provider, which enable them to offer guaranteed hours contracts to staff. At a local level the Charter has helped to deliver an increase in hourly rates of pay (up to a true living wage) and has increased overall earnings as a result of paid travel time and guaranteed hours contracts.

By 2020, 46 out of a total of 206 commissioning authorities in England, Scotland and Wales had signed up to the Charter, with most signifying they would adopt it in its entirety (a small number of providers also signed the Charter independently of their local authority). This suggests steady

progress in terms of persuading local politicians and commissioners to adopt high-road contracting practices. In the three local authority areas we studied, the decision to adopt the Ethical Care Charter was driven by the need to shore up local markets and guarantee revenue streams for providers as much as the moral imperative to protect workers or service users. Block contracts allow providers to offer guaranteed hours contracts with higher rates of pay, including travel time, which formerly was considered to be unpaid 'downtime' (Moore and Hayes, 2017). Reverting to block contracts, however, creates more scope for larger firms to dominate local markets, which creates a risk that management and administration fees will be creamed off from higher charge rates (Grimshaw et al., 2015). Furthermore, even large providers in higher-fee areas still struggle to recruit and retain staff, and local authorities often rely on spot purchasing from providers that may not formally have signed the Ethical Care Charter. The use of electronic monitoring also remains contentious. On the one hand, it appears axiomatic that this micro-management of the labour process is incompatible with the notion of ethical care and high quality human resource management (Moore and Hayes, 2017). On the other hand, local authorities argue that it allows them to check that workers have actually been paid for the hours they have worked and that visits are longer than 15 minutes.

Ripple and spillover effects

Small changes in hourly wages alone are unlikely to solve issues of recruitment and retention. Nevertheless, the Charter, where fully implemented, did enhance the overall remuneration package through higher wages, increased security of hours, and efforts to professionalise care work. Commissioners in London argued that the Charter did have a positive effect in helping to make careers in social care more attractive to younger people, and by working with schools and colleges to promote training and development pathways, the local authority had been able to recruit locally to fill vacant posts. In other parts of England (particularly rural areas), however, recruitment and retention remain a significant problem. Some providers that signed the Ethical Care Charter were still experiencing significant difficulties in scaling up their workforce, which in turn meant that the local authority commissioners relied on spot contracts to fill gaps in provision. In 2019–2020 (prior to the onset of the COVID-19 pandemic) turnover rates among domiciliary care workers were close to 40 per cent and vacancy rates were 8.2 per cent and increasing sharply for registered manager roles (Skills for Care, 2020). Care work remains a low-paid and demanding sector, particularly when many supermarkets offer living wage jobs with fewer physical and emotional pressures.

Furthermore, although increases in the UK statutory minimum wage have benefited those at the very bottom of the wage distribution, the share of workers paid at the statutory minimum has doubled in three years (from 10 to 20 per cent), and the wage differentials for senior care workers and for those with several years' experience have also decreased since 2016 (Skills for Care, 2020). Similarly, it does not appear that zero-hours contracts have been displaced as the default employment model in domiciliary care providers across England. According to the most recent available figures for the private sector (Skills for Care, 2020), 56 per cent of domiciliary care workers were on zero-hours contracts and this share has remained relatively stable in recent years.

It appears that the ripple and spillover effects of the Charter have been somewhat mixed. For example, in Scotland, UNISON's campaign and Charter were significant contributing factors to the development of plans for a sector-wide living wage agreement for local government and outsourced care workers (Baluch, 2020). On the other hand, in England, the incorporation of the living wage into localised agreements that cover mainly private sector contractors has not provided

a strong platform for coordinated bargaining across the care workforce. The National Joint Council for local authority services agreement (known as the 'Green Book') covers only directly employed care workers, who make up less than 10 per cent of the total workforce, and while the Charter has successfully established links between individual councils and their providers, the unions have faced difficulty in persuading councils to take collective responsibility for outsourced workers:

> the local government employers would just say it's nothing to do with us [. . .] they're outsourced [. . .] (UNISON national official)

Most councils, including those that have signed the Charter, are still not paying a fair market price, according to the UKHCA's calculations (UKHCA, 2019), which may encourage providers to claw back higher minimum hourly wage costs by reducing unsocial hours premiums and allowing wage differentials between frontline and managerial jobs to narrow. While this may undermine the long-term career paths of care workers who wish to progress into higher-paying roles, commissioners were reluctant to hand over fees that were not allocated directly to care workers and might be used to subsidise management salaries:

> I understand a differential in a care home where your cleaner now ends up being paid the same as the care staff [. . .] but if you're paying your area manager £70,000 a year, that's nothing to do with me [. . .] (Local authority commissioner)

There is also the issue of the internal segmentation of the workforce in larger providers, at which higher charge rates in one area are not used to cross-subsidise lower rates in another. Providers saw differences between council rates as being akin to 'natural' variations in the market, linked with the higher cost of living in some areas:

> why should support workers in [Council X] be penalised because [Council Y] pay crap rates? (Care provider)

In the absence of coordinated collective bargaining across public and private sector employers, pay increases tend to remain localised in response to commissioning priorities and labour market pressures rather than more general concerns about low pay.

Sustaining the momentum

The Charter was intended to create a space for ongoing dialogue between local union branches and commissioners over the monitoring and enforcement of key standards, such as the living wage, while also acting as a 'foot in the door' when engaging with private providers. Feedback gathered from branches that have adopted the Charter indicates that the monitoring of the new contract arrangements was variable, and in many cases the trade unions were not formally involved in auditing or scrutinising standards. Furthermore, without the underlying membership base among private sector contractors, there were few mechanisms by which non-compliance could be identified independently. Local commissioners argued that reducing the number of contractors as part of a block contract helped to build stronger relationships with individual providers, but also recognised that they had to trust providers to comply voluntarily with the standards laid down in the Charter as they often did not have the capacity to inspect or audit private providers proactively.

Branches also offered free training to providers to help care workers obtain new qualifications (the Care Certificate). Few providers to date have taken up the offer of training, however, and local commissioners cannot compel suppliers to recognise trade unions, thus leaving local organising efforts at something of an impasse. Although some local activists and organisers had been able to recruit individual workers who work at sites providing sheltered accommodation, where it is more feasible to make contact than when care is in individual private homes, this has not allowed branch officials to move 'upstream' to discuss recognition agreements with managers and owners of care services. Feedback gathered from branches that have adopted the Charter suggests that it had been more effective at driving 'in-fill' recruitment among the remaining directly employed care workers rather than among outsourced workers, given that providers were often still suspicious, if not openly hostile, towards trade unions:

> we don't even know half of the new providers and we've got to try to persuade some of them who may not be naturally minded to let us in [. . .] (UNISON branch official)

While the Charter itself may not have directly led to significant organising or mobilising, there have been localised examples of legal challenges and strike action among private sector care workers, led by both established trade unions and new smaller unions. UNISON supported 17 private sector home care workers in London in a legal dispute over non-payment of the minimum wage because workers were not being paid for travel time.[5] Around 120 UNISON care workers took strike action – totalling more than 60 days – in 2014 over a 35 per cent pay cut imposed by their new employer Care UK after it had taken over the contract from the health service. This was one of the longest UK industrial disputes in recent times, and certainly one of the longest among care workers. It led eventually to the employer agreeing a 2 per cent pay increase for all staff, and a non-consolidated cash payment of £500 for those transferring from the NHS. More recently, residential care workers walked out at a residential care facility (run by a non-profit trust) in north London in early 2021 in a dispute over pay and conditions, and claims of discrimination and harassment by management since the start of the COVID-19 pandemic. The employer has so far failed voluntarily to recognise the United Voices of the World (UVW) union which, despite being a relatively small 'new' union, has successfully organised workers at one large nursing home. A decision by the Central Arbitration Committee (CAC)[6] in January 2021 accepted the union's claim that the establishment of a bargaining unit would achieve a 55 per cent majority membership, and therefore the employer should recognise the union under the transposed European Information and Consultation (I&C) Directive (2002/14/EC) which would create the basis for collective bargaining in future (although as of February 2021 the employer had yet to formally respond to this judgment). In common with other organising efforts among outsourced workers in London, it appears that smaller unions (such as the UVW) with stronger links to migrant communities have made headway in deep organising and mobilising one workplace at a time, compared with the broad and shallow approach of the larger general unions (Alberti and Però, 2018).

---

5 https://www.unison.org.uk/news/press-release/2016/09/unisons-biggest-ever-homecare-legal-case-over-workers-paid-as-little-as-3-27-an-hour/ (accessed 17 March 2021).

6 The statutory body responsible for adjudicating and arbitrating in processes of trade union recognition/de-recognition.

Conclusion

This article has analysed the successes and limitations of UNISON's Ethical Care Campaign and Charter as an example of a novel solution to poor pay and conditions among the outsourced domiciliary care workforce. In doing so, the article contributes to the growing literature on trade union experimentation with new repertoires of action aimed at delivering on 'winnable issues' rather than long-term capacity building (Bunyan, 2016; Carver and Doellgast, 2020; Gold et al., 2020). Similar to other social campaigns in the United States and Europe, which have focused on exposing low pay and precarious work among outsourced workers (Connolly et al., 2017; Crosby, 2009; Murphy and Turner, 2016), the UNISON Ethical Care Campaign shamed the clients at the head of supply chains as much as direct employers, who in this case were state actors. The campaign firmly placed the issues of precarious work and zero-hours contracts on the national political agenda, and, alongside national employer representatives, UNISON sought to put pressure on central government as the funder of care services, as well as local authorities as buyers. In turn, the Ethical Care Charter provided a framework for local union actors to ensure that socially responsible commissioning processes delivered wage gains for workers and not increased profits for private contractors (Grimshaw et al., 2015).

Relations with employers, however, are perhaps best described as a transient alignment of interests as opposed to a formal and enduring coalition. Employers clearly have an interest in securing additional funding for care services, which in turn may address recruitment and retention problems, but they are not necessarily driven to improve working conditions based on ethical or moral concerns. There also remain significant challenges in respect of the resources required for monitoring and enforcing increasingly complex contracts, and to prevent higher hourly wages from being recouped by reductions in other terms and conditions. There is also the issue that localised solutions may contribute to the further fragmentation of standards as gaps open up between rates of pay across different geographical areas. The positive ripple and spillover effects of wages gains at the bottom are limited, and even though providers are responsive to localised increases in charge rates they do not cross-subsidise other areas with lower charge rates. Block contracts have also not solved the issue of how to recruit and retain staff in domiciliary care when other flexible jobs in cleaning, retail and hospitality offer broadly similar standards but with less intense physical, emotional and work-schedule demands.

More importantly there remain unresolved funding problems where local authorities are under significant financial pressure as a result of sustained efforts to cut budgets. Although pay and conditions for outsourced workers have improved in those areas that have adopted UNISON's Ethical Care Charter, the lack of coordinated upward pressure on wages means there are still cost incentives to maintain outsourced services. There is also the broader challenge of how to transform a gendered model of employment at the bottom of the labour market where workers are routinely exposed to low and variable earnings, and face particular challenges around episodic working and tight control of work schedules.

Although organising and mobilising care workers were not explicit objectives of the campaign, the evidence suggests that limited gains have been made in terms of membership among outsourced workers, nor have new voices and new leaders emerged from the bottom up. This may partly reflect the shortcomings of top-down approaches that can disenfranchise workers (McAlevey, 2016), but it is also a reflection of the fragmentation of supply chains in sectors such as domiciliary care and contract cleaning, which obscures proper responsibility for poor pay and conditions, making it difficult for workers to know who to mobilise against (Connolly et al., 2017; Rubery, 2015). The strike action at Care UK in 2014 and more recently the London SAGE strike in

2021 shows that where workers do perceive a significant grievance against their direct employer, they are willing to engage in sustained collective action to force concessions from management (Kelly, 1998). The unions' challenge here is to scale up sporadic action to ensure that local authorities take greater collective responsibility for outsourced care workers, while at the same time leveraging the (admittedly fragile) relationships with employers to put pressure on central government to make sustained investments in local authority care services. Despite the brief recognition of care workers as 'heroes' during the COVID-19 crisis, the entrenched low social and economic valuation of this highly flexible and feminised occupation continues to foster chronic underinvestment, low pay and insecurity (UNISON, 2020).

Funding

This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

References

Alberti G and Però D (2018) Migrating industrial relations: migrant workers' initiative within and outside trade unions. *British Journal of Industrial Relations* 56(4): 693–715.

Aslam Y and Woodcock J (2020) A history of Uber organizing in the UK. *South Atlantic Quarterly* 119(2): 412–421.

Atkinson C and Crozier S (2020). Fragmented time and domiciliary care quality. *Employee Relations* 42(1): 35–51.

Badigannavar V and Kelly J (2005) Why are some union organizing campaigns more successful than others? *British Journal of Industrial Relations* 43(3): 515–535.

Baluch AM (2020) The most striking progressive achievement in labour and employment policy? The Scottish living wage in social care during Austerity. In: Baines D and Cunningham I (eds) *Working in the Context of Austerity: Challenges and Struggles*. Bristol: Bristol University Press, pp. 239–260.

Beirne M, Hurrell S and Wilson F (2019) Mobilising for equality? Understanding the impact of grass roots agency and third party representation. *Industrial Relations Journal* 50(1): 41–56.

Bunyan P (2016) The role of civil society in reducing poverty and inequality: A case study of the living wage campaign in the UK. *Local Economy* 31(4): 489–501.

Carver L and Doellgast V (2020) Dualism or solidarity? Conditions for union success in regulating precarious work. *European Journal of Industrial Relations*. Epub ahead of print 18 December 2020. DOI: 0959680120978916.

Connolly H, Marino S and Martinez Lucio M (2017) 'Justice for Janitors' goes Dutch: The limits and possibilities of unions' adoption of organizing in a context of regulated social partnership. *Work, Employment and Society* 31(2): 319–335.

Cox A, Sung S, Hebson G and Oliver G (2007) Applying union mobilization theory to explain gendered collective grievances: Two UK case studies. *Journal of Industrial Relations* 49(5): 717–739.

Crosby M (2009) CleanStart—fighting for a fair deal for cleaners. In: Gall G (ed.) *The Future of Union Organising*. London: Palgrave Macmillan, pp. 131–149.

Cullen P and Murphy MP (2018) Leading the debate for the business case for gender equality, perilous for whom? *Gender, Work & Organization* 25(2): 110–126.

Deakin S, Fraser-Butlin S, McLaughlin C and Polanska A (2015) Are litigation and collective bargaining complements or substitutes for achieving gender equality? A study of the British Equal Pay Act. *Cambridge Journal of Economics* 39(2): 381–403.

Gold M, Preuss L and Rees C (2020) Moving out of the comfort zone? Trade union revitalisation and corporate social responsibility. *Journal of Industrial Relations* 62(1): 132–155.

Grimshaw D, Rubery J and Ugarte SM (2015) Does better quality contracting improve pay and HR practices? Evidence from for-profit and voluntary sector providers of adult care services in England. *Journal of Industrial Relations* 57(4): 502–525.

Hebson G, Rubery J and Grimshaw D (2015) Rethinking job satisfaction in care work: Looking beyond the care debates. *Work, Employment and Society* 29(2): 314–330.

Hodder A, Williams M, Kelly J and McCarthy N (2017) Does strike action stimulate trade union membership growth? *British Journal of Industrial Relations* 55(1): 165–186.

Holgate J, Simms M and Tapia M (2018) The limitations of the theory and practice of mobilization in trade union organizing. *Economic and Industrial Democracy* 39(4): 599–616.

Kelly JE (1998) *Rethinking Industrial Relations: Mobilization, Collectivism, and Long Waves*. New York, NY: Routledge.

