

AN IER BRIEFING

New Deal for Working People: the state of play

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New Deal for Working People – the state of play.

What is the New Deal for Working People?

The [New Deal for Working People](#) was launched by **Angela Rayner MP**, then Shadow Secretary of State for the Future of Work, at Labour Party conference in September 2021. In the preceding months, it had been drawn up as a [Green Paper](#) by **Andy McDonald MP** (then Shadow Secretary of State for Employment Rights and Protections), in association with Labour's affiliated trade unions. The **Institute of Employment Rights (IER)** played a vital advisory role in creating this "comprehensive plan to improve the lives of working people by strengthening individual and collective rights."

The New Deal drew heavily upon the 'work' section of Labour's 2019 manifesto, and retained almost all of the key principles outlined in the document, '[Workers' Rights Manifesto](#)', which outlined Labour's plans for government, including sectoral collective bargaining (renamed fair-pay agreements), raising statutory sick pay, creating a single status of worker, day-one rights, banning zero-hours contracts, outlawing 'fire and rehire', enacting the socio-economic duty in the Equality Act, rights to flexible working and 'switch off', repealing the 2016 Trade Union Act and restrictions on trade-union activity, and introducing electronic balloting and more effective enforcement regimes.

The 2019 manifesto had built on Labour's 2017 offering, with an expanded section on employment rights, labour law and industrial relations, under the guidance of **Laura Pidcock MP**, who had been appointed Shadow Minister for Labour in January 2018 (promoted to Shadow Secretary of State for Employment Rights and a member of the Shadow Cabinet in September 2019). Between January 2018 and the General Election in December 2019, Laura and her team worked closely with the IER and affiliated trade unions to produce a programme for government with workers' rights at its heart.

Incremental changes from 2020

From the early stages of Keir Starmer's leadership of the Labour Party, small but significant changes took place. One of the most important of these was to move the Employment Rights brief outside of the Shadow Cabinet. Technically, it was **Justin Madders MP** who took over the mantle when **Andy McDonald MP** resigned in 2021, but there was an important title change from Shadow Secretary of State to Minister of Employment Rights, within the Business team, but outside of the Shadow Cabinet. Alongside this, **Angela Rayner MP** was given the role of Shadow Secretary of State for the Future of Work. No detailed rationale was given for this splitting of the role at the time, but it was clear that some of the coherence around Employment Rights which had been a major feature of 2017-19 was starting to dissipate.

The issue of portfolio holders may seem like an arcane issue, but these moves appeared to many to be symbolic of a steady downgrading of the Employment Rights brief, reflected again in **Angela Rayner MP's** recent move (September 2023) to Shadow Secretary of State for Levelling Up, effectively abolishing the Future of Work brief. Although this was combined with the announcement that Rayner will become the 'strategic lead' for the New Deal in the run up to the next General Election, it is not clear that anyone has overall responsibility for Employment Rights in any kind of dedicated way within Labour's new Shadow Cabinet.

In the Manifesto prepared for the 2019 General Election, Labour had foregrounded the creation of a Ministry of Employment Rights, led by the Secretary of State. The importance of that structural

change reflected the importance that the 2015-19 leadership placed on the transformations needed within workplaces, to address low pay, inequality and the weakness of the UK economy. Creating a Ministry would not only give this priority a coherence, led by a Secretary of State with extensive powers (with a number of Ministers and sub-teams), but crucially would lay at that Department's disposal a whole team of civil servants charged with the delivery of Labour's employment-rights agenda. Practically, the IER has always believed that the Ministry, and the Shadow Cabinet position, was a vital component in a genuine plan for delivery in government.

Labour's National Policy Forum

It has been hard to ascertain exactly the nature of the discussions that took place and what decisions were reached at Labour's recent National Policy Forum (July 2023), but it is likely that there has been some further watering down of Labour's New Deal commitments. Chief among these is the creation of a single status for workers, tackling the exploitation of gig workers in particular, but regularising employment contacts for all but the "genuinely self-employed". It has been said that, as part of its approach to the business community, Labour is backtracking on its commitment to giving all of these workers the same rights across the board. As many commentators have said, this undermines much of the overall employment-rights agenda, as it leaves an increasing section of the workforce open to exploitation and low pay, with little motivation for employers to cease the practice of creating bogus self-employment. In a recent article, the IER's **Professor Keith Ewing** explained the significance of these shifts:

"For the avoidance of doubt, Labour was proposing that 'all workers, regardless of sector, wage, or contract type', would be afforded the same basic rights and protections. This would include 'rights to sick pay, holiday pay, parental leave, protection against unfair dismissal and others'. The purpose was to ensure that 'unscrupulous employers' will 'no longer be able to treat their staff like regular employees whilst falsely claiming they are not'.

