

The Freeports Rollout: Five challenges for trade unions

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The Freeports programme requires an industrial response. Unions must *organise* for:

- (1) Quality, secure, well-paid jobs**
- (2) Effective rights at work**
- (3) A green industrial strategy for a worker-led transition**
- (4) Reducing local and regional inequalities**
- (5) Transforming Freeport ownership and governance**

Introduction

In the Spring budget of 2021, then Chancellor Rishi Sunak announced the creation of eight Freeports across England. They are located on the Thames, Freeport East (Essex and Suffolk), Liverpool City Region, Humber, Teesside, Solent, East Midlands and Plymouth and South Devon. Since then, two Scottish 'Green Ports' have been announced by the Scottish government (Inverness and Cromarty Firth Green, and Forth Green). Two Welsh Freeports were announced in March 2023 (Holyhead, and Milford Haven and Port Talbot). Each freeport will be granted up to £25m of public money to be used for infrastructure investment, and a set of tax and customs exemptions and incentives.

The government has three stated aims for the Freeports programