

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

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How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

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July 2019

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Disclaimer: This article represents independent research that was commissioned by the Director of Labour Market Enforcement to inform his Annual Strategy 2019/20. The views and opinions expressed in this article are those of the authors, and do not necessarily reflect the official views, policy or position of the Director or any agency of HM Government.

1 Executive Summary

Background and methodology

This research was commissioned by the Director of Labour Market Enforcement (DLME) to explore how the Restaurant sector has been affected by the fissuring of the employment relationship between employers and workers over the last 10 years.

The research consisted of two elements - secondary desk research and primary qualitative interviews. The desk research involved a data review and a literature review. The data review focused on the structure of the Restaurant and Food Services business population, including: size and number of businesses in the sector by country and region; overall employment, including the occupation profile of the workforce and use of non-UK workers; and recruitment methods used in the industry. The literature review focused on employment relationship issues, the characteristics of the sector and broad trends in sector composition and employment over time.

The primary qualitative research was undertaken with stakeholders and workers in the Restaurant and Food Service sector. We spoke to 6 industry stakeholders and 32 workers. The stakeholder interviews lasted for an average of an hour each, and the worker interviews for an average of 50 minutes each. All the stakeholder interviews were conducted by phone. The worker interviews were a mix of face-to-face and telephone interviews.

Characteristics and trends in the Restaurant sector

The Restaurant sector in the UK (here defined as SIC 2007 industry classes 56.1 - “Restaurants and mobile food service activities”; 56.2 - “Event catering and other food service activities”; and 56.3 - “Beverage serving activities”) is characterised by a relatively high proportion of franchises. These (often national or international) brands operate alongside smaller proportions of independent restaurants. The sector is dominated by smaller establishments (though these may be part of a franchise). It is increasingly structured around the demand for a flexible workforce, and workers are frequently expected to work on an ‘as required’ basis, rather than having consistent working hours.

The Restaurant sector has also had to respond to consumer demand for not only improved quality of food and drink, but an increase in the whole ‘dining experience’ quality. Healthy eating options and non-alcoholic drinks have become more popular choices, and some consumers are concerned about environmentally sustainable and ethical food sources.

Three key cost pressures have contributed to increased competition and challenges in the sector: rising property costs, rising food costs and rising labour costs. Ultimately, employers have been reluctant to pass on these increased costs to customers and therefore much of this squeeze has been felt by workers in the sector, who are required to work longer hours for lower pay than previously. Skills shortages are another key challenge in the sector, and these have been linked to increased demand for workers across the sector.

The worker-employer relationship

Nature of employment in the Restaurant sector

Working hours are typically long, with workers working well over 37 hours per week to meet employer and customer demand. A survey by the trade union Unite, of chefs working in restaurants, pubs and

hotels in London¹ showed that just under half (44%) worked over 48 hours per week and over one in ten chefs (14%) spent more than 60 hours per week in the kitchen. Case studies in the 'quick service' restaurant sector also highlight the existence of a long-hours culture²; for example, managerial workers being contracted to work 44 hours per week, but with actual weekly working hours sometimes rising to 60-70 hours.³

High levels of competition in the sector mean that the intensity of work is often high. This pressure raises health and safety concerns, particularly stress at work because of overwhelming job demands. As well as long working hours, flexible work patterns are a key characteristic of employment within the Restaurant and Food Services industry. Employment is also often temporary and transient, resulting in a relatively high degree of workforce churn.

Dominant employment practices

To meet the flexibility needs of the sector, zero hours contracts are regularly used. Rather than having pre-set hours, workers are often required to work on demand, therefore during particularly busy times of year they might be required to work very long hours, whilst at other times of year they may have very little work. Evidence shows that workers with irregular hours feel less secure and more vulnerable to low pay.

Recruitment practices and retention

Recruitment within the Restaurant and Food Services sector tends to be through more informal routes. Stakeholders reported that word of mouth is a common recruitment method. The sector is relatively easy to enter, with few barriers to entry, and employers tend to be more concerned about recruits having appropriate work experience than specific qualifications⁴. The sector is characterised by a high level of workforce turnover, due to a young and often transitory workforce. These workers are more likely to leave positions in search of better conditions, as opposed to raising issues with their current employer.

Drivers of non-compliance

The literature review and interviews suggest a number of reasons for non-compliance with employment legislation. Competition in the sector is one of the key drivers of non-compliance, as employers seek to cut costs. Other drivers include:

- Low levels of union membership - Labour Force Survey data shows that only 3.2 per cent of workers in the food and Restaurant sector were trade union members in 2017 (compared to 13.5 per cent of all private sector employees in 2017)⁵.

¹ Witts S. (2017) 'Majority of London chefs struggle with long working hours', <https://www.bighospitality.co.uk/Article/2017/04/27/Majority-of-London-chefs-struggle-with-long-working-hours>

² For example, see Royle T. (2000) *Working for McDonald's in Europe: The Unequal Struggle*, Routledge, Europe.

³ Butler P. and Hamner A. (2018) "A Minute's a Life-Time in Fast-Food!": Managerial Job quality in the Quick Service Restaurant Sector", *Work, Employment and Society* DOI: 10.1177/0950017018777710.

⁴ Employer Skills Survey, 2017

⁵ Department for Business, Energy and Industrial Strategy (2018) Trade union membership 2017: statistical bulletin.

(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/712543/TU_membership_bulletin.pdf). Data from Table 2.2 of accompanying Excel workbook.

- Cost pressures – changes in National Minimum Wage (NMW)/ National Living Wage (NLW) and other benefits.
- Contracts – zero-hours contracts and issues around holiday entitlements.
- Agencies and umbrella companies – disjoining the employer and employee relationship.
- Level of more vulnerable workers in the industry – young workers and migrants.
- Insufficient enforcement or guidance from government.

Worker experiences of employment breaches

A range of employment rights breaches were reported by workers in the Restaurant sector. There were five main areas where breaches occurred most frequently:

- Breaks – The fast-paced environment, where work is structured around unpredictable customer demand, meant that it was common for workers to report not being allowed or able to take their breaks.
- Pay – Common issues around pay involved either not being paid for the number of hours worked or not being paid on time. Overall, not being paid for the total number of hours worked was slightly more common than not being paid on time.
- Contract – Not being given a written contract was another issue which was experienced by workers. In some cases, workers were unsure whether they had been given a contract or not, but others were certain that they had never received one.
- Harassment – This was slightly less common than breaches around breaks, pay and contracts. The type of harassment experienced tended to be verbal and was experienced by junior members of staff.
- National Minimum Wage (NMW) / National Living Wage (NLW) – This was less common than the 4 previous breaches. This breach tended to occur in 3 ways: accidental breach; salaried workers working so many hours over their contracted hours that their pay per hour was under NMW/ NLW; and employers providing incorrect information that workers were not entitled to NMW/NLW.

Awareness of rights and raising issues

The majority of stakeholders felt that workers generally had low levels of awareness of both employment rights and redress routes. It was felt that workers were most aware of the National Minimum Wage/ National Living Wage. Workers were also seen to have some awareness of rights relating to employment conditions such as holiday pay, sick pay, paid overtime, or breaks. Stakeholders noted that workers had quite limited awareness of support or external agencies that they could speak or report incidents to.

In contrast, workers generally felt that they were aware of their rights. However, when prompted on a range of possible breaches it became evident that many workers were not as clear on their employment rights as they originally thought.

Where workers had experienced issues, they tended to raise these internally and informally with their managers or supervisors. Workers did not tend to turn to external organisations for assistance, either because they were not aware of their existence, or because they felt that speaking to an external organisation may be too much of an escalation, as they did not believe the issue was 'serious' enough.

Workers' awareness of external agencies was generally low. When prompted on a range of available support organisations workers, commonly recognised the names of Citizens Advice (CA) and the Advisory, Conciliation and Arbitration Service (ACAS). All of the workers recognised HMRC, but in the context of tax matters, as opposed to the NMW/ NLW team. Some workers had also heard of Unite the Union and the Modern Slavery Helpline. Few workers had heard of Gangmasters and Labour Abuse Authority (GLAA) or the Employment Agency Standards Inspectorate (EASI).

Stakeholders were in consensus that more could be done to raise workers' awareness of their rights and relevant external advice or support agencies. A range of avenues were suggested to help raise awareness, including: working with community groups to raise awareness via social media; strengthening collective rights; better government guidance and targeted campaigns; and further communications from employer and agencies to ensure their workers understand their rights.

2 Introduction

Background and research objectives

This research was conducted on behalf of the Director of Labour Market Enforcement (DLME), to feed into the Director's 2019/20 annual strategy, which will be delivered to the Government by the end of March 2019. The Director's 2018/2019⁶ labour market enforcement strategy highlighted the profound changes that have taken place in the UK labour market in the last four decades, including the decline in both trade union membership and collective bargaining coverage, and labour's share of national income. There has also been a 'fissuring' of the employment relationship between the worker and the employer (Weil 2008)⁷. This relationship is now increasingly complex where employers have contracted out, franchised, subcontracted and devolved many functions that were once done in-house. David Weil uses the term 'the fissured workplace' to describe workplaces where the use of out-sourcing and sub-contracting results in a situation where margins on labour are increasingly squeezed, wages reduced, and many workers lose the benefits of traditional employment relationships including career paths, safe working environments, and sick pay.

This research was commissioned to explore how the Restaurant sector has been affected by the 'fissuring' of the employment relationship between employers and workers over the last 10 years. To investigate this, the research explores:

- changes in business ownership, employment models and the types of employment contracts used to employ workers in the sector;
- how workers are recruited to the sector and the nature of the employment relationship;
- the extent to which sector workers are aware of their employment rights;
- the types of breaches that (most commonly) occur in the sector;
- worker awareness of routes they can take to seek advice or to make complaints about exploitation or non-compliance by their employer; and
- other data or information sources that can inform and build upon primary research into the scale and nature of non-compliance.

IFF Research were also commissioned to conduct research of the same nature within the Warehousing sector. This report focuses on the Restaurant sector study.

Workers' Rights in the UK

Common breaches of workers' rights include the following:

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705495/labour-market-enforcement-strategy-2018-2019-executive-summary.pdf

⁷ Weil, D. (2008) A strategic approach to labour inspection. *International Labour Review* 147(4) 349-375. Available at: http://www.oit.org/public/english/revue/download/pdf/s3_weil.pdf

Topic	Issues ⁸
Wage underpayment	<p>Paying less than National Minimum Wage (NMW) / National Living Wage (NLW) - which in 2018/19 was £4.20 for those under 18, £5.90 for those 18 to 20, £7.38 for those 21 to 24 and £7.83 for those 25 and over.</p> <p>Underpaying Apprentices - For those under 19 or in first year of placement NMW is £3.70 an hour. Those over 19 who have completed the first year of their placement are entitled to the standard NMW for their age bracket.</p> <p>Working unpaid hours.</p> <p>Unpaid holiday - Not informing workers of their entitlement or not allowing to carry forward accrued holiday.</p>
Too many working hours	<p>The Working Time Directive stipulates workers can't work more than 48 hours a week (on average) – unless they opt out. There are also some exceptions to this such as jobs in the armed forces or emergency services.</p>
Too little holiday entitlement	<p>Almost all full-time workers are entitled to 5.6 weeks paid holiday a year (equivalent to 28 days for someone who works 5 days a week). This can include bank holidays.</p> <p>Entitlement is pro-rated for part-time workers, depending on how many hours they work each week.</p>
Insufficient rest breaks	<p>Most workers over 18, who work more than 6 hours a day, are entitled to at least one uninterrupted 20-minute break during the day (this could be a tea break or lunch break and doesn't have to be paid).</p> <p>Workers also have the right to 11 hours rest between working days, and an uninterrupted 24 hours without any work each week, or an uninterrupted 48 hours without any work each fortnight.</p>

Methodology

Definition of the sector of interest

The sub-sectors covered by the study (defined by SIC 2007) are:

- 56.1 Restaurants and mobile food service activities;

⁸ All information included in this table was correct at the time that this research report was written (January to March 2019).

- 56.2 Event catering and other food service activities; and
- 56.3 Beverage serving activities

They are referred to together throughout the report as the 'Restaurant' or 'Restaurant and Food Services' sector.

Research Method

The research had two main components: desk research and qualitative fieldwork.

Desk Research

Two stages of desk research were conducted: a data review and a literature review.

Dr David Owen, Principal Research Fellow at the Institute of Employment Research (IER) at the University of Warwick, conducted an analysis of existing data sources, including the Labour Force Survey, UK Business Counts from the IDBR, the Business Register and Employment Survey, and the Workplace Employment Relations Study. The data review explored changes to the UK Restaurant sector in the last 10 years, overall and by country and region. In particular, it focused on:

- the structure of the business population, including size and number of businesses in the sector by country and region
- overall employment, including the occupation profile of the workforce and use of non-UK workers.
- recruitment methods used in the Restaurant sector.

Professor Anne Green of the University of Birmingham, an expert in labour market research with over 35 years' experience, conducted the literature review. For the literature review a search was undertaken using a series of terms focusing on employment relationship issues and the sector. An adapted version of systematic searching was supplemented by hand searching of particular sources. The review covered the most relevant grey, published and policy literature published in the last 10-years.

Qualitative Interviews

Qualitative interviews were conducted with workers in the sector, as well as with key industry stakeholders and experts from sector bodies, unions, and advisory organisations. Interviews with stakeholders and experts explored the changing nature of employment and the extent and nature of non-compliance within the Restaurant sector. Additionally, we asked experts to provide recommendations of reports, data sources or grey literature they felt may be relevant to the research.

Interviews with workers asked about their employment situation, their understanding of their employment rights, their experiences at work, and their awareness of potential sources of information and support. Specifically, interviews focused on instances of breaches to workers' employment rights, including how these breaches impacted them and how they dealt with them. Examples of the type of breaches discussed included issues with pay, contracts and working conditions.

Who we spoke to

Stakeholders

We conducted six in-depth interviews with stakeholders and industry experts: four of whom were able to discuss both the Warehousing and Restaurant industry, as well as two whose expertise was specific to the Restaurant industry. These interviews lasted around an hour.

Workers

A total of 32 workers in the sector were interviewed for the research. Qualitative interviews lasted around 50 minutes and were conducted both face-to-face and over the telephone. A breakdown of the individuals interviewed is shown below in Table 1.

The qualitative nature of the research means that interviews aimed to investigate the nature of non-compliance, to gain detailed insight into the experiences of workers, as opposed to quantifying the nature and prevalence of non-compliance within the industry.

Qualitative research allows us to explore individual experiences in detail. The use of words such as 'most', 'some' and 'few' are illustrative of the data collected for this research. However, findings should not be interpreted as being representative of all workers in the Restaurant industry.

Participants completed a recruitment screener to ensure that the research spoke to a variety of workers within the sector. Workers were screened to ensure a good mix across the following characteristics: employment type; type of employers; whether they were UK or non-UK citizens; and whether they had raised any issues with their employer. We also monitored average weekly hours, gender, and age. Full breakdown of the interviews achieved is included in Appendix A (Table A1).

3 Characteristics and trends in the Restaurant sector

This chapter explores findings from the secondary data analysis and literature review. It covers, the structure of the sector, the wider market and key challenges facing the Restaurant and Food Service industry. It argues that a number of wider drivers, including increased competition and cost pressures, have resulted in an increased casualisation of labour (often associated with fissured workplaces) and increased flexibility for employers at the expense of workers. It then identifies key characteristics of employment relationships in the sector.

Structure of the UK Restaurant sector

The Restaurant sector is characterised by a relatively high proportion of franchises. Brands such as McDonalds, Burger King and Subway use this model. McDonalds, for instance, has over 1,250 restaurants in the UK of which approximately 70 per cent are operated by franchises, and approximately 120,000 people are employed by McDonalds UK.⁹ These brands operate alongside smaller proportions of independent restaurants.

Over the medium- and longer-term, growth in the number of restaurants and take-away establishments has been driven by consumer and demographic trends, with individuals (especially young people) eating away from home more frequently. In this context key brands have increased their market share.¹⁰ Office for National Statistics data on employment and turnover of VAT and/or PAYE based enterprises in the accommodation and food services sector in the UK shows that following a decline in both employment and turnover between the year ending March 2010 to the year ending March 2011, employment has increased by 19 per cent from 1.74 million in 2011 to 2.17 million in 2016 while turnover increased by a similar proportion¹¹.

Establishments by size

Data from the Office for National Statistics shows that establishments in the three Restaurant sub-sectors were predominantly micro organisations, employing up to 9 staff members in both 2010 and 2018 (Table 3.1).

⁹ See <https://www.mcdonalds.co.uk/ukhome/People/Franchising.html/w-hy-mcdonalds.html> and <https://www.mcdonalds.co.uk/ukhome/People/Franchising.html/index.html>

¹⁰ PWC (2017) *Restaurants 2017: Food for thought*. <https://www.pwc.co.uk/services/business-recovery/insights/restructuring-trends/restaurants-2017-food-for-thought.html>

¹¹ <https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/ukbusinessactivitysizeandlocation>

Table 3.1 : Size distribution of establishments in the food and beverage sector, 2010 and 2018

Employment Sizeband	2010			2018		
	56.1: Restaurants and mobile food service activities	56.2: Event catering and other food service activities	56.3: Beverage serving activities	56.1: Restaurants and mobile food service activities	56.2: Event catering and other food service activities	56.3: Beverage serving activities
Total	61,970	6,975	45,615	86,880	10,955	37,810
Micro (0 to 9)	85.1	85.0	80.1	79.5	83.7	68.9
Small (10 to 49)	13.5	12.0	18.9	18.8	13.7	29.7
Medium (50 to 249)	1.2	2.1	0.8	1.4	1.9	1.3
Large (250+)	0.2	0.9	0.1	0.3	0.8	0.1

Source: UK Business Counts via NOMIS.