"It is this commitment that Labour is now reported as being ready to abandon, proposing instead to consult on a 'simpler framework'. This is widely understood to mean that the existing three categories of employment status are to be retained and that the law is to be revised to make it easier for people to work out into which category they fall. If so, this will not address the problem of abuse and exploitation.

"What Labour is now proposing is a fudge, not a solution. The party must surely be aware that its 'simpler framework' risks permitting employers continuing to avoid existing employment-protection liabilities. It must be aware too that its 'simpler framework' risks creating a huge loophole to avoid new safeguards on zero-hours contracts and fire-and-rehire which the party itself proposes to introduce. Or at least currently proposes to introduce."

Another crucial area, that of sectoral collective bargaining, has seemingly been downgraded from a fully resourced plan to create sectoral structures for national negotiation and agreement, to what seems like a more cautious piloting of 'fair-pay agreements' in the social-care sector. Whilst it was always anticipated that social care would be a priority for the Ministry of Employment Rights in government, it was couched in a much wider, ambitious plan to shift power, sector by sector, to workers and their representative organisations. As John Hendy argued recently, on the centrality of collective bargaining:

"The OECD advocates the expansion of collective-bargaining coverage. So, and no doubt for the same reasons, does the EU, which recently, after years of undermining collective bargaining, introduced a

Directive requiring Member States with less than 80 percent collective bargaining coverage to implement an action plan to achieve that level. In New Zealand, legislation was introduced last year to impose mandatory collective bargaining across the economy. Australia is going the same way.

“Collective bargaining also has other benefits, not least in diminishing gender, ethnic and other wage disparities, as well as promoting equality generally. So, the New Deal’s proposal for rolling out ‘Fair Pay Agreements’ (compulsory collective bargaining across an entire industry, setting a floor for terms and conditions) for the whole economy — not just in adult social care, as the party is now suggesting — is probably the single most important measure to rescue the working class and the economy from the current cost of living crisis.”

What remains of the New Deal for Working People?

Despite these shifts, there is much that remains of the New Deal, beneficial to workers and trade unions alike, including:

- **Fair Pay Agreements, beginning with the social-care sector.**
- **A commitment to tackling the practice of fire and rehire.**
- **A Council for Economic Growth including trade-union involvement.**
- **A right to access to a union at work and the simplification around the processes of union recognition.**
- **Enacting the socio-economic duty under section 1 of the Equality Act.**
- **Abolishing age bands from the National Minimum Wage.**
- **Removal of the lower earnings limit for SSP**

There are questions over:

- Who has overall responsibility for driving the employment-rights agenda, in or out of the Shadow Cabinet, and whether there are any plans to create a coherent, unified department in government, dedicated to the delivery of the New Deal
- Whether the sectoral collective bargaining envisaged in 2019 remains as an ambition, or whether the social-care trial is seen as a standalone project, which will decide whether the policy is pursued
- How enforcement regimes would work. Whether there would be a single enforcement body, with the powers to act of a range of issues, or whether it will remain the responsibility of existing national bodies
- The abolition of zero-hours contracts (the New Deal document states that Labour will “ban zero-hour contracts” but the NPF changes that wording to “ban exploitative zero-hour contracts.”) Does this mean that some (non-exploitative?) zero-hours contracts will remain, and if so, what is the distinction?
- After the NPF, there is some confusion over Labour’s attitude to the single status of workers – there is now said to be a planned “consultation” about single status, although on the implementation of the policy, rather than the principle itself. Clearly a lot is dependent on the scope of the consultation.
- There are also questions about Labour’s commitment to full employment rights from day one. The question of single status muddies the water here, as without that commitment, it creates a get-out for employers seeking to avoid employment rights, but there are also questions about whether Labour is committed to eradicating or reducing terms before those rights take effect.