LGA (Local Government Association) (2015) National living wage to cost councils £1 billion a year by 2020/21. *Media release*, 13 July 2015. Available at: https://www.localgov.co.uk/Councils-warn-living-wage-will-cost-1bn-by-2020/39022 (accessed 17 March 2021).

Lopes A and Hall T (2015) Organising migrant workers: the living wage campaign at the University of East London. *Industrial Relations Journal* 46(3): 208–221.

López-Andreu M (2020) Breaking fragmentation through mobilization: the development of a collective identity during Movistar's contractors' and technicians' strike in Spain. *Work, Employment and Society* 34(4): 661–677.

Luce S (2004) Labor market deregulation and the US living-wage movement. In: Stanford J and Vosko LF (eds) *Challenging the Market: The Struggle to Regulate Work and Income*. Montreal: McGill-Queen's Press–MQUP, pp. 289–308.

McAlevey J (2016) *No Shortcuts: Organising for Power in the New Gilded Age*. Oxford: Oxford University Press.

Meardi G, Simms M and Adam D (2021) Trade unions and precariat in Europe: Representative claims. *European Journal of Industrial Relations* 27(1): 41–58.

Moore S (2011) *New Trade Union Activism: Class Consciousness or Social Identity?* London: Palgrave Macmillan.

Moore S and Hayes LJB (2017) Taking worker productivity to a new level? Electronic Monitoring in home-care—the (re) production of unpaid labour. *New Technology, Work and Employment* 32(2): 101–114.

Moore S and Newsome K (2018) Paying for free delivery: Dependent self-employment as a measure of precarity in parcel delivery. *Work, Employment and Society* 32(3): 475–492.

Murphy C and Turner T (2014) Organising non-standard workers: Union recruitment in the Irish care sector. *Industrial Relations Journal* 45(5): 373–388.

Murphy C and Turner T (2016) Organising precarious workers: Can a public campaign overcome weak grassroots mobilisation at workplace level? *Journal of Industrial Relations* 58(5): 589–607.

Palier B and Thelen K (2010) Institutionalizing dualism: Complementarities and change in France and Germany. *Politics and Society* 38(1): 119–148.

Pursch B and Isden R (2018) *Behind the Headlines: The Battle to Get Care at Home*. London: Age UK. Available at: https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/care–support/rb_jun18_-the_struggle_to_get_care_at_home.pdf (accessed 17 March 2021).

Rubery J (2015) Change at work: Feminisation, flexibilisation, fragmentation and financialisation. *Employee Relations* 37(6): 633.

Skills for Care (2020) *The State of the Adult Social Care Sector and Workforce in England, October 2020*. Leeds: Skills for Care.

Tapia M (2019) 'Not fissures but moments of crises that can be overcome': Building a relational organizing culture in community organizations and trade unions. *Industrial Relations: A Journal of Economy and Society* 58(2): 229–250.

UKHCA (UK Homecare Association) (2018) *The Homecare Deficit: A Report on the Funding of Older People's Homecare across the United Kingdom, October 2018*. Wallington: The UK Homecare Association.

UKHCA (UK Homecare Association) (2019) *An Overview of the UK Homecare Market, June 2019*. Wallington: The UK Homecare Association.

UNISON (2020) Care after Covid: A UNISON vision for social care. Available at: https://www.unison.org.uk/content/uploads/2020/06/A-UNISON-Vision-for-Social-Care-June-2020.pdf (accessed 17 March 2021).

Waddington J and Kerr A (2009) Transforming a trade union? An assessment of the introduction of an organizing initiative. *British Journal of Industrial Relations* 47(1): 27–54.

Women's Budget Group (2018) Social care: A system in crisis. Briefing from the UK Women's Budget Group on the crisis in social care. Available at: https://wbg.org.uk/wp-content/uploads/2018/10/Social-Care-November-2018-w-cover.pdf (accessed 17 March 2021).

Wynn-Evans C (2021) A solution to fissuring? Revisiting the concept of the joint employer. *Industrial Law Journal* 50(1): 70–103.