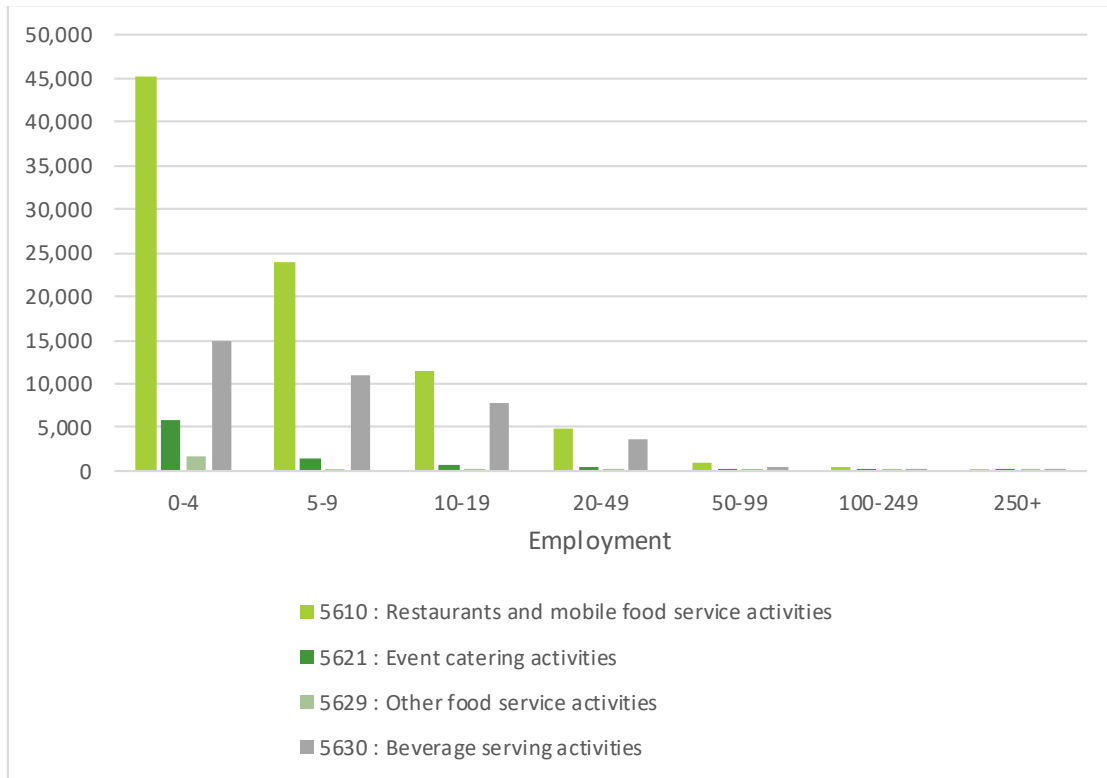
Figure 3.1 further shows that event catering and other food services industry classes are dominated very extremely small businesses.

Across the sector, the overall number of establishments grew from over 114,500 to over 135,600 between 2010 and 2018 (an increase of 18%). The number of restaurants grew by 40%, so demonstrating significant expansion even within a highly competitive, low pay and increasing cost environment. However, expansion patterns varied by establishment size and sub-sector: while the numbers of establishments increased in each sub-sector and size band, the rate of increase varied.

For example, while the number of micro-organisations increased from just over 95,000 to just over 104,000 from 2010-2018 (an increase of just under 10%), the share of establishments that are micro-organisations fell from 83% to 77%. The percentage share of small organisations across all three sub-sectors grew (from 16% to 21%), and the percentage share of medium-sized organisations, employing 50 to 249 members of staff, also increased (from 1% to 1.4% of the total).

While the number of establishments in the restaurants and event catering sub-sectors grew at every size band, the picture for beverage serving activities was more mixed. There are contrasting trends in terms of growing numbers of small (e.g.) coffee shops, but a marked decline in the number of small public houses in less prosperous areas and a growth in larger pubs (mostly serving food) in more prosperous localities. The number of establishments declined from over 45,600 in 2010 to 37,800 in 2018, with a marked decline in the number of micro-businesses only partially offset by small increases in the other establishment size bands.

Figure 3.1 : Number of enterprises by employment size, 2018

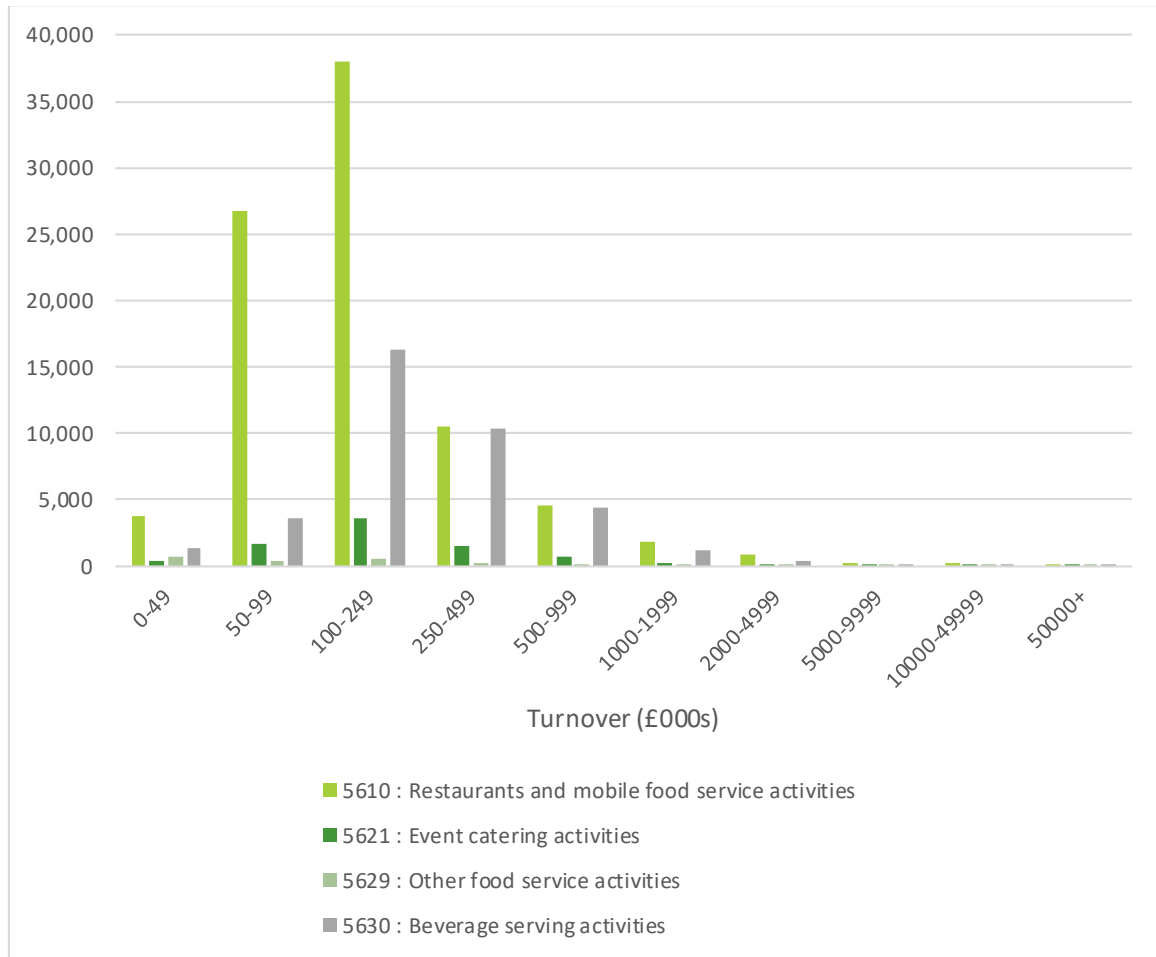


Source: ONS UK Business, Size and Location statistics¹²

Restaurants and beverage serving enterprises have a modal turnover of between 100 and 249 thousand pounds, with the latter tending to be larger (Figure 3.2).

¹²<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/ukbusinessactivitysizeandlocation>

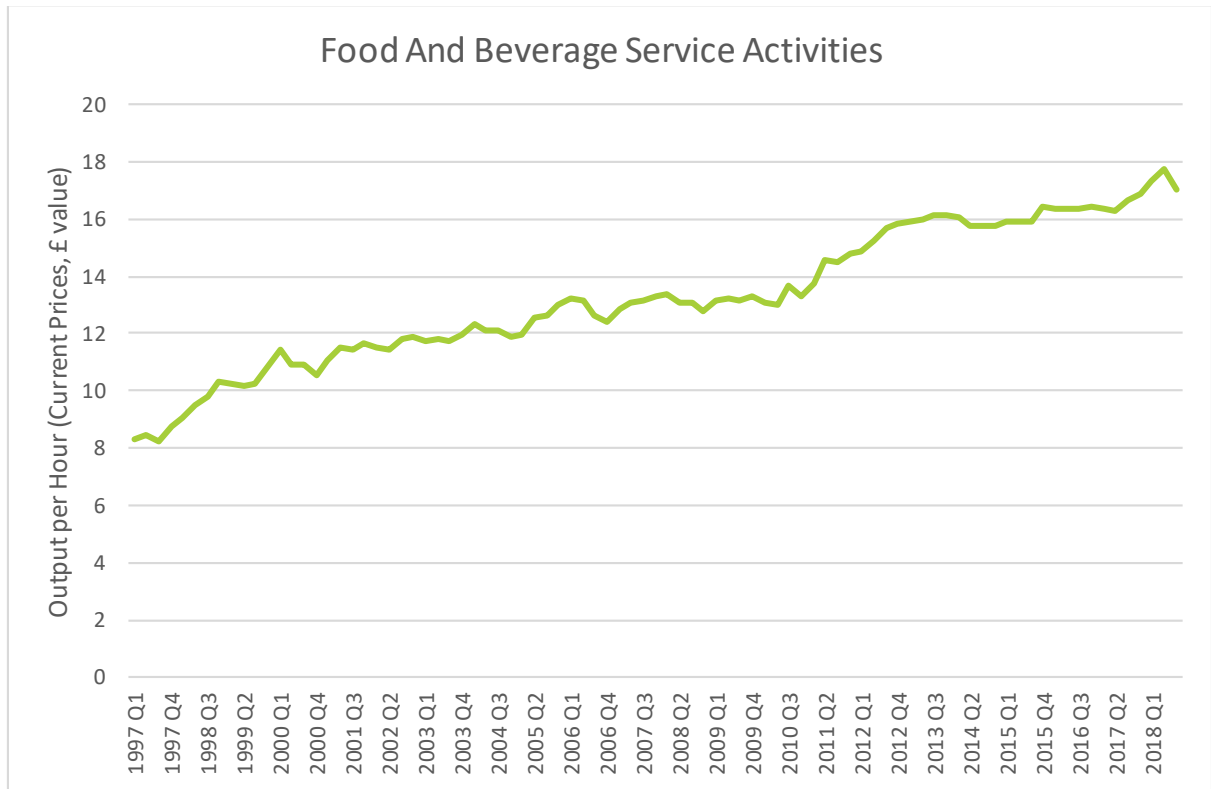
Figure 3.2 : Number of enterprises by turnover, 2018



Source: ONS UK Business, Size and Location statistics

Figure 3.3 shows that productivity (measured as output per hour in current prices) in the sector as a whole increased steadily over the period 1997 to 2018. In 2018, average output per hour was £17.37, more than double its level in 1997 (£8.42). The recession of 2008/9 appears to have had little impact on sector productivity.

Figure 3.3 : Labour productivity in the Food and Beverage Services division, 1997-2019



Source: ONS Labour productivity by industry division, July to September 2018¹³.

Regional distribution of the sector

Restaurants and beverage serving each accounted for 2 to 3 per cent of all employment in Great Britain, and within most individual nations/regions. The share of restaurants and event catering was largest in London, while that of beverage serving was smallest in London in 2009. The share of restaurants increased markedly between 2009 and 2015, but event catering grew more slowly, while beverage serving fell in most parts of the country but grew in the North East and East (Table 3.2).

¹³<https://www.ons.gov.uk/economy/economicoutputandproductivity/productivitymeasures/datasets/labourproductivitybyindustrydivision>

Table 3.2 : Regional distribution of the food and beverage sector, 2009 and 2017

Nation or Region	Percentage of employment, 2009			Percentage of employment, 2017		
	56.1: Restaurants and mobile food service activities	56.2: Event catering and other food service activities	56.3: Beverage serving activities	56.1: Restaurants and mobile food service activities	56.2: Event catering and other food service activities	56.3: Beverage serving activities
North East	2.7	0.9	1.9	3.4	0.8	3.1
North West	2.6	0.8	2.1	2.8	0.7	1.7
Yorkshire and The Humber	2.4	0.5	2.5	3.1	0.7	2.2
East Midlands	2.2	0.5	2.3	2.9	0.8	1.9
West Midlands	2.2	0.7	2.4	2.9	0.9	2.1
East	2.5	0.7	1.6	2.9	0.7	1.8
London	3.2	1.1	1.5	3.9	1.3	0.9
South East	2.2	1.0	2.0	3.0	1.1	1.7
South West	2.8	0.7	2.6	3.8	0.9	2.5
Wales	2.4	0.5	2.2	2.9	0.5	2.2
Scotland	2.7	0.8	1.7	3.1	1.0	1.4
Column Total	2.6	0.8	2.0	3.2	0.9	1.8

Source: Business Register and Employment Survey via NOMIS.

The regional distribution of employment in the sector is presented for sub-classes (the 5-digit level of the SIC 2007) for 2018 in Table 3.3. Licensed restaurants and public houses and bars each employed over 450 thousand people, with London standing out as having the bulk of employment in each sub-class. London had the largest share of establishments in restaurants and event catering, but the largest number of public houses was in the South East and South West of England (Table 3.4).

Table 3.3 : Detailed (5-digit SIC) breakdown of employment in the Food and Beverage Services sector, 2018

	56.101: Licensed restaurants	56.102: Unlicensed restaurant and cafes	56.103: Take-away food shops and mobile food stands	56.210: Event catering activities	56.290: Other food services activities	56.301: Licensed clubs	56.302: Public houses and bars
North East	13,648	11,748	10,246	4,965	3,481	5,473	18,529
North West	46,606	37,784	25,059	16,379	9,865	8,685	52,435
Yorkshire and The Humber	30,161	25,975	19,490	9,294	5,263	8,306	39,073
East Midlands	22,697	21,446	13,665	8,392	6,778	4,935	36,028
West Midlands	27,473	29,176	16,327	13,791	9,644	6,512	41,015
East	36,982	28,136	17,906	13,012	10,559	6,013	39,038
London	130,095	60,151	38,835	35,526	35,345	8,786	46,175
South East	59,243	44,016	27,544	19,296	25,960	7,984	65,863
South West	40,928	29,150	17,730	12,708	10,402	6,113	51,297
England	407,833	287,582	186,802	133,363	117,297	62,807	389,453
Scotland	39,661	29,586	19,956	14,389	7,744	6,429	31,137
Wales	16,867	18,455	11,095	4,000	3,968	4,360	22,580
Northern Ireland	10,998	10,532	8,448	1,605	1,728	1,769	7,143
UK (=100%)	475,359	346,155	226,301	153,357	130,737	75,365	450,313

Source: ONS ad-hoc tabulation of UK business activity, size and location data. AH362: "Analysis showing the count and employment of VAT and/or PAYE based local units in Regions of the United Kingdom for UK SIC 2007 Sub Classes in Division 56 - Food and Beverage Service Activities 2016-2018".¹⁴

Table 3.4 : Detailed (5-digit SIC) breakdown of establishments in the Food and Beverage Services sector, 2018 (percentage share of UK total)

	56.101: Licensed restaurants	56.102: Unlicensed restaurant and cafes	56.103: Take-away food shops and mobile food stands	56.210: Event catering activities	56.290: Other food services activities	56.301: Licensed clubs	56.302: Public houses and bars
North East	3.0	3.2	5.1	4.1	2.7	6.6	4.2
North West	9.3	9.4	12.3	9.1	7.8	12.2	11.6
Yorkshire and The Humber	6.3	7.9	9.7	6.4	6.3	11.4	9.4

¹⁴<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/ukbusinessactivitysizeandlocation/2018>

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

East Midlands	5.4	5.7	6.6	5.6	6.0	7.0	8.3
West Midlands	6.4	6.7	8.3	9.0	7.6	8.9	8.8
East	8.5	8.0	8.2	11.2	9.1	7.8	8.9
London	24.0	20.8	14.0	20.8	21.3	7.6	9.2
South East	13.9	12.6	11.1	14.2	19.9	11.3	13.7
South West	9.3	8.7	7.4	7.7	9.2	9.5	10.8
England	86.0	83.1	82.6	88.1	90.0	82.2	84.9
Scotland	8.0	8.5	9.0	7.6	5.7	7.6	7.4
Wales	4.0	5.0	5.2	2.9	3.2	7.0	5.7
Northern Ireland	2.0	3.5	3.2	1.4	1.1	3.2	2.0
UK (=100%)	29,605	24,010	32,470	13,020	11,375	6,255	32,960

Source: ONS ad-hoc tabulation of UK business activity, size and location data. AH362: "Analysis showing the count and employment of VAT and/or PAYE based local units in Regions of the United Kingdom for UK SIC 2007 Sub Classes in Division 56 - Food and Beverage Service Activities 2016-2018".¹⁵

Rates of change in employment between 2009 and 2017 were quite high in each sub-sector and region/nation (Table 3.5). Employment in restaurants and event catering grew in all parts of Great Britain. Employment in beverage serving fell in most regions and nations but grew strongly in the North East and East of England. This suggests for most parts of the country a shift away from pubs and bars, and towards restaurants and private catering within the sector.

¹⁵<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/ukbusinessactivitysizeandlocation/2018>

Table 3.5 : Regional employment change in the food and beverage sector, 2009 to 2017

Nation or Region	56.1: Restaurants and mobile food service activities	56.2: Event catering and other food service activities	56.3: Beverage serving activities
	% change	% change	% change
North East	34.6	0.0	73.7
North West	17.1	0.0	-12.9
Yorkshire and The Humber	38.5	45.5	-5.5
East Midlands	46.3	77.8	-4.8
West Midlands	50.0	27.8	-3.6
East	36.7	23.5	35.1
London	54.5	36.7	-22.6
South East	58.2	25.0	-6.7
South West	43.8	29.4	3.4
Wales	28.6	16.7	0.0
Scotland	24.2	38.9	-14.6
Column Total	41.3	28.4	-1.9

Source: Business Register and Employment Survey via NOMIS.

Table 3.6 presents recent (2016 to 2018) employment change in the sub-classes within the Food and Beverage Services sector. Employment grew by a fifth in event catering and Other food services activities but declined by 3.5 per cent in licensed clubs. Employment grew faster in unlicensed than licensed restaurants in most parts of the UK, with growth in takeaway employment slower everywhere except North-West England. Employment in public houses expanded in all parts of the UK except London.

Table 3.6 : Percentage employment change for in the food and beverage sector, 2016 to 2018

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

Nation or Region	56.101: Licensed restaurants	56.102: Unlicensed restaurant and cafes	56.103: Take-away food shops and mobile food stands	56.210: Event catering activities	56.290: Other food services activities	56.301: Licensed clubs	56.302: Public houses and bars
North East	9.8	13.3	4.1	77.8	1.7	-2.8	2.2
North West	9.6	14.1	14.5	13.7	6.8	0.1	2.5
Yorkshire and The Humber	6.1	13.4	8.2	27.1	28.5	-1.6	0.6
East Midlands	13.9	17.8	5.6	49.8	24.0	-6.1	3.9
West Midlands	9.4	14.1	6.0	33.8	30.8	-1.2	3.6
East	9.4	16.7	5.9	16.2	16.1	-2.8	3.4
London	8.8	9.8	9.8	10.1	20.9	-6.3	-0.6
South East	6.9	11.4	3.5	-4.5	30.2	-2.3	2.8
South West	12.0	9.5	9.7	31.4	17.5	-5.6	2.4
England	9.1	12.7	7.9	17.2	21.3	-3.1	2.3
Scotland	11.1	14.1	10.6	-21.6	-5.5	-9.5	1.6
Wales	6.7	14.2	5.0	62.7	-3.0	-5.3	3.4
Northern Ireland	12.3	18.3	7.5	42.9	41.6	-4.5	3.1
UK	9.1	13.2	7.7	20.3	19.6	-3.5	2.4

Source: ONS ad-hoc tabulation of UK business activity, size and location data. AH362: "Analysis showing the count and employment of VAT and/or PAYE based local units in Regions of the United Kingdom for UK SIC 2007 Sub Classes in Division 56 - Food and Beverage Service Activities 2016-2018".¹⁶

The market

The Restaurant sector is characterised by its highly competitive market. Looking at the hospitality sector more broadly, French (2018)¹⁷ has argued that in the context of neo-liberal economic globalisation and deregulation perceived benefits of competition have been used to justify strategies to reduce operational costs in the sector. He argues that this has led to the development of casualisation strategies such that employers benefit from numerical, temporal and pay flexibility. Higher than average use of migrant workers then reinforces these strategies, which have resulted in a fissured sector, characterised by a high proportion of franchises and an increasingly complex and competitive sectoral structure.

¹⁶<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/ukbusinessactivitysizeandlocation/2018>

¹⁷ French S. (2018) 'Between globalisation and Brexit: Migration, pay and the road to modern slavery in the UK hospitality industry', *Research in Hospitality Management* 8(1), 23-31.

Additionally, the increasing use of technology is changing the face of the Restaurant sector. In fast food outlets, such as McDonalds, automated cooking and touch-screen ordering has reduced the need for staff. Meanwhile, delivery platforms such as Deliveroo demand highly flexible workers, and have led to the emergence of 'dark kitchens'¹⁸ located in container parks and industrial estates, where 'invisible' workers are more vulnerable to exploitation. The extent to which the growth of home delivery platforms has led to greater sales or has substituted for more traditional restaurant services is unclear. Web technology has also increased the visibility of smaller providers. Overall, technological developments have led to greater competition within the sector. Competition has also been fostered by cross-over between different segments of the sector, namely the increase in the number of restaurants offering 'food-to-go' options.

The Restaurant sector has also had to respond to consumer demand for not only the quality of food and drink, but of the whole 'dining experience'. Healthy eating options and non-alcoholic drinks have become more popular and many (albeit not all) consumers are concerned about environmentally ethical food sources. All these trends point to an onus on enhanced quality of the dining experience. A further trend relating to 'experience' is the rise of so-called 'third space' venues and pop-ups, which may be considered transitory in nature which again have implications for temporary/ flexible working within the sector. The Restaurant sector is characterised by flexible working. A recurring theme is the desire of employers for numerical flexibility to match the workforce to customer demand. The use of zero hours contracts, as well as long hours and recruitment of EU migrant workers¹⁹ are all features of this. In recent years the availability of migrant labour (and students) willing to work flexibly in the restaurants (and other) sectors has enabled employers to organise their business models and staffing requirements in a way that is acceptable to migrant workers with a particular 'frame of reference', but which is less acceptable to many UK workers seeking more security from work.²⁰

Challenges facing the Restaurant sector

The sector has experienced declining sales growth and market saturation. A recent industry report described the 'out of home eating and drinking' market as "ultra-competitive",²¹ with like-for-like and total sales growth slowing down in the year to August 2018 by comparison with previous years. New openings were reported to be the main source of growth for established brands, but this in turn has led to market saturation, as indicated by a reported four thousand more restaurants being in operation by the end of 2017 than four years earlier. Even though pubs have been worse hit by closures in the last year restaurants have not been immune: despite growth in total numbers of restaurants from 2010 to 2018, these recent closures, focused towards the end of the period, may reflect a reversal of long-term demographic and consumer trends²² (ONS statistics on consumer trends show that in 2017 and 2018 restaurants and hotels made a negligible contribution to growth in consumer spending).

¹⁸ <https://www.theguardian.com/business/2017/oct/28/deliveroo-dark-kitchens-pop-up-feeding-the-city-london>

¹⁹ See Rolfe H. (2017) 'It's all about the flex: preference, flexibility and power in the employment of EU migrants in low-skilled sectors', *Social Policy and Society* 16(4), 623-34; McCollum D. and Findlay A. (2015) 'Flexible' workers for 'flexible' jobs? The labour market function of A8 migrant labour in the UK', *Work, Employment and Society* 29(3), 427-443.

²⁰ Green A., Atfield, G. and Purcell K. (2015) 'Fuelling displacement and labour market segmentation in low-skilled jobs? Insights from a local study of migrant and student employment', *Environment and Planning A* 48 (3), 577-593.

²¹ UK Hospitality and CGA (2018) *Future Shock – Issue 4*, <http://www.cga.co.uk/2018/10/12/future-shock-reveals-the-consumer-trends-to-follow/>

²² PWC (2017) *Restaurants 2017: Food for thought*. <https://www.pwc.co.uk/services/business-recovery/insights/restructuring-trends/restaurants-2017-food-for-thought.html>

A triad of cost pressures have contributed to increased competition and challenges in the sector.

- Firstly, rising property costs, stemming from the re-valuation of non-domestic properties in England and Wales which led to increases in business rate liability from 2017 (particularly marked in London²³), have left businesses with higher costs of premises;
- Secondly, rising food costs, a result of depreciation of the value of sterling since 2016, have led to higher costs for food imports. This has put pressure on restaurants when sourcing ingredients, as the pressures on consumer expenditure and competition within the sector has meant that it has been difficult to pass on full cost increases to consumers; and
- Thirdly, rising labour costs, due to changes in National Minimum Wage and National Living Wage laws. The National Living Wage, introduced in April 2016 for workers aged 25 years and over, with further increases in phases to 2020, brought about an important change in cost structures and given the competitive market place it has been difficult parts of the sector to recoup the business cost of increased wages through price rises. Alongside the increases in minimum wages, the restaurant sector faces pressures to maintain differentials with wages at higher levels in the employment structure. In April 2017 the introduction of the Apprenticeship Levy meant 0.5 per cent charge on companies with a wage bill of over £3 million. Restaurants have struggled to recoup the costs of wage increases the context of a highly competitive market.

Ultimately, employers' choices are characterised by reluctance to pass on these increased costs relating to property, food and labour to their customers in order to retain competitiveness and maintain profits, and they are instead often felt by workers in the sector who tend to work longer hours at a higher intensity for lower pay. Restaurants and bars have been identified as experiencing some of the highest numbers of complaints about low pay.²⁴ Interviews from workers in Chinese restaurants suggest that even where employers pay the agreed rate, excessive working hours mean that wages are low.²⁵ Elsewhere low pay may be disguised by under-reporting of hours that are actually worked.²⁶

Skills shortages are another challenge faced by the sector. In particular, there is a shortage of chefs in the sector.²⁷ These shortages have been attributed to increased demand in the sector. Ultimately, businesses have been looking to migrant workers to address the difficulty of filling these vacancies in the short-term. This may exacerbate the risk of non-compliance with employment legislation, if workers are unaware of or feel less able to exercise their rights. Other possible solutions could be to raise pay/ enhance working conditions to attract (domestic) labour or to invest in training to improve labour supply.

²³ Deloitte (2017) *Changing tastes: The UK casual dining market*. The estimated increase in London between 2016 and 2017 was 33 per cent.

²⁴ <https://www.thecaterer.com/articles/527943/restaurants-bars-and-hotels-among-employers-attracting-most-minimum-wage-complaints>

²⁵ Scott S., Craig G. and Geddes A. (2012) *Experiences of forced labour in the UK food industry*, Joseph Rowntree Foundation, York.

²⁶ As reported in selected studies by Mønder Ram.

²⁷ Winterbotham M, Vivian D, Kik G, Huntley-Hewitt J, Tweddle T, Downing C, Thomson D, Morrice N, and Stroud S (2018) *Employer Skills Survey 2017*, DfE, London
<https://www.gov.uk/government/publications/employer-skills-survey-2017-uk-report>

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

The following chapter discusses characteristics of the sector workforce and employment relationships.

4 Worker-employer relationships in the Restaurant sector

This chapter presents findings from the secondary data analysis, literature review and stakeholder interviews. It covers: the nature of sector employment, dominant employment practices, common recruitment practices, compliance with labour regulations and drivers of non-compliance within the Restaurant and Food Services sector. It shows how the increasing use of more casual forms of employment relationships, and reliance on a relatively young, or migrant workforce, have combined to create conditions in which workers increasingly expect (minor) employment rights violations, often accepting these as part of the nature of work, and worker-employer relationships are sometimes adversarial.

Nature of employment in the Characteristics of Restaurant sector workers

Sector workforce

The restaurant sector and wider hospitality workforce is multinational and multicultural. A KPMG report suggests that 75 per cent of waiting staff and 25 per cent of chefs are EU nationals.²⁸ However, any estimate is uncertain, and it is likely that statistics taken from the Labour Force Survey are underestimates given that temporary migrants are excluded from the sampling frame. Another report claims that 65 per cent of the Pret a Manger workforce are EU nationals and only 2 per cent of its applicants are UK nationals.²⁹ Reliance on non-UK labour is highest in London, as would be expected given inter-regional variations in the demographic profile of the population.³⁰ There are concerns that existing labour shortages and skills shortages – most notably of chefs – will become more severe following Brexit. The UK Hospitality Workforce Commission Report 2030³¹ recommended the need for actions such as a cross-industry national campaign to address negative perceptions of the hospitality sector, an industry campaign to showcase careers in the sector, greater emphasis on lifelong learning and on-the-job training, and an immigration policy to meet the sector's needs to address recruitment, retention and skills issues going forward. An important issue from an employment rights perspective given the multinational nature of the workforce is that workers from outside the UK may have a lack of knowledge and awareness of UK employment legislation.

Occupation structure

The sector has high proportion of unskilled jobs: around half of the workforce in the sector is classified as being in Elementary Occupations, with the next largest categories being Skilled Trades and Managers (this occupational profile does not necessarily imply that sector workers are unskilled, however) (see Figure 4.1).

The occupational profile of the sector changed very little between 2004 and 2014 and is projected to change little between 2014 and 2024 (Table 4.1). Employment in the sector is projected to grow by 311,000 between 2014 and 2024, but this implies a requirement for 1.07 million extra workers, three-quarters of this being to replace workers leaving the sector (mainly due to retirement) over this period.

²⁸ KPMG (2017) *Labour Migration in the Hospitality Sector*, A KPMG Report for the British Hospitality Association. (This analysis draws on the Labour Force Survey, publicly available reports and a survey of British Hospitality Association members.)

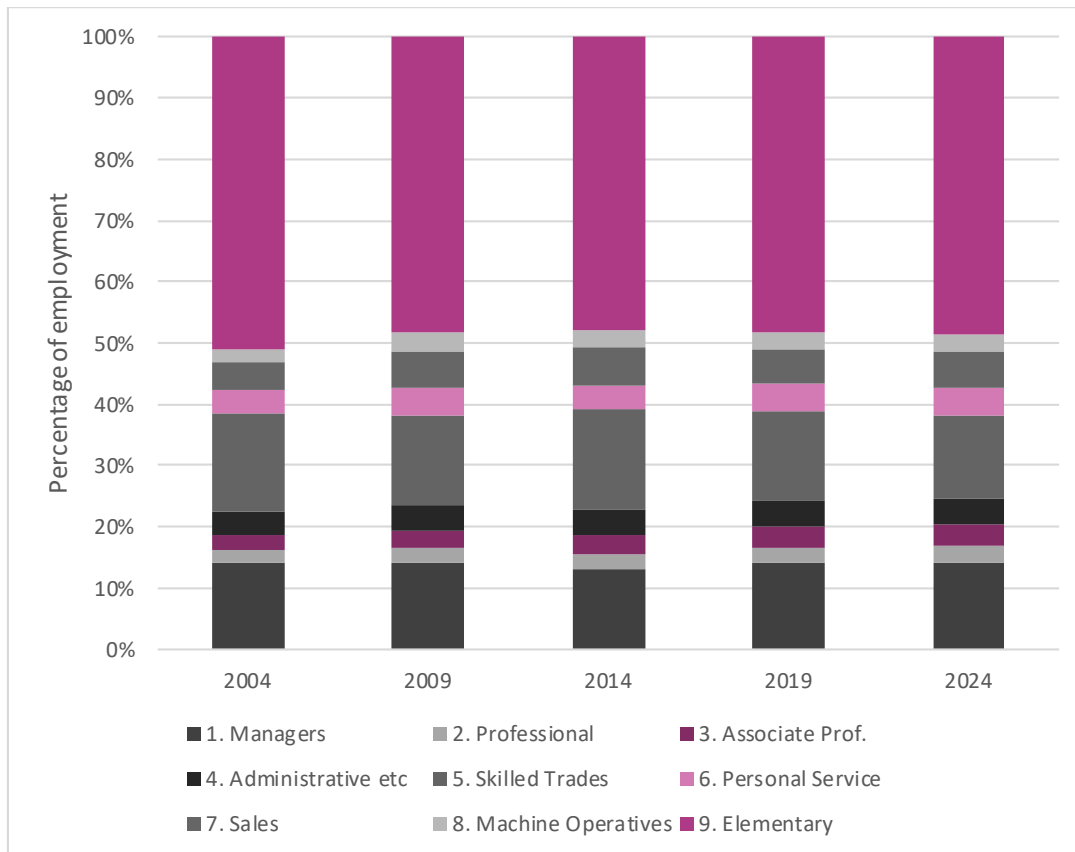
²⁹ See <https://healys.com/2017/05/24/uk-hospitality-labour-market-brexif/>

³⁰ Migration Advisory Committee (2018) *EEA Workers in the UK Labour Market*.

³¹ UK Hospitality (2018) *Workforce Commission Report 2030*, <https://www.youthemployment.org.uk/dev/wp-content/uploads/2018/09/UK-Hospitality-Workforce-Commission-2030.pdf>

Around two thirds of this replacement demand are in Elementary Occupations. However, the highest replacement demand is for Managers.

Figure 4.1 : Changing occupational profile of the food and beverage sector



Source: Working Futures 6³².

³² by Working Futures 6. These projections can be downloaded from: <https://www.rock.ac.uk/fac/soc/ier/wf6downloads/>.

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

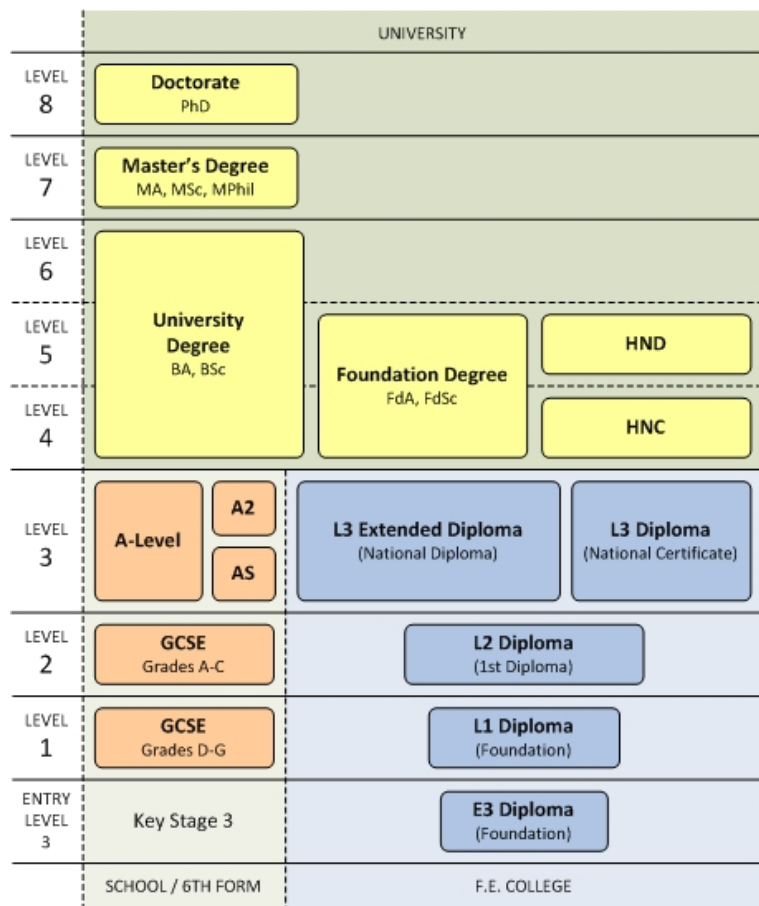
Table 4.1 : Estimated and projected employment change by occupation, 2004-2014

SOC Major Group	Employment Levels (000s)			Net Change 2014-24	Replacement Demands 2014-24	Total Requirement 2014-24
	2004	2014	2024			
1. Managers and Senior Officials	221	226	288	62	114	176
2. Professional Occupations	35	39	52	13	17	31
3. Associate Professional and Technical Occupations	35	54	74	21	23	44
4. Administrative, Clerical and Secretarial Occupations	63	72	82	10	35	45
5. Skilled Trades Occupations	251	276	274	-2	102	101
6. Personal Service Occupations	57	69	92	23	35	58
7. Sales and Customer Service Occupations	72	104	121	17	40	58
8. Transport and Machine Operatives	30	47	52	6	18	24
9. Elementary Occupations	802	818	980	162	371	533
Total	1,566	1,703	2,014	311	757	1,068
	Percentage Shares			Percentage change		
1. Managers and Senior Officials	14.1	13.3	14.3	27.3	50.6	78.0
2. Professional Occupations	2.3	2.3	2.6	33.9	44.7	78.6
3. Associate Professional and Technical Occupations	2.3	3.2	3.7	38.8	42.6	81.4
4. Administrative, Clerical and Secretarial Occupations	4.0	4.2	4.1	13.8	48.5	62.3
5. Skilled Trades Occupations	16.0	16.2	13.6	-0.6	37.2	36.5
6. Personal Service Occupations	3.6	4.0	4.5	33.0	50.6	83.6
7. Sales and Customer Service Occupations	4.6	6.1	6.0	16.6	38.9	55.5
8. Transport and Machine Operatives	1.9	2.7	2.6	11.9	39.5	51.4
9. Elementary Occupations	51.2	48.0	48.6	19.8	45.4	65.2
Total	100.0	100.0	100.0	18.3	44.4	62.7

Source: Working Futures 6³³.

The occupational structure in two of the sub-sectors (Restaurants and mobile food service activities and Event catering and other food service activities) shows that the sector is very dependent upon workers in jobs classed as ‘Elementary’, with Kitchen and Catering Assistants and Waiters and Waitresses forming at least a third of the workforce. The third sub-sector (Beverage serving activities) is also dependent on lower skilled professions such as Bar Staff, Waiters and waitresses and Kitchen and Catering Assistants, with over half of all workers falling into these professions (See Appendix B - Table B1).

Figure 4.2 : The Qualifications and Credit Framework (QCF)



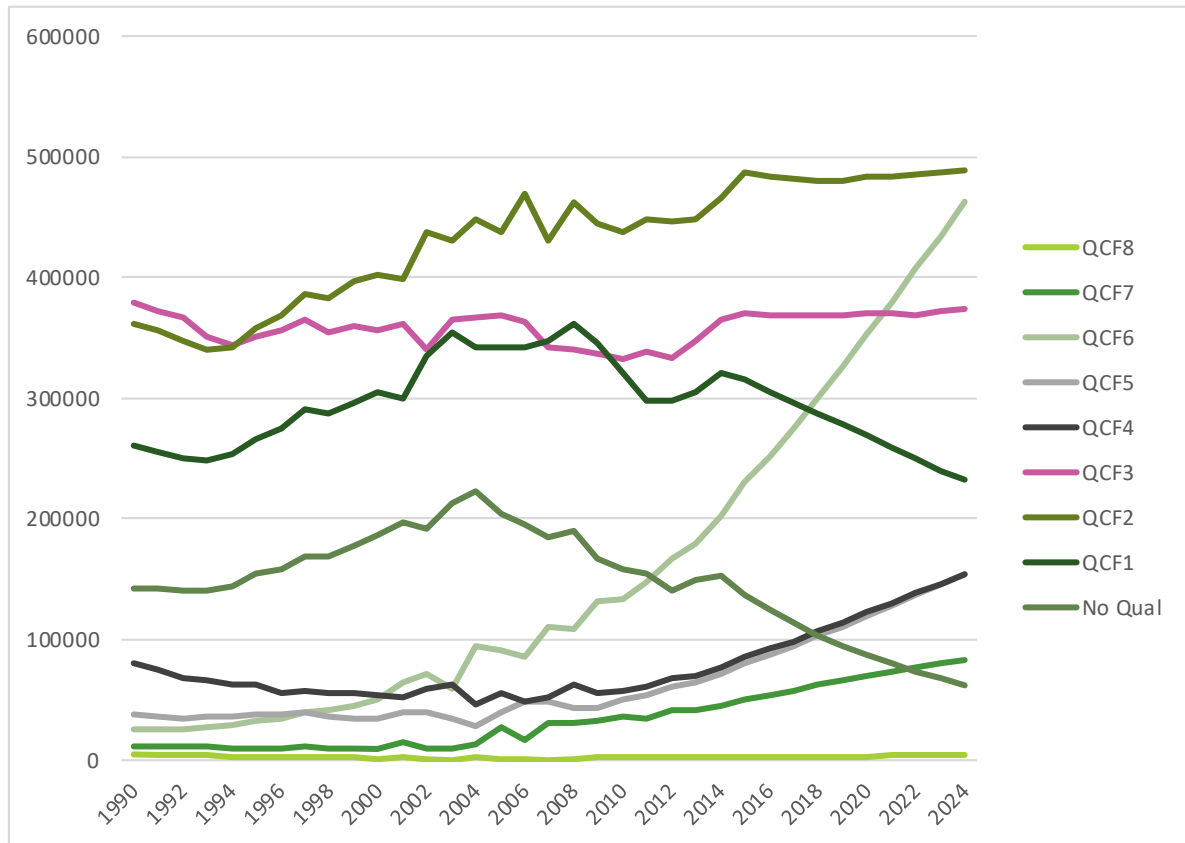
Source: Accredited Qualifications

From 1990 to 2004, the workforce in the sector was dominated by individuals with no qualifications or qualifications at QCF level 3 (A-level/ AS2 / A2, L3Diploma or equivalent) or lower. However, since then the number of workers whose highest qualification is of HNC/HND to Master’s level (QCF4 to QCF7) has been growing. Despite the prevalence of low-skilled occupations in the sector, projections within the industry show that the increase in the numbers with higher-level qualifications is set to continue and that the number whose highest qualification is of QCF3 or below is projected to flatline or decrease between 2018 and 2024 (Figure 4.2). The growth in more highly-qualified workers (e.g. those with University degrees – QCF6) is likely to reflect longer periods in education and increasing participation in higher education; (with some of these highly-qualified workers likely to be working on a

³³ Working Futures 6. These projections can be downloaded from: <https://www.arwick.ac.uk/fac/soc/ier/wf6downloads/>.

temporary basis or part-time while studying). Mason and Rincon-Aznar³⁴ argue that productivity levels have been increased before the 2008/9 recession and maintained afterwards because of increased levels of qualifications in the labour force.

Figure 4.3 : Qualification profile of the food and beverage sector, 2004-2024.



Source: Working Futures 6³⁵.

Working hours

Working hours in the Restaurant sector are often long, with workers ‘required’ to work very long weeks to meet demand. A survey by the trade union Unite, of chefs working in restaurants, pubs and hotels in London³⁶ showed that just under half (44%) worked over 48 hours per week and over one in ten chefs (14%) spent in excess of 60 hours per week in the kitchen. Respondents to this survey suggested that it was standard practice for employers to include an ‘opt-out’ of the 48-hour week rule under Working Time Regulations, but that in some cases this clause might be hidden so that workers were left unaware of what they had signed up to.³⁷ Elsewhere the expectation might be for long hours, with additional hours when required viewed as an accepted part of working in the sector. Case

³⁴ Mason, G. and Rincon-Aznar, A. (2015) Skills and Productivity in the UK, US, France and Germany: a Literature Review. Report to the Business, Innovation and Skills and Education Select Committees, House of Commons, 26 October 2015.

³⁵ Working Futures 6. These projections can be downloaded from: <https://www.arwick.ac.uk/fac/soc/ier/wf6downloads/>.

³⁶ Witts S. (2017) ‘Majority of London chefs struggle with long working hours’, <https://www.bighospitality.co.uk/Article/2017/04/27/Majority-of-London-chefs-struggle-with-long-working-hours>

³⁷ Witts S. (2017) ‘Majority of London chefs struggle with long working hours’, <https://www.bighospitality.co.uk/Article/2017/04/27/Majority-of-London-chefs-struggle-with-long-working-hours>

studies in the 'quick service' restaurant sector highlight the existence of a long-hours culture.³⁸ This is illustrated by managerial workers in one such study being contracted to work 44 hours per week, but with actual weekly working hours sometimes rising to 60-70 hours.³⁹ Yet such working hours – with periods of intense pressurised activity – tended to be regarded by workers as a side-effect of working in such an environment, and were not necessarily onerous. This highlights that how workers value different aspects of work⁴⁰ is important in understanding job quality and worker behaviour and also that workers may become accustomed to poor quality jobs.

Flexible working

As well as long working hours, flexible working characterises employment in the Restaurant sector. Rather than having pre-set hours, workers are often required to work on demand, therefore during particularly busy times of year they might be required to work very long hours, whilst at other times of year they may have very little work. Analyses of the 2017 Skills and Employment Survey⁴¹ across all sectors suggest that those workers with insecure hours feel themselves to be vulnerable to lower pay, a requirement for greater work effort and faster dismissal for poor work performance than those who do not report such insecurity.

To meet the flexibility needs of the sector, zero hours contracts are regularly used. The Labour Force Survey shows that the most common types of flexible working in the Restaurant and Food Service sector are zero-hours contracts and flexitime, followed by term-time working (Table 4.2).

³⁸ For example see Royle T. (2000) *Working for McDonald's in Europe: The Unequal Struggle*, Routledge, Europe.

³⁹ Butler P. and Hamner A. (2018) 'A Minute's a Life-Time in Fast-Food!: Managerial Job quality in the Quick Service Restaurant Sector', *Work, Employment and Society* DOI: 10.1177/0950017018777710.

⁴⁰ Taylor M., Marsh G., Nicol D. and Broadbent P. (2107) *Good Work: The Taylor Review of Modern Working Practices*.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rq.pdf

⁴¹ Felstead A., Gallie D., Green F. and Henseke G. (2018) *Insecurity at Work in Britain: First Findings from the Skills and Employment Survey*, LLaKES, UCL Institute of Education, London.

Table 4.2 : Flexible working patterns in the UK Restaurants and Food Services sector, 2017

Type of flexible working	56 Restaurants and food services	56.1 Restaurants and mobile food service activities	56.2 Event catering and other food service activities	56.3 Beverage serving activities	All industries
Flexitime	6.4	6.9	4.6	6.3	10.8
Annualised hours contract	3.5	3.5	4.4	2.9	5.1
Term time working	2.8	0.6	13.2	0.7	4.7
Job-sharing	0.2	0.2	0.5	0.2	0.5
9-day fortnight	0.0	0.0	0.2	0.0	0.3
4.5-day week	0.3	0.3	0.2	0.5	0.7
Zero hours contract	11.3	12.3	8.0	10.7	2.7
On-call working	0.8	0.7	1.0	0.9	2.2
None of these	74.6	75.5	68.0	77.8	74.3
Employed	541,829	347,116	94,091	100,623	25,249,951

Source: Labour Force Survey, average of quarters 2 and 4, 2017

In some cases of exploitation, stakeholders noted that long hours can reach up to 80 or 100 per week, without a day off. The workers subjected to these conditions are often migrant workers who are particularly vulnerable due to lower levels of English and a lack of understanding of their rights. Scott et al. (2012) provide testimony from some Chinese workers in UK Chinatowns and restaurants that they may work nearly 11 hours per day and point to ‘requirements’ amongst takeaways and restaurants for 60-hour weeks. It was the combination of long hours with low pay that meant workers felt exploited. More broadly 5 per cent of reports to the GLAA⁴² indicate working hours in excess of 80 per week and workers missing statutory breaks on a regular basis.

Recruitment of migrant workers is a key feature of this; the availability of migrant labour willing to work flexibly in the sector has enabled businesses to organise their employment models in a way that is acceptable to migrant workers (but perhaps wouldn’t be to UK nationals) without a frame of reference or experience working in the UK. This includes working longer than contracted hours, working flexibly and meeting customer demand.

Health and safety

A culture of long hours working is in some instances associated with health and safety concerns. Contributory factors to stress at work⁴³ in the restaurant sector include overwhelming job demands, pressure to deliver to high standards in fixed times, long working hours, lack of a job description, assignment of responsibilities without support or guidance (a particular issue given the relatively young workforce and high staff turnover), an inherent requirement to constantly please customers and potentially stressful interactions with customers

⁴² GLAA (2018) op cit.

⁴³ See Yew (2013) op cit.

A trade union survey of London chefs⁴⁴ revealed that nearly three quarters (69%) of London based chefs felt that long working hours had affected their health and half (51%) reported depression due to being overworked. Eighty per cent reported an accident or near miss at work due to tiredness.

Low pay, tips and troncs

There is relatively little variation in median hourly wages within the sector. Full-time workers earn more than part-time, with the differential greater for men than for women. Earnings are highest in the event catering sub-sector, in which the male-female earnings differential is widest. The rate of annual increase in earnings is slightly higher for females than males (except for part-time workers in event catering) (See Appendix B – Table B2).

The Low Pay Commission’s 2018 National Minimum Wage Report⁴⁵ provides some relevant occupational information on wage levels. The median wage for hospitality was £8.37 in 2018, an increase of 4.7 per cent over 2017; and workers in ‘hospitality’ occupations are more likely than average to be paid the National Minimum Wage (NMW) or below. Of 810 hospitality jobs, 230 (28.3 per cent) were paid the NMW or below. The percentage of workers aged 25 and over paid the NMW or National Living Wage (NLW) increased from 23.7 per cent in 2015 to 28.6 per cent in 2018; and the percentage of employees aged 25 or more who were underpaid fell from 20.1 per cent in 2015 to 19.3 per cent in 2018.

Sector employment is concentrated in London. Drawing upon special analysis undertaken by the Office for National Statistics⁴⁶, Table 4.3 shows the percentage of workers in bars and public houses paid less than the London Living Wage as defined by the Living Wage Foundation (£10.20 per hour from April 2018). It demonstrates three broad trends in the bar and public house industry. First, part-time workers are more likely to be paid less than the Living Wage than full-time workers. Secondly, workers outside London are less likely than those in London to be paid less than the Living Wage. Third, the gender differential in likelihood of being paid less than the Living Wage is greater outside London than in London. In London, there is little consistent difference between the genders, but outside London, men working both full- and part-time are less likely than women to be paid less than the Living Wage.

Table 4.3 : Percentage of workers in bars and public houses paid less than the Living Wage Foundations UK Living Wage and London Living Wage in London

Type of employee	Year	Outside London Percent paid less than UK Living Wage		London Percent paid less than London Living Wage	
		Full-time	Part-time	Full-time	Part-time
All employees	2009			67.7	91.7
	2010			67.6	93.6
	2011			63.4	88
	2012	53.3	85.5	64.2	82.4
	2013	51.6	86.2	65.2	93.4
	2014	56.7	89.7	64.5	97.9

⁴⁴ Witts S. (2017) op cit.

⁴⁵ Low Pay Commission (2018) National Minimum Wage Report.
<https://www.gov.uk/government/publications/national-minimum-wage-low-pay-commission-2018-report>

⁴⁶ See: ONS (2018) Living wage employee jobs in public houses and bars by sex, full-time and part-time.
<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/livingwageemployeejobsinpublichousesandbarsbysexfulltimeandparttime>

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

	2015	58.4	89.3	70.8	94.3
	2016	56.6	89.5	72.2	91.1
	2017	52.1	87.2	52.2	92.9
	2018	49.7	85	64	80.1
Female	2009			76	88.5
	2010			60.2	94.5
	2011			54.7	93.3
	2012	63	86.4	58.2	80.8
	2013	55.8	87.7	65	92.7
	2014	64.7	90.9	88.4	97.8
	2015	64	91.5	70.9	98.8
	2016	64.9	89.7	76.2	88.9
	2017	60.1	88.1	65	92.6
	2018	56.4	86.1	66.1	78.7
Male	2009			61.9	96.4
	2010			70.2	92.4
	2011			67.3	78.1
	2012	47.9	83.5	67.6	84.7
	2013	49.2	83.5	65.4	94.7
	2014	51.4	87.1	55.5	98
	2015	55	84.6	70.8	87.9
	2016	51.8	89	70.4	94.6
	2017	47.4	85.5	47	93.4
	2018	45.4	83.4	63.3	81.8

Source: ONS analysis of the Annual Survey of Hours and Earnings.⁴⁷

Note: The London Living Wage rate is £10.55 per hour and the rate for the rest of the UK is £9.00 per hour from 5/11/2018. The Living Wage rate applies to all employees 18 years and over. The National Living Wage for 2018/19 is £7.83 per hour. See: <https://www.livingwage.org.uk/calculation>

Analysis by the Department for Business Energy and Industrial Strategy (BEIS) of National Minimum Wage (NMW) data collected by HM Revenue and Customs (HMRC) indicates that in the naming round ending July 2018 there were 34 employers from the food and beverage services sector named for paying below the minimum wage. The 34 employers named for NMW underpayment in this period covered 192 workers, of whom 94 were accounted for by only three employers. The arrears ranged from around £15 thousand for one employer, while seven employers had underpayments in the range £1.1 thousand to £1.3 thousand and the remainder had smaller underpayments. This highlights that in the majority of cases in this sector in this period few workers were involved, and the underpayments were small.

Traditionally workers in restaurants have received tips or gratuities in addition to their basic pay. A *tronc* is a special pay arrangement used to distribute tips, gratuities and service charges amongst staff.⁴⁸ The way that tips are distributed to staff and how deductions for income tax and national insurance are dealt with varies in legal terms according to arrangements existing between an employer, 'tronicmaster', the customer and employees. There are ongoing concerns about potential abuses in the administration and distribution of *trons* and the amount that is received by workers in

⁴⁷<https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/datasets/livingwageemployejobsinpublichousesandbarsbysexfulltimeandparttime>

⁴⁸ See Yew (2013) op cit.

some chains/ establishments.⁴⁹ In the *Good Work Plan* published in December 2018⁵⁰ the Government announced plans to legislate to ban employers from making deductions to staff tips. Tips and tronc may be considered as fringe benefits,⁵¹ which research (across sectors) suggests are becoming increasingly important in reward packages of employees.⁵² It is salient to note that research suggests that awareness of, and take up of, fringe benefits tends to be low in sectors characterised by low pay, indicating a general cynicism in some quarters that employers will do much to improve work quality.⁵³

Recruitment practices and retention

The sector is quite active in recruitment, with two-thirds of establishments reporting that they had recruited staff during the previous year in 2017 (Figure 4.4). Those in event catering were least likely to have done so (48 per cent). The percentage of establishments who had recruited was lowest for those with 0 to 4 employees (36 per cent for restaurants and mobile food service, 33.1 per cent for event catering and 39.9 per cent for beverage serving), while 91.2 per cent of establishments with ten or more employees had recruited. This was reflected in the percentage of establishments with vacancies, which was 28 per cent for the sector, but only 15 per cent in event catering. Within this total, 11 per cent of establishments had hard-to-fill vacancies and 6 per cent skill shortage vacancies.

⁴⁹ For example, see <https://www.bbc.co.uk/news/magazine-33849595> ; <https://www.mirror.co.uk/news/uk-news/revealed-sneaky-tactics-used-restaurant-12810467>

⁵⁰ HM Government (2018) *Good Work Plan*, BEIS,

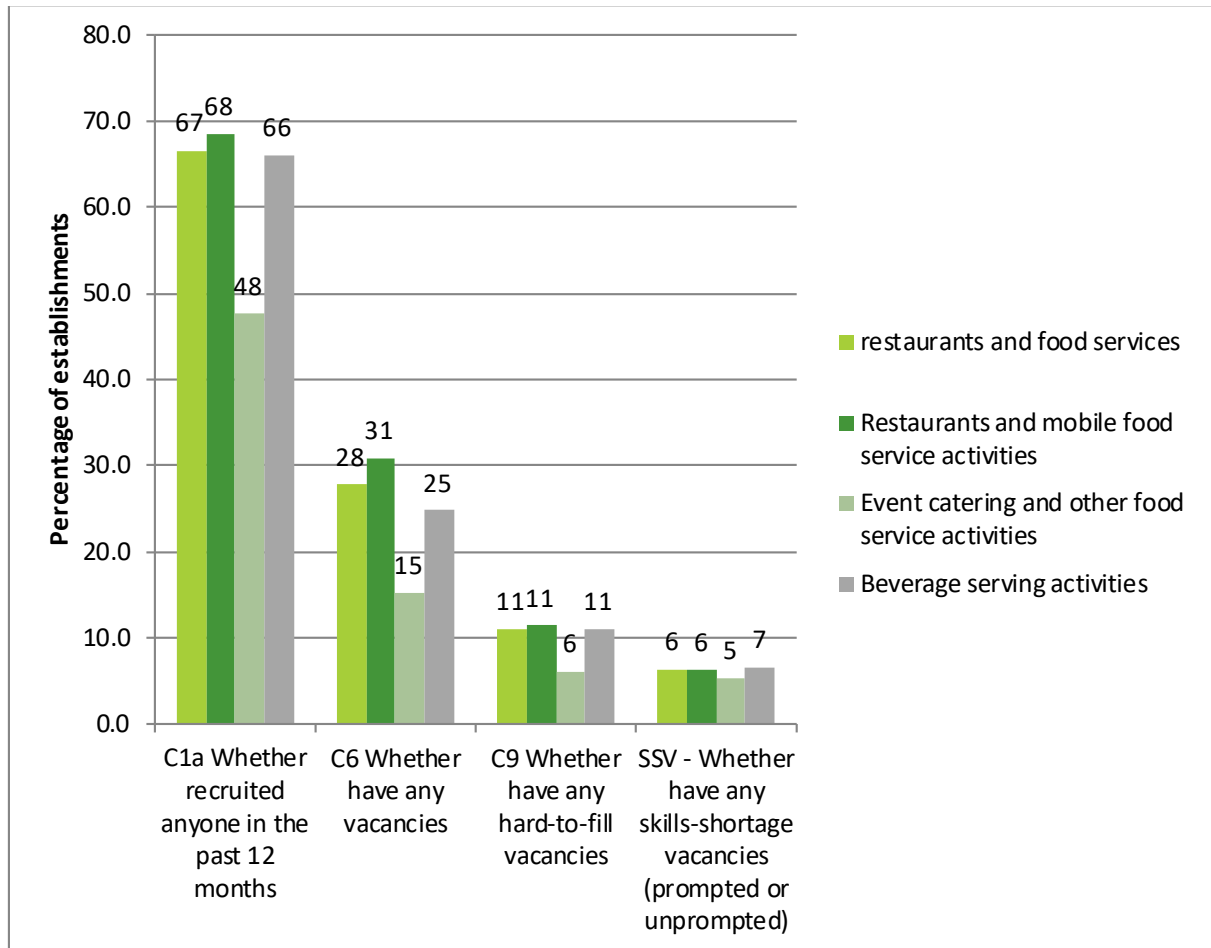
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766167/good-work-plan-command-paper.pdf

⁵¹ The concept of 'fringe benefits' is fluid. Typically, they include non-financial benefits (e.g. meals in the case of restaurants, equipment, etc.) ranging across a spectrum from lifestyle perks to support for employees beyond statutory and minimum requirements.

⁵² Carey, H., Sheldon, H. and Andriescu, M. (2018) *Improving fringe benefit schemes for low earners*, Joseph Rowntree Foundation, York.

⁵³ Hay, C. (2015) *What do low earners think would improve their working lives?* Joseph Rowntree Foundation, York.

Figure 4.4 : Recruitment in the sector, 2017



Source: Employer Skills Survey, 2017

Information on recruitment channels used by the hotels and restaurants sector is available from the 2016 Employer Perspectives Survey.⁵⁴ Employers often use several different recruitment channels. The most widely utilised recruitment channels were internal ones: word of mouth (used by 88% of recruiting employers [9 percentage points higher than across all sectors]); social media (used by 62% of recruiting employers [16 percentage points higher than across all sectors]); and own website (used by 56% of recruiting employers [2 percentage points higher than across all sectors]).⁵⁵ These statistics accord with intelligence from the GLAA that employers in the food services sector advertise online or find work through family and friends by word of mouth.⁵⁶ Recruiting employers in hotels and restaurants were much less likely than average to make use of paid-for recruitment services and were slightly less likely than average to use the public employment service/ government service and the educational careers service. It is possible that the prevalence of use of word of mouth and social media means that job candidates are less about the requirements of job roles applied for than those using more formal channels. The Employer Perspectives Survey report does not include information on recruitment through agencies but evidence from the Gangmasters & Labour Abuse Authority

⁵⁴ Shury J., Vivian D., Kik G., Skone James A., Tweddle M., Wrathall H. and Morrice N. (2017) *Employer Perspectives Survey 2016 Research Report*, Department for Education.

⁵⁵ Recruiting employers in the hotels and restaurants sector were also slightly more likely than average to pay others to advertise on social media/ website, but only 14 per cent of employers in the sector used this channel.

⁵⁶ Gangmasters & Labour Abuse Authority [GLAA] (2018) *Food Service Industry Problem Profile*. (from GLAA).

(2018)⁵⁷ indicate that companies do not always know how agencies that they use source labour. It seems likely that some businesses use both legitimate and unethical sources.

The Employer Skills Survey 2017⁵⁸ reported that over half (53%) of restaurants and food services businesses had tried to recruit non-UK nationals in order to fill hard-to-fill vacancies, with restaurants most likely to have done so and those in event catering least likely to have done so (31.2 per cent; Figure 4.5). A small percentage (smallest for restaurants at 1.7 per cent) only recruited non-EU nationals, but the percentage recruiting only EU and both EU and non-EU nationals was broadly equal in all parts of the sector.

Figure 4.5 : Recruitment of non-UK nationals



Source: Employer Skills Survey, 2017

The main causes of hard-to-fill vacancies were lack of people interested in the opportunity, lack of people with the required skills and remote location (the latter two being particular problems for event catering). Specialist skills and knowledge of the particular equipment, the requirements of the organisation, how to meet the organisation's needs and numerical skills were some of the most frequently quoted skills found difficult to obtain (particularly for event catering). The most frequent impacts of failure to recruit these skills were increased workload for other staff, difficulty meeting

⁵⁷ Gangmasters & Labour Abuse Authority [GLAA] (2018) *Food Service Industry Problem Profile*. (from GLAA).

⁵⁸ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746493/ESS_2017_UK_Report_Controlled_v06.00.pdf

service objectives and increased costs. The most frequent approaches to recruiting the skills needed were to increase advertising spend and explore new recruitment methods.

There are concerns that existing labour shortages and skills shortages – most notably of chefs – will become more severe following Brexit. Existing research suggests that up to three quarters (75%) of waiting staff, and a quarter (25%) of chefs, are EU nationals;⁵⁹ (however, this number is based on a small survey and so should be treated with caution). Commissioned analysis of the Annual Population Survey for 2015 to 2017 by the ONS revealed that over two-fifths of chefs are foreign-born: 17 per cent of chefs in the UK had been born in another EEA country, with a further 26 per cent born outside the EEA. A Migration Advisory Committee (2018)⁶⁰ report containing information on the accommodation and hospitality sector indicated that migrant workers mostly worked as chefs, kitchen, catering and waiting staff. Sector trade bodies reported that up to 75% of workers in the food and drink service sector in London were from outside the UK. Workers from outside the UK are also seen to be more vulnerable to abuse, particularly in cases where workers have low levels of English language skills. Additionally, workers from outside the UK may lack knowledge and awareness of UK employment legislation.

Nationality may provide a better indication of the migration status of workers in individual occupations. Table 4.4 presents the nationality of workers in a number of key occupations working in the restaurant and food sector in 2017. Nearly a third of chefs were non-UK nationals, with 17.3 per cent being EU nationals. High percentages of cooks, kitchen and catering assistants and waiting staff were also non-UK nationals, with workers from outside the EU forming a relatively high percentage of chefs and cooks. Publicans and bar staff were more likely than other occupations in the sector to be UK nationals.

Table 4.4 : Nationality of workers in selected occupations in SIC 56 Restaurant and Food Services, 2017

Occupation	UK	Non-UK		EU		Other		All
	Number	Number	Percent-age	Number	Percent-age	Number	Percent-age	Number
1223 'Restaurant and catering establishment managers and proprietors'	86768	18427	17.5	11078	10.5	7349	7.0	105194
1224 'Publicans and managers of	27339	619	2.2	402	1.4	217	0.8	27958

⁵⁹ KPMG (2017) *Labour Migration in the Hospitality Sector*, A KPMG Report for the British Hospitality Association.

<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/adhocs/009584industriesandoccupationswith14ormoreofjobsheldbyeuropeaneconomicareaworkersbrokenownbyregionoftheuk2015to2017combined>

⁶⁰ Migration Advisory Committee (2108) *EEA-workers in the UK Labour Market: Annexes*.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/695111/MAC_ANNEXES_FINAL_-_Interim_Update_v4.pdf (accessed 19 March 2019)

licensed premises'								
5434 'Chefs'	122096	54619	30.9	30604	17.3	24015	13.6	176715
5435 'Cooks'	32601	7226	18.1	2534	6.4	4692	11.8	39826
5436 'Catering and bar managers'	35580	4896	12.1	3902	9.6	994	2.5	40476
9272 'Kitchen and catering assistants'	236853	49747	17.4	31963	11.2	17784	6.2	286600
9273 'Waiters and waitresses'	157738	40219	20.3	25869	13.1	14351	7.2	197957
9274 'Bar staff'	135384	10424	7.1	7043	4.8	3382	2.3	145809
Selected occupations	834357	186177	18.2	113392	11.1	72785	7.1	1020533

Source: Labour Force Survey, January to December 2017

Workforce churn

As discussed, the sector is characterised by a high level of workforce churn, with a young and often transitory workforce, including many students and individuals working part-time. These workers are likely to leave positions in search of better working conditions, as opposed to complaining about or raising any issues with their employers.

The restaurants sector is characterised by low union density (at around 3.8 per cent). In general, this means that workers are left to enforce their rights individually rather than collectively. In a sector characterised by a relatively high degree of workforce churn the tendency is for workers to move to another job rather than to follow up concerns formally about their treatment (i.e. they exercise 'exit' rather than 'voice').⁶¹ An exception to this general rule of acting individually rather than collectively was the so called 'McStrikes' in 2017 which saw young McDonalds workers in some areas go on strike focusing on union recognition, zero hours contracts and a higher minimum wage, with other fast food workers joining in strikes in 2018.⁶²

The Restaurant sector also employs a high proportion of young people and migrant workers. This has implications in terms of the likelihood of these individuals having limited knowledge of workplace practices and their employment rights due to a lack of work experience, or due to low levels of English when English is a second language. Stakeholders note that these young individuals are often in their first job and therefore 'don't want to rock the boat' by raising complaints.

⁶¹ See Hirschmann A.O. (1970) *Exit, Voice and Loyalty*, Harvard University Press, Cambridge MS, for a classical discussion of 'exit' (i.e. voting with your feet and going elsewhere) and 'voice' (i.e. voicing dissent).

Overseas workers... can be difficult to come to terms with what they are entitled to. They may be aware of what they are entitled to in their own country, but they are not sure here.

Stakeholder, Restaurant Sector

Agencies

One stakeholder discussed the use of employment agencies in the sector. They suggested that often chefs prefer to work for agencies as it ensures that they are paid for all the hours they work, rather than working contracted hours and then not being paid for overtime. Notably, the most prominent skills shortage in the sector concerns chefs.

However, use of recruitment agencies has been shown in some cases to lead to inadvertent abuse of workers' rights. One stakeholder noted that the shortage of labour in the market drives businesses to use exploitative employment practices, including using agencies to hire staff who are not legally entitled to be working in the UK, or in some cases unknowingly employing individuals who are victims of modern slavery or trafficking through agencies. The long and sometimes convoluted recruitment chain in these situations increases the risk of these exploitative practices, either with or without the end employer's knowledge.

Table 4.5 presents the percentage of workers who were agency workers in 2017. For the Restaurants and food services sector as a whole, the percentage is about two-thirds the average for all industries, nearer the average for males but just over half the average for females. UK-born people are less likely than average to be agency workers, while those born outside the UK are as likely to be agency workers as the average for all industries. EU2 workers are more likely than average to be agency workers while those from EU15 and EU8 countries are less likely. All types of worker are least likely to be agency workers in the Restaurants and mobile food service activities industry class and workers in Event catering and other food service activities are most likely to be agency workers. High percentages of agency workers occur for workers born outside the UK in both Event catering and other food service activities and Beverage serving activities.

Table 4.5 : Agency workers as a percentage of workers in warehousing, 2017

Gender and country of birth	Agency workers as a percentage of all workers				
	56 Restaurants and food services	56.1 Restaurants and mobile food service activities	56.2 Event catering and other food service activities	56.3 Beverage serving activities	All industries
Male	1.6	1.3	3.2	1.7	1.8
Female	0.9	0.6	0.6	0.5	1.6
All workers	1.2	0.9	2.4	1.1	1.7
UK-born	0.7	0.5	1.8	0.3	1.2
Non-UK born	2.3	1.5	4.6	8.7	2.3
EU15	5.8	2.8	4.0	27.1	6.5
EU8	2.8	1.9	5.9	7.1	9.5
EU2	2.9	0.0	23.3	0.0	0.3

Source: Labour Force Survey, January-December 2017

Compliance with labour regulations

A lack of compliance with labour regulations occurs in some parts of the Restaurant and Food Services sector. Stakeholders were asked about the key areas of non-compliance in the sector.

One stakeholder noted that often the response from employers who are non-compliant is that they feel it is 'standard industry practice', so although not technically legal, they feel it is acceptable. However, other stakeholders reported incidences of employers intentionally breaching workers' rights and trying to 'get away with it'.

Some stakeholders report that non-compliance is more common amongst smaller employers, in some cases due to a lack of knowledge or understanding of legislation, but in other cases due to intentional non-compliance.

In the food services sector it tends to be smaller employers [that are non-compliant], independent restaurants and take-aways that aren't massive companies.

Stakeholder, Restaurants Sector

One example of this was through excessively long working hours in the sector, which one stakeholder suggested were enforced by holding back wages or telling workers that they would lose their jobs if they did not work these hours.

In [the] food sector [we] have reports of long working hours. [We] have had reports of 80-hours a week, long hours [with] little pay and often [workers] live above restaurant or takeaway. Some reports of keeping of deposits or wages to ensure they don't just leave if they're not happy with the conditions.

Stakeholder, Cross-Sector

Another key area of non-compliance mentioned by stakeholders as around holiday pay, particularly amongst agency workers. As agency workers typically did not know that needed to request this pay once they finished a contract, they often did not receive it.

I think [holiday pay] is an area the government really need to look into in terms of how clear the legislation is.

Stakeholder, Cross-Sector

Wage theft was mentioned by one stakeholder as an area of non-compliance. This occurred in different ways, including through unpaid trial shifts, not being paid for overtime, not receiving breaks and having to do online training in their own time. They felt that these practices were very common across the Restaurant and Food Services sector.

Drivers of non-compliance

Competition

Competition in the sector is one driver of non-compliance: Scott et al. (2012) and Green et al. (2018) suggest that employers tend to exert downward pressures on costs (including staff costs). An increasing number of businesses, particularly in the fast-food and delivery industry, mean that

employers are under increased pressure to cut costs in order to compete with other businesses. Often, these cost-cutting exercises are felt by employees, who are forced to work longer hours, or to forgo their breaks, in order to meet customer demand.⁶³

Lack of unions

Labour Force Survey data shows that only 3.2 per cent of workers in the food and Restaurant sector were trade union members in 2017 (Table 4.6). One stakeholder reinforced this point and noted that not many private sector areas are strongly unionised, except the retail industry (15.2 per cent of private sector employees were union members in 2017, compared with 56.8 per cent of public sector workers)⁶⁴. This lack of unionisation means that workers in the Restaurant sector may not be as protected as individuals in industries with a high level of unionisation.

Not very. I mean there are not many private sector areas that are strongly unionised. I think large retail is the only one...Unite has a presence and there is also one of the smaller unions the Bakers and Allied Workers Union. They have been organising the strikes around McDonalds... It's not a very well unionised area so it isn't very well protected at all.

Stakeholder, Cross-Sector

Additionally, one stakeholder noted that laws prevent collective complaints from being raised through a union in the sector; only individual complaints can be raised in this way, which makes some individuals less likely to make complaints due to concerns about the repercussions this may have for them personally.

⁶³ Scott S., Craig G. and Geddes A. (2012) *Experiences of forced labour in the UK food industry*, Joseph Rowntree Foundation, York and Green A., Sissons P., Qamar A. and Broughton K. (2018) *Raising Productivity in Low-Wage Sectors and Reducing Poverty*, Joseph Rowntree Foundation, York.

⁶⁴ Department for Business, Employment and Industrial Strategy (2018) Trade Union Membership 2017: Statistical Bulletin, Table 3.1. <https://www.gov.uk/government/statistics/trade-union-statistics-2017>

Table 4.6 Trade union membership in the food and Restaurant sector, Great Britain 2017

	56 Restaurants and food services	56.1 Restaurants and mobile food service activities	56.2 Event catering and other food service activities	56.3 Beverage serving activities	All industries
Pay / conditions affected by union agreements	3.8	2.2	12.4	1.5	26.1
Whether unions etc present at place of work	5.4	4.2	13.8	3.2	29.3
Trade union or staff association member (GB)	3.2	2.0	10.3	0.7	21.0

Source: Labour Force Survey, October-December 2017

Cost pressures

One stakeholder noted that the cost pressures on restaurants drive non-compliance in some cases, for example when the National Living Wage was increased, employers had to recoup the costs by taking something away from their workers, for example paid breaks or other benefits. They felt that the workers were therefore effectively paying for the increase in pay they had received.

On the NLW, most restaurant workers, if you look at what they take home, would say they are worse off. What happens is if the NLW is increased, then something else is taken away from them. So workers end up paying for the rise. It may be how tips are dealt with, meals on duty, paid breaks, or various other benefits they no longer get.

Stakeholder, Restaurant Sector

Contracts

Zero hours contracts sometimes drive non-compliance in terms of holiday entitlement; workers on these contracts will see their holiday pay in hours rather than days on their payslips or contracts, and therefore may be unsure about what they entitled to. One stakeholder noted that in some cases employers 'wiped' these holiday hours off the system and those employees then do not know what they're entitled to, particularly in the case of young or migrant workers.

The problems we see are those on zero hours contracts or minimum hours contracts. The holidays they get are in hours not days on their payslip. Their payslips may say X hours holiday entitlement. People take some of this and then towards the year end often in December, when employers don't want people taking holiday) the entitlement has dropped off, been wiped off their systems.

Stakeholder, Restaurant Sector

Agencies and umbrella companies

One stakeholder noted that exploitation increases when workers are further down the supply chain, therefore working for an agency or on a sub-contracted basis increases workers vulnerability to exploitation.

Another stakeholder reported issues with holiday pay amongst those working for agencies or umbrella companies. Legally these workers are entitled to holiday pay, which they can claim at the end of a temporary contract. However, they are required to request this pay from their employer, and it is not automatically given to them. When workers are unaware of this, they therefore may not receive this pay.

Where there's a lack of clarity it's when workers are engaged through an umbrella company and often wage slips can be very unclear. The advertised rate can be very different from what the take home pay actually is.

Stakeholder, Cross-Sector

One stakeholder felt that greater transparency was needed, and that agencies and umbrella companies needed to assist workers by making payslips and documentation easier to understand.

Vulnerable workers and a lack of knowledge

Stakeholders noted that more vulnerable workers such as those for whom English is a second language and those who are in their first jobs are often not aware of their rights or may not know where they can go to report issues. This drives non-compliance by enabling employers to mislead these workers (i.e. by telling them that these are normal practices), or simply due to a lack of knowledge amongst these workers of their rights and where/how to report issues meaning that minor or inadvertent breaches to their employment rights are left unresolved.

We do get a high level of non-English speaking workers who may not be aware of their rights.

Stakeholder, Cross-Sector

Where there's somebody whose English language is poorer, there need to be greater efforts to make sure those workers understand [their rights].

Stakeholder, Cross-Sector

It is difficult to quantify, but we do get a high level of non-English speaking workers who may not be aware of their rights.

Stakeholder, Cross-Sector

One stakeholder noted that employers should be making more effort to make workers aware of their rights; being unaware of their rights made them more vulnerable to breaches or exploitation.

Employers need to do more to make workers aware of their rights. When it comes to minimum wage most workers are aware but when you dig into it some workers have quite odd beliefs that the minimum wage doesn't apply to casual workers or hourly paid workers. None of which is true.

Stakeholder, Restaurant Sector

Enforcement

One stakeholder felt that more deterrents combined with a more robust compliance approach, including working with employers and providing them with more guidance, was necessary in order to reduce the rates of non-compliance.

A lack of enforcement activity drives non-compliance.

Stakeholder, Cross-Sector

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

They felt that Government and other key industry bodies had a responsibility to act on these issues, in particular, in terms of making clearer the rights of those workers who were more vulnerable to exploitation.

5 Worker experiences of employment breaches

The Restaurants sector has experienced relatively significant changes in employment relationship over the last decade, which impact on workers in a number of ways. This chapter explores findings from the worker interviews and the extent to which they have been affected by the 'fissuring' of employment relationships. Restaurant sector workers reported a range of employment rights breaches, across five main areas: breaks, pay, contracts, harassment and National Minimum Wage (NMW) / National Living Wage (NLW). While not all breaches are solely attributable to fissured employment relationships or workplaces, workers commonly experienced issues relating to tight labour margins, low wages, unsafe working environments, and lack of employment benefits, which are characteristic of such workplaces.

It is important to note that the breaches discussed by workers had not always been experienced in their current role. It was common for the breaches to have taken place in previous positions within the Restaurant and Food Services sector.

Most common breaches

Breaks

The nature of the Restaurant industry, in terms of it being a fast-paced environment in which work was structured around the constant and unpredictable demands of customers, meant that it was common for workers to report not being allowed to or able to take their breaks. The busy working environment and unpredictability meant that often shifts lacked a structure that would allow regular breaks to be scheduled.

A lack of breaks was experienced by staff at all levels and ages, not just by junior members of staff. Those impacted by this included managerial staff, chefs, head chefs, waiting staff and kitchen assistants. It affected staff working full-time and part-time hours, and those on a range of different contracts, as well as agency workers.

It's just what it is. You can't really allocate 15-minute breaks because you don't know when you're going to be busy and not be busy.

Male, 49, Chef

In some cases, workers accepted not being able to take their breaks, as they felt that this was simply the nature of their job and therefore, they expected not to have them. Although they commonly understood that technically they should be allocated breaks, they felt that across the industry it was standard practice for restaurant workers to be unable to take regular breaks. Additionally, not being able to take breaks was usually due to customer demand during busy shifts, rather than being explicitly prevented from taking breaks by managers or senior members of staff. For some there was a sense that during busy periods everybody in the team would be required to pull together and forgo breaks in order to meet customer demand. In some cases, workers felt there was a sense of camaraderie during these busy times.

You don't get a sit-down, but that's the nature of the job.

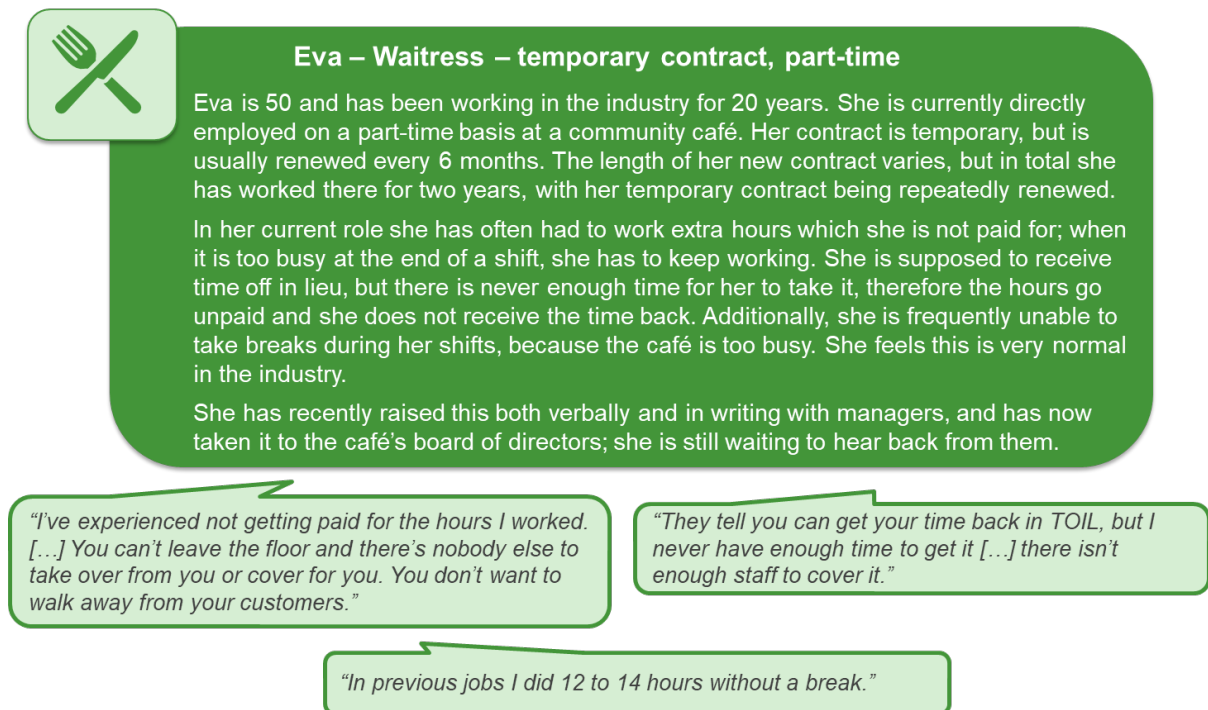
Male, 49, Chef

You'll get a 10-minute break to sit down and eat a sandwich and you've gotta just get back up and get on with it. I've worked 17-hour shifts before [from] 10 in the morning until 2, 3 or 4 in the morning.

Male, 35, Bartender

Although one manager stated that during interviews with new staff she did mention to workers that they wouldn't always be able to take their break, which would suggest that in some instances senior staff are preventing or encouraging workers to not take breaks.

Figure 5.1 : Case Study - Unable to take breaks



One individual working in contract catering noted that during the events they worked at, the team tended to avoid taking breaks as the faster they got the work done, the faster they would be able to go home. They felt that this was manageable as the work they did was on an ad hoc basis and they would work long hours at a single event, rather than working those hours throughout the working week.

The faster that it gets done, just the way it is at catering events, the faster everyone gets home. You can feel quite tired, but obviously it's not too bad because we all know each other.

Male, 24, Waiter

However, other workers felt frustrated by not being able to take breaks. They felt pressured by the culture and nature of the industry not to take breaks as nobody else did. Some noted that although they had never been explicitly told that they weren't allowed to take breaks, they simply felt that they couldn't as nobody else in the team did and therefore if they were to take the breaks, they would be letting the team down.

You absolutely don't want to be the one who turns around and says, "stuff you guys, I'm going to sit down for 20-minutes". [...] You feel sort of guilty to stay to a certain degree.

Male, 26, Chef

No one is irreplaceable, [they would] probably say “there’s the door” if I made an issue, so [I] just get on with it, how it is with this type of work.

Female, 59, Waitress

Not being able to take breaks was experienced in a range of establishments across the sector, ranging from smaller and family-owned restaurants, cafes and bars, through to contract catering businesses. The fact that this was experienced in a range of establishments provides evidence to support workers’ views that this breach was being driven by the “nature” of the whole industry rather than as a result of individual employer practice. However, it supports the contention that the fissuring of the employment relationship has become so commonplace across the sector that breaches are seen as normal.

Pay

The most common issues around pay involved either not being paid for the number of hours worked or not being paid on time. Overall, not being paid for the total number of hours worked was slightly more common than not being paid on time.

These issues were not exclusive to specific types of workers; they were experienced by those on all contract types as well as agency workers, and by those in management positions.

Not being paid for hours worked

Sometimes, errors with not being paid for hours worked were due to technical issues, for example when computer systems were unable to adjust for individuals who started earlier or finished later than their set shift time. In some cases, this meant that small amounts of overtime were not paid for, whilst in others this could add up to a number of hours of unpaid work.

If I take a 45-minute break the system won’t recognise this, and they still take an hour salary from me. [This was] resolved one flagged with my manager. [...] Likewise, if I arrive earlier and asked to start, the system won’t recognise this, so no pay for this.

Female, 59, Waitress

One worker said that in a previous role for a contract catering company, the workers were regularly not paid for all the hours they had worked. In this case, the company simply did not have a system for workers to clock in and clock out. Therefore, when events overran, workers would not be paid for the additional hours they had worked on top of those they had originally been hired to do.

Over the summer we’d do 70- hour weeks because we’d be doing dinners for over 1,000 people. And because they say you can’t prove that you worked the hours because they don’t have a proper clock in system. So, you’d do 14 hour shifts 5 days a week and wouldn’t get paid properly for it.

Female, 27, Manager

Generally, workers were paid for their original set hours, and where there were discrepancies this tended to be a lack of pay for the overtime they had worked. Sometimes this extra time worked would be for tasks like set-up before the beginning of a shift or for clean-up at the end of it, which although covered short periods of time, ultimately added up when they were working this additional time on every shift or a few shifts a week.

One worker noted that they always check the accuracy of their pay, and that often any hours worked beyond what was on the original rota would be missing from their pay. This could range from 15-minutes to a few hours of missing pay. In this employees' case, an email detailing the pay they were owed was usually the solution. One agency worker noted that they now took a picture of their time card to make sure they had evidence of the hours they had worked, as previously they had been unable to prove that they had been underpaid as hours had been missed.

Pay time cards go missing. Then up to you to prove to agency that you have worked the hours you say. Now I always take a picture on my phone. Makes me feel that it's just a disorganized company.

Female, 26, Waitress and Bartender

Finally, some workers who were not paid for overtime were told that they would receive the overtime back as Time off in Lieu (TOIL) at a later date, rather than being paid for the overtime. However, due to time constraints and staff shortages, this did not happen and therefore they were not paid for the hours worked or given the time back.

They tell you can get your time back in TOIL, but I never have enough time to get it. [...] Because there isn't enough staff to cover it.

Female, 50, Waitress

The impacts of not being paid for hours worked were often serious for individuals working in the Restaurant sector. One individual was upset as she'd been unable to get her children any Christmas presents and noted that she'd had to borrow money from her father to manage. Others struggled to pay their bills, or to cover their living costs more generally. Often their pay was low, and therefore small discrepancies in what they received could have serious consequences on their already tight budgets.

Not being paid on time

Not being paid on time was also experienced by workers across the Restaurant sector. As with not being paid for hours worked, often when workers were paid late it was due to an administrative error the employer had made. This happened to employees working for all types of establishments, including smaller family-owned businesses and large contract catering companies.

Being on a zero-hour contract I have to submit time sheets, and one of them hadn't been processed, so I was a week short on my pay. I had to wait until the next month's pay and it got added to the next month's wages. Financially it was a bit of a struggle that month because it was the week that I'd done the most hours, but it was a bit of a bonus when I got it the next month.

Female, 22, Waitress

In one case, a worker noted that although she was supposed to be paid weekly, her pay often came later and less consistently than this. Consistently being paid late caused frustration and had a negative impact on her relationship with her boss and other management staff, with whom she had to repeatedly raise the issue.

However, there were instances of workers being paid late due to employers avoiding or being unable to pay their wages. For example, a young worker was not paid for the first three months working in a previous role in a cafe. This was her first job in the Restaurant and Food Service industry. The owner

of the small café she worked for put this down to variety of reasons, one of which was issues with the business' accountant.

Figure 5.2 : Case Study - Not being paid on time and no contract



Lily – Waitress – no contract and not being paid for all hours / on-time

Lily is 18 and has been working in the industry for 2 years whilst studying. In a previous role as a waitress in a local café, which she worked in from the age of 16, she was not given a contract. She was told repeatedly that she would be given a contract, but her boss kept 'putting it off'. She said that this issue was common in the café amongst the temporary staff, many of whom were college students, although thought most permanent staff did have contracts. This made her life particularly difficult as she did not have set working hours; ultimately this had an impact on her A-level studies as she struggled to plan her working hours around studying.

Additionally, at the café there were numerous issues with pay which affected all staff, both in terms of being paid too little or being paid late. When she first started working there she was not paid for 3 months. Her boss made a variety of excuses when this happened, including that her accountant was on holiday.

"I asked again and again and she kept saying she'd [do my contract] in a couple of weeks. With a lot of people it would be family friend's sons or daughters. [...] People would be in and out of employment there very quickly."

"Someone else in my school had been employed by them. She wasn't paid for her last 3 weeks of work and then she was given a text to say she was fired."

"[There were] a lot of rumours of people just not getting paid the right amount."

Not being given a written contract

Not being given a formal written contract was another issue which was experienced by a number of workers. In some cases, workers were unsure whether they had been given a contract or not, but others were certain that they simply had not been provided with one.

This issue was slightly more likely to be experienced by younger, less experienced workers, such as waiting staff, bar staff and kitchen staff. It was experienced by workers on a range of contract types, but all had been told they were working on a temporary basis had experienced this at some point. It was experienced across a variety of establishments in the sector and did not appear to be more likely to occur in any one type of business.

In some cases, this had an impact on workers personal and working lives, as they were never sure of what hours they were required to work. This made planning their lives incredibly difficult, as they would always be waiting on their employer to confirm their hours.

Additionally, it meant that these workers had little job security and felt that all the power was with their employer, as they would have nothing to refer to if the employer decided to significantly reduce their hours or dismiss them.

You've got no comeback whatsoever [...]. Basically, you just got a phone call to say that you weren't required anymore, because there's no contract so no comeback.

Female, 50, Waitress

However, in a few cases, workers did not mind that they did not have a contract. One worker simply felt that a contract was not necessary as they trusted their employer and knew what was required of them. In another instance, a student described a summer job which he did not have a written contract for; he noted that this was not an issue for him as he knew this was just a temporary position which he intended to leave at the end of the summer, and therefore did not feel the need to raise this issue with his employer.

Harassment

Harassment was an issue experienced by workers, although it was slightly less common than the other breaches discussed.

Harassment tended to be experienced by more junior workers, such as waiting staff and kitchen staff. The harassment therefore tended to be perpetrated by more senior members of staff, such as Head Chefs or managers. It occurred in a range of different establishment types.

Figure 5.3 : Case Study - Harassment



Natasha – Kitchen Assistant– temporary contract, part-time

Natasha is 29 years old and works as a kitchen assistant for a contract catering company. She described a previous role working in a kitchen through the same company, where she experienced harassment from one of the chefs.

The harassment took the form of verbal abuse, although Natasha also described the chef as 'aggressive' towards other staff members. She said that everyone was scared to go into the kitchen. The chef would tell would shout at the kitchen assistants and would make inappropriate comments. She said that people getting upset and crying at work was common as a result.

Natasha said that the chef was abusive and aggressive towards members of staff. She reported her to management, as did other members of staff. Ultimately, Natasha was moved to work in an alternative location; the chef in question remained in her position.

She feels that kitchen assistants don't have any power, whereas chefs have different rules, which she thinks might be due to the shortage of chefs in the industry. This means that they 'get away with' treating other staff poorly and being abusive towards or bullying them.

"I just feel like in food, you just can't do anything right."

"When [the chefs] get stressed, they stress us out, it's a knock on effect."

"You don't go to work to get treated like that [...] there's ways of speaking to people and getting your point across even if you are stressed out and angry and upset. There's a way you can do it without having to be abusive."

It was an issue which was often seen to be part of the culture of the sector and generally workers felt that it was something that frequently occurred in the sector. In most cases, rather than one specific incident, workers described a general feeling of harassment in terms of bullying, swearing and aggressive behaviour.

[The owner] could snap at any moment and you didn't know what it was going to be about. [...] The entire work force always felt under threat.

Female, 18, Waitress

However, in other cases, there were specific incidents that workers described and specific individuals who had caused issues for workers, typically those more senior to them. Some workers felt that the

shortage of chefs in the industry meant that management were reluctant to act on complaints or simply couldn't remove the perpetrators from their positions.

[The head chef was] very rude to waitresses and floor staff, so I asked for a transfer. He said "would you transfer" as they couldn't remove the head chef. [...] I felt awful at the time as [I] had been there for four years; it was my home and I loved it.

Female, 59, Waitress

The harassment tended to be verbal abuse, as opposed to physical, although the latter did occur in some instances. Often these incidents were left unreported because they were seen to be part of the culture of working in the Restaurant sector, although in some cases workers simply decided to find a new position and only mention the incidents when they were leaving the organisation. In some cases, finding a new position with another organisation was felt to be easier and less hassle than just reporting the incident and staying at the organisation.

[Managers] can treat [you] poorly if haven't worked with them before. You need to prove you are good and can do the job. [They] can be very rude and short with you until you prove you are a good, hard worker.

Female, 26, Waitress and Bartender

Basically, I was being verbally bullied by [the Head Chef], and I left the job. I told them about the incidents when I handed in my notice. I said I've been bullied and picked on and here's my notice.

Male, 45, Chef

National Minimum Wage (NMW) / National Living Wage (NLW)

Although less common than the other breaches discussed, a few workers had experienced not being paid the NMW/ NLW.

There were three main ways that workers were not paid NMW/ NLW:

- Accidental breaches by employers;
- Salaried staff worked many more hours than contracted which meant they were being paid less than NMW/ NLW per hour; and
- Employers telling workers that they were not eligible for NMW/ NLW.

Accidental breaches occurred when there had been a change to the rate of NMW/ NLW and employers had not updated workers' pay to match this. The workers who had experienced this felt that this was an accidental breach, because it was immediately rectified when the employers became aware of the error.

Some individuals who had annual salaries were not receiving NMW/ NLW as their salaries were quite low and once they had taken into account their overtime their hourly rate was below the NMW / NLW. This seemed to frequently occur with chefs, who were regularly expected to work far beyond their contracted hours, up to 70 or 80 hours a week for a set salary.

The contract was 55 hours a week, and you were salaried at 21 grand [...]. I made a bit of a fuss about it because I was already doing a shift a week above what I was supposed to be, and they

wanted another one; 65 to 70 hours was pretty standard, so I said you're going to have to pay me for it.

Male, 45, Chef

Figure 5.4 : Case Study - Not receiving NMW/ NLW



Xander – Chef – permanent contract, 35+ hours

Xander is 45 with 22 years in the sector. In his current position as a chef, he feels he is treated fairly. In 2015, however, Xander took a pay cut to start in a chef position at a new restaurant, where he thought he could make an impact. He started on £22K with the promise of a pay rise. He was working on average 80-90 hours a week, which equated to around £5.13 an hour on average. The workload eventually became too much, so Xander decided to raise the issue verbally with his employer. It escalated to an argument and he was fired on the spot. He went to Citizen's Advice and was referred to ACAS, who told him that, while he had a solid case, he could not expect much in return financially even if the case was successful. Therefore, Xander decided not to take the case forward.

"[ACAS] said, 'You've got a fairly strong case, but the nature of these things is such that if you take it to court, they'll just liquidate the company and start trading under a different name they next day'.... apparently, it's quite common for small companies to do that."

"If it got really bad I'd leave. I think we feel that, as chefs, there isn't anyone to turn to. It's not like the railways, where you have a union. There isn't a chefs' union as such. You can join Unison or whatever, although it's only in recent years that I've seen that on social media being a thing."

"The culture of unpaid overtime is absolutely endemic, everywhere. You're always on a salary, never on an hourly rate. Always, 'Can you work tomorrow? - Someone's sick', and if you say no you get pushed out of the door."

There were some instances of workers being told by employers that they were not eligible for NMW/ NLW because they were paid in cash or that their tips would bring them up to NMW/ NLW and therefore it was fine for their base rate be under NMW/ NLW. One worker described how a previous employer explained to her that due to her being paid in cash she was not eligible for NMW/ NLW. At the time she did not realise that this was not true and therefore continued to work for the employer, as she did not realise that this was an issue.

Again, it's been a job in a bar and they've said because you were getting cash in hand they weren't obliged to pay you the National Minimum Wage. At the time [I didn't do] a lot, wasn't as wise as I am now.

Female, 50, Waitress

6 Awareness of rights and raising issues

This chapter will discuss findings from the interviews with both stakeholders and sector workers. The following will be discussed during this chapter: awareness of employment rights amongst workers, the extent to which workers felt able to raise any issues (including breaches of these right), approaches to raising breaches and awareness of external support agencies.

Stakeholder views on workers' awareness of rights

The stakeholder interviews provided insight into workers' general awareness of their employment rights, and the extent to which workers were aware of existing avenues to assert their employment rights. Most stakeholders felt that awareness of both employment rights and redress routes were observed to be lacking generally and were particularly inadequate for certain groups of workers. However, it should be noted that stakeholders are likely to be disproportionately aware of cases where workers have experienced employment rights abuses, and so their insights may relate to a subset of sector employers who display disregard for employment legislation.

National Minimum Wage (NMW) and National Living Wage (NLW)

Awareness of the NMW and NLW was considered to be relatively high amongst workers. One stakeholder attributed this to government advertising campaigns on the subject. However, awareness was perceived to be lower among two groups, members of which were generally the lowest paid in the sector:

- Migrant workers, particularly those with a poor command of the English language and subsequent limited understanding of UK employment practices and their rights;
- Younger workers, generally below 25 years of age, who lacked experience and preferred not to challenge their employers.

Stakeholders felt that the lack of employment rights awareness amongst both groups had made them more vulnerable to having their rights breached, as this potentially reduced employers' risk of being reported for non-compliance. One stakeholder from a trade union felt that migrant workers often overestimated the protections they were afforded in the UK and assumed that their employment rights were being upheld. They tended to accept that their pay was correct, as it was often much higher than it would have been back in their country of origin.

It can be difficult to come to terms with what they are entitled to. They may be aware of what they are entitled to in their own country, but they are not sure here... They can be shocked about limits of their legal rights and expect it to be stronger over here. For example, surprised no labour organisation [is] ... able to come in and investigate employers. They can be surprised by a lack of sectoral bargaining versus what they have been used to.

Stakeholder, Restaurant Sector

Benefits deductions

Stakeholders largely did not comment more specifically on workers' awareness of their rights, surrounding benefit deductions. However, one stakeholder observed that whether salary sacrifices, such as for childcare vouchers or travel-to-work schemes, were ultimately in the worker's financial interest was sometimes unclear due to technicalities related to the worker's status.

Things that we come across ... [include] salary sacrifices for childcare vouchers or a travel to work scheme, things like that... employers would argue that things like that are in the workers benefit... I talk to the real techy people within payroll side of things and even they struggle with some of these issues, because there are some odd technicalities around workers status and sacrifices... a lot of workers aren't aware of those things and therefore do get caught out.

Stakeholder, Restaurant Sector

Employment conditions

Sector workers were seen as having some, albeit limited, awareness of rights relating to employment conditions such as holiday pay, sick pay, paid overtime, or breaks. Limited awareness was believed to be more common for temporary workers or those on flexible contracts, as well as migrant and younger workers.

One stakeholder observed that workers on flexible or zero-hour contracts often lacked a good understanding of the rights and pay to which they were entitled. They found that workers on these contracts generally did not know about their rights to turn down shifts, for example, or the rights that they might accrue over time. For example, they had recently come across a group of workers who were unaware that maternity pay was a 'day one' statutory right.

Additionally, holiday pay was regarded to be difficult to understand or keep track of for workers on flexible or zero-hour contracts. Employers often calculate workers' holidays by hours worked, rather than days. Therefore, determining what the actual payment would be was difficult for some workers. Furthermore, stakeholders commented that sector workers are commonly not paid for all hours worked. Therefore, calculations of accrued holidays based on 'official' hours worked would always be incorrect. A couple of stakeholders found that workers who were employed via umbrella companies, rather than directly, were sometimes less aware of their pay and holiday entitlements. It could be particularly difficult for these workers to understand how final payments, particularly holiday pay, were calculated.

Where there's a lack of clarity, it's when workers are engaged through an umbrella company and often wage slips can be very unclear. The advertised rate can be very different from what the take home pay actually is.

Stakeholder, Cross-Sector

Avenues for raising issues

For workers with some awareness of their rights, stakeholders perceived awareness of avenues for raising issues and asserting their legal rights to be limited. One stakeholder observed that workers often do not try to assert their rights against employers while still with the company.

Many [workers] wait until they leave or have decided to leave to make the complaint to avoid problems while still there. Sometimes, they find out at the next job that they had particular rights.

Stakeholder, Cross-Sector

Worker awareness of rights (worker interviews)

In contrast, workers generally felt that they were treated fairly in their current employment situation. Additionally, while there were some workers who admitted they were not confident about knowing

their rights, most tended to feel that they had reasonable levels of awareness. However, their actual knowledge of their employment rights did not always reflect this confidence.

Most breaches or cases of unfair treatment that workers discussed tended to have taken place with a previous employer, rather than in their current role – mirroring the stakeholder view that workers tend to opt to leave the position, rather than raise issues with their employer.

In my current role, yes, [I am treated fairly] ... But when I was younger, it was expectations and demand. Obviously, catering is turning up to a place and getting everything set up. I was used not just as a waiter, but moving all the heavy stuff, more like a mover.

Male, 21, Waiter and Bar Staff

Some workers, particularly waiting and bar staff, felt that the extent to which they were treated fairly at work had varied considerably, and depended heavily on the approach of the manager on shift.

Yes, I'd say so [that I am treated fairly]. It depends on the manager.

Male, 21, Bartender

Workers in some job roles within the sector were more likely to report having experienced unfair treatment, but often excused this as being inherent to the nature of the industry, rather than perceiving this as a breach of their rights. Kitchen staff (from assistants to chefs) tended to expect unfair treatment from senior colleagues, often accepting it as part of the job. A head chef observed that less experienced chefs were commonly treated unfairly in some way in the early stages of their career, somewhat like a 'baptism of fire' into the industry.

In the beginning, [I was] probably not [treated fairly]. It's sort of expected when you're a young chef.

Male, 40, Head Chef

National Minimum Wage (NMW) and National Living Wage (NLW)

All workers interviewed had at least heard of the NMW, while the NLW was less well known. While most workers failed to make a distinction between the two, they generally knew whether their pay was at or above the NMW.

Breaks

Many workers were aware of how frequently they were legally entitled to a break (at time of writing, twenty minutes every six hours), yet some were not clear on this. Regardless, for those that were aware, the foregoing of breaks was accepted as common practice due to the customer demand-driven nature of the industry.

Holiday Pay

On holiday pay, some workers were not aware whether they were entitled to any holiday or, in some cases, how much. Workers on temporary, part-time or zero-hour contracts were the most unaware of holiday pay entitlement and many were not sure whether they had received any holiday pay. One worker on a temporary contract, assumed that she would not be entitled to holiday pay as she had not worked there long enough to take holiday. Employers of these workers tended to expect workers to ask about their holidays rather than inform them of any built-up entitlement. In some cases, workers had to take accrued holiday within a certain period of time and so lost accrued hours because they were unaware of their legal entitlement.

Worker approaches to raising issues

Workers were asked which routes they had used or would use to raise issues around their employment rights. In some cases, workers felt they would not do so. Where they had previously raised issues, this tended to be internally and informally with their line managers, managers or supervisors, before considering any other avenues. If asked how they would raise any future issues, this was also the preferred initial action to take. Only if this avenue was unsuccessful would they have considered escalating the issue, if at all, to someone more senior within the company or externally.

If raising an issue internally, most workers felt that a verbal consultation with their manager would be most appropriate. Talking things through in-person tended to be preferred among kitchen staff, for whom direct communication is crucial to operations. For more serious issues, some workers mentioned e-mail would be their preferred method. One worker explained its benefits:

By putting it in an e-mail, first of all, it gives you longer [time] to compose it. You can think about what you're saying. It's sort of less direct and it's almost more meant for that sort of thing; it's more justified.

Male, 21, Bartender

A small number of workers had sought advice externally on how to raise issues. These workers had spoken to Citizens Advice (CA), Advisory Conciliation and Arbitration Service (Acas), and a disability charity (the name of which the worker could not recall).

Where workers had not raised any issues previously, the types of issues that they could imagine raising in future were most commonly discrepancies around pay (either not being paid for the number of hours worked or on time) or correct holiday allowances. Some workers reported that they would raise issues that involved harassment. A few mentioned that they would complain if their expected weekly hours or permitted breaks were significantly higher or lower than expected respectively.

Workers who had experienced issues, yet not raised them, reported that this was for a number of reasons:

- Employers were sometimes viewed as lacking HR or formal complaints processes. For example, a general manager or owner may be responsible for various roles or functions, and workers sometimes reported that the person with whom they were expected to raise issues was part of the problem they needed to be addressed. In such cases, workers would be deterred from escalating the issue if a different manager was not available.
- Some workers simply found leaving their job and seeking other employment to be easier than staying to raise the issue. This practice, however, was noted by some workers to perpetuate the problems for future staff.

If it was in terms of me not getting paid, I would probably just not work for the organisation again [and] look for something else, but there are some people, who don't have that option. It depends on how big the grievance is [if] it is worth looking into.

Male, 27, Waiter and bar staff

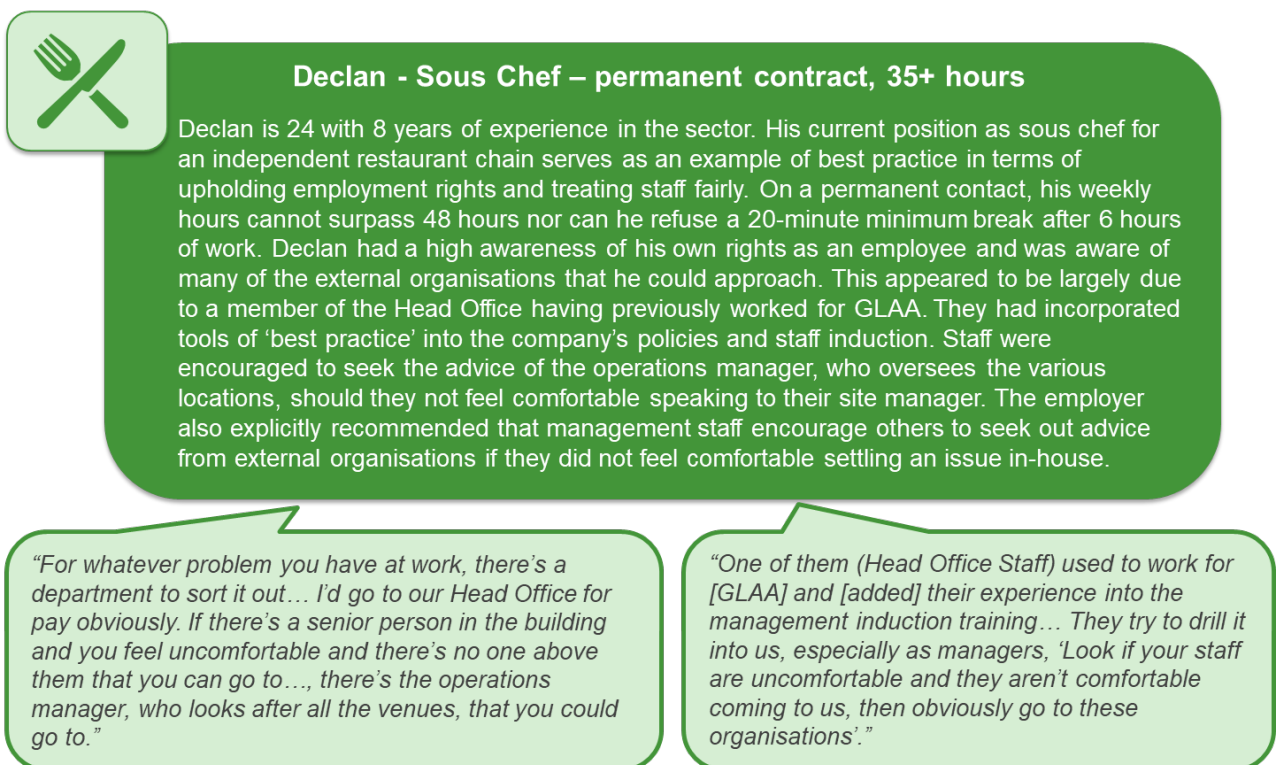
- As previously stated, many felt unfair treatment (including working unpaid overtime, or bullying) to be part and parcel of the industry, particularly for younger or less experienced staff.

- Some did not recognise the issue(s) as severe enough or, in some cases, as breaches at all, but rather the nature of the industry, e.g. foregoing breaks when busy.

The first two reasons were more likely cited by younger or less experienced workers, whereas the latter two tended to be voiced by workers with more experience.

Despite generally limited awareness amongst workers, one worker, a sous chef, demonstrated exemplary awareness of the various avenues that he could take and external organisations that he could speak to, should any issues arise. His employer stood out as an example of best practice for its systematic efforts to make workers aware of their rights and how to raise an issue as well as open encouragement to do so if necessary.

Figure 6.1 : Case Study - Best Practice



Awareness of external agencies

Workers' awareness of external agencies that they could contact, regarding to employment rights and breaches, was generally low. Upon prompting, workers commonly recognised Citizens Advice (CA) and the Advisory, Conciliation and Arbitration Service (Acas). This tended to be due to family or friends having used the agencies previously. Some workers had heard of Unite the Union and the Modern Slavery Helpline. All workers recognised HMRC, but in the context of general tax matters, as opposed to the NMW team. Few workers had heard of Gangmasters and Labour Abuse Authority (GLAA) or the Employment Agency Standards Inspectorate (EASI).

One worker did not feel optimistic about the support any external organisation could provide to workers on a zero-hour contract or with no written contract all, which he believed to be frequent among smaller, independent establishments. This suggests that external agencies may need to promote the support they can offer more widely.

Unless you were covered by a contract - and I have been once in previous work - I don't feel like there is an industry body to go to and say this happened and this happened. Because a lot of the industry, even now, is cash-in-hand, it's students working and people who aren't sticking around very long and whatever else. It's not in their interests to pay for legal representation. It's a waste of time. A lot of people are just like, 'Forget it, whatever.' You feel expendable from the company, 'If you don't like it, you can go somewhere else.'

Male, 34, Manager

Among those that were aware of external organisations, workers expected that they would only go to such organisations in the event of more severe issues, such as racism, harassment or constructive dismissal.

If it was something more serious, like discrimination, I would definitely.

Male, 35, Bartender

One worker was previously aware of CA and became aware of ACAS after being referred there (by CA) with the issue that being made to work overtime had brought his pay below minimum wage. Workers still tended to prefer speaking to their employer initially before escalating an issue externally, viewing external agencies as more of a last resort after internal avenues had been exhausted.

I'd go to the manager first and if I get no joy out of that, I'd go to my area manager. Or, I'd go to Citizens Advice if it really came to it. Basically, depends on the grievance. If it didn't get resolved in-house, I'd have to take other actions.

Male, 35, Bartender

Stakeholder recommendations for awareness raising

Stakeholders were in consensus that more could be done to raise workers' awareness of their rights as employees as well as potential complaint and redress routes. This was deemed to be particularly the case for more vulnerable groups of workers, including younger or migrant workers, and non-permanent workers. Different avenues were suggested to help raise awareness: working with community groups to raise awareness via social media, strengthening collective rights, better government guidance and targeted campaigns, and employer and employment agency responsibility.

Using social media

To increase awareness for migrant workers, one stakeholder suggested that community groups be consulted to produce translated materials that could be displayed using targeted social media and advertising.

Put all in one place. Maybe even create some kind of app, [putting] things in different languages to reach different groups.

Stakeholder, Cross-Sector

Strengthening collective rights

Another stakeholder felt that more could be done to ensure that workers feel protected and justified in asserting their rights to the employer.

Collective rights need to be allowed. People need to be assured they won't be penalised or disadvantaged. Currently, employers can find ways around it. They get employees to sign NDAs, so employers are not disadvantaged (and the message doesn't go around to other workers).

Stakeholder, Restaurants

Government guidance

Greater government guidance was suggested on how to protect workers. A stakeholder voiced that the government could do more to raise awareness of workers' rights, but also acknowledged that it could prove difficult to run one campaign, as rights vary by worker status. Another highlighted that government legislation often neglected to consider workers on temporary or zero-hour contracts.

I think this is an area where there could be more work. We've done our bit with the agency worker rights factsheet. But this is somewhere where the government could play a role in really highlighting the rights agency workers are entitled to.

Stakeholder, Cross-Sector

Employers

Stakeholders felt that employers could do more to make workers aware of their rights. For example, one stakeholder suggested that employers inform and remind workers of any mandatory changes to their pay, including NMW levels before the age of 25 and NLW thereafter. Another stakeholder felt that this was particularly important for workers that were not on permanent contracts.

Employers need to do more to make workers aware of their rights. When it comes to minimum wage, most workers are aware, but, when you dig into it, some workers have quite odd beliefs that the minimum wage doesn't apply to casual workers or hourly paid workers - none of which is true. That's not explicit to hospitality, but lower paid workers in general.

Stakeholder, Cross-Sector

Employment agencies

Stakeholders who discussed temporary workers explained that employment agencies should better ensure that migrant workers sufficiently understand the roles and pay rates of jobs that it puts forward for workers.

Where there's somebody whose English language is poorer, there needs to be greater efforts to make sure those workers understand... That's where an agency can play its part and explain the role and its pay rates.

Stakeholder, Cross-Sector

7 Conclusions

The UK labour market has experienced profound changes in the last four decades, including a decline in trade union membership and labour's share of national income. Employment relationships have also changed markedly: employers have contracted out, franchised, subcontracted and devolved many functions that were once done in-house, with lower labour margins, reduced wages, and many workers losing the benefits of traditional employment relationships including career paths, safe working environments, and sick pay.

This research explored how the Restaurant sector has been affected by this 'fissuring' of the employment relationship between employers and workers over the last 10 years, and the impact this has had on employment structures and workers' rights.

Key Findings

The Restaurant sector in the UK is characterised by a relatively high proportion of franchises. These (often national or international) brands operate alongside smaller proportions of independent restaurants. It is increasingly structured around the demand for a flexible workforce, and workers are frequently expected to work on an 'as required' basis, rather than having consistent working hours.

Recruitment within the sector tends to be through more informal routes, including word of mouth. There are few barriers to entry, and relevant experience is generally seen as more important than qualifications. The workforce in the restaurants sector is younger than average and non-UK nationals comprise a greater share of the workforce than across all sectors. Workforces with these characteristics could be expected to be more vulnerable to labour exploitation than average. Workers are more likely to leave positions in search of better conditions, as opposed to raising issues with their current employer.

Three key cost pressures have contributed to increased competition and challenges in the sector: rising property costs, rising food costs and rising labour costs. Much of this squeeze has been felt by workers in the sector, who are required to work longer hours for lower pay than previously. Working hours are typically long, with workers working well over 37 hours per week to meet employer and customer demand. Employment is often temporary and transient, resulting in a relatively high degree of workforce churn. Zero hours contracts are regularly used, and flexible working patterns and how hours of work are recorded means issues around pay are not necessarily transparent.

Drivers of non-compliance

From the research there is evidence to suggest that there may be some key drivers of non-compliance with employment legislation. These include sector competition (as employers seek to cut costs); low levels of union membership and collective representation/bargaining; widespread use of zero-hours contracts and associated issues around paid holiday entitlement; relatively high proportions of young and migrant workers, who are less likely to be aware of or willing to enforce their rights at the (potential) risk of losing their jobs; and low risk associated with non-compliance on the part of employers. The use of employment agencies and umbrella companies can also mean it is sometimes difficult for workers to know where to raise issues in the first instance.

It is important to note that the majority of this study was qualitative interviews. Qualitative research allows us to explore individual experiences in detail. However, findings should not be interpreted as being representative of all workers in the Restaurant industry.

Stakeholders and representative bodies identified relatively high levels of non-compliance with employment legislation. They tended to be particularly aware of the most severe instances of non-compliance, and of cases where employment rights were deliberately breached. The workers interviewed were less likely to report the most serious breaches (such as forced labour), but commonly experienced low-level breaches (which could have very significant impacts on individuals).

Restaurant sector workers reported employment rights breaches across five main areas: breaks, pay, contracts, harassment and National Minimum Wage (NMW) / National Living Wage (NLW). While not all breaches were necessarily attributable to fissured employment relationships or workplaces, workers commonly experienced issues relating to tight labour margins, low wages, unsafe working environments, and lack of employment benefits. These types of issues are similar to those which are experienced in such workplaces.

Awareness of rights and raising issues

The majority of stakeholders felt that workers generally had low levels of awareness of both employment rights and redress routes. Awareness of National Minimum Wage/ National Living Wage and employment conditions such as holiday pay, sick pay, paid overtime, or breaks was seen as highest. Stakeholders noted that workers had quite limited awareness of support or external agencies that they could speak or report incidents to. Workers generally reported higher levels of employment rights awareness, but on prompting many were not in fact clear on their rights.

Workers tended to raise employment rights breaches internally and informally with their managers or supervisors. Awareness of external agencies was generally low, and many workers did not feel that their issues were 'serious' enough to warrant going to an external agency.

Overall, it appears that sector workers tended to accept relatively poor conditions, long working hours and minor breaches of employment rights as they were viewed as being inherent to working in the sector. This suggests employment rights are not generally strongly enforced across the sector, and that workers have relatively low expectations of redress.

Stakeholders were in consensus that more could be done to raise workers' awareness of their rights and relevant external advice or support agencies. A range of avenues were suggested to help raise awareness, including: working with community groups to raise awareness via social media; strengthening collective rights; better government guidance and targeted campaigns; and further communications from employer and agencies to ensure their workers understand their rights.

Appendix A: Interviewees

Table A1: Who we spoke to during the qualitative research with workers

Criteria	Description	Completed
Primary Criteria		
Type of role in Restaurant sector	Server	7
	Bar staff	6
	Server/bar staff	2
	Café Assistant	2
	Kitchen worker (not chef)	3
	Chef/ Cook	6
	Manager (inc catering/bar manager)	6
UK vs Non-UK workers	UK citizens	28
	Non-UK citizens	4
Employment type	Employed (permanent)	17
	Employed (temporary contract) - inc agency	6
	Zero hours contract - inc	9
Raised an issue with employer, advice agency, community group or	Yes, issue raised	10
Type of employer	Restaurant/café chain	7
	Independent restaurant/café	12
	Bar/Pub with food service	5
	Contract catering	6
	School or college catering	2
Secondary Criteria		
Average hours worked per week	Fewer than 16	10
	Between 17 and 34 hours	12
	35 hours or more	10

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

Age	16-24	10
	25-34	8
	35-44	4
	45-54	6
	55+	4
Gender	Female	19
	Male	13

Appendix B: Data tables

Table B1: Ten largest occupations within each sub-sector, 2017

56.1 Restaurants and mobile food service activities	Percentage of employment	56.2 Event catering and other food service activities	Percentage of employment	56.3 Beverage serving activities	Percentage of employment
Kitchen and catering assistants	25.3	Kitchen and catering assistants	25.0	Bar staff	43.4
Waiters and waitresses	19.4	Chefs	11.1	Chefs	10.2
Chefs	15.2	Catering and bar mngrs	9.2	Publicans and mngrs of licensed premises	10.1
Restrnt and catering establishment mngrs and prprtrs	11.5	Waiters and waitresses	6.8	Waiters and waitresses	8.1
Sales and retail assistants	4.9	Cooks	6.5	Kitchen and catering assistants	6.4
Bar staff	2.7	Restrnt and catering establishment mngrs and prprtrs	4.1	Cleaners and domestics	4.5
Cooks	2.7	Conference and exhibition mngrs and organisers	4.1	Catering and bar mngrs	2.7
Van drivers	2.2	Bar staff	3.9	Other administrative occupations n.e.c.	2.2
Other administrative occupations n.e.c.	1.9	School midday and crossing patrol occupations	2.4	Leisure and sports mngrs	1.2
Catering and bar mngrs	1.6	Other administrative occupations n.e.c.	1.8	Cooks	0.9
Total employment	886789	Total employment	228180	Total employment	265073

Source: Labour Force Survey, January to December 2017.

How has the UK Restaurant sector been affected by the fissuring of the worker-employer relationship in the last 10 years?

Table B2: Median hourly earnings, 2018 (£)

Gender and work pattern	56 Restaurant s and food services	56.1 Restaurant s and mobile food service activities	56.2 Event caterin g and other food service activitie s	56.3 Beverag e servin g activities
Male				
Full-time	9.43	9.20	10.98	9.19
Part-time	7.83	7.83	8.39	7.83
FT annual % change	4.60	4.40	3.90	4.20
PT annual % change	4.40	4.40	7.90	4.40
Lowest quartile FT	8.14	8.08	8.98	8.05
Lowest quartile PT	6.75	6.67	7.80	6.74
Female				
Full-time	8.99	8.95	9.47	8.83
Part-time	7.83	7.83	8.00	7.83
FT annual % change	5.90	5.70	4.00	9.00
PT annual % change	4.40	4.40	5.70	4.40
Lowest quartile FT	8.00	8.00	8.13	7.93
Lowest quartile PT	7.38	6.89	7.80	7.38
<i>Male-female</i>				
Full-time	0.44	0.25	1.51	0.36
Part-time	0.00	0.00	0.39	0.00
FT annual % change	-1.30	-1.30	-0.10	-4.80
PT annual % change	0.00	0.00	2.20	0.00
Lowest quartile FT	0.14	0.08	0.85	0.12
Lowest quartile PT	-0.63	-0.22	0.00	-0.64

Source: Annual Survey of Hours and Earnings, 2018 (provisional results).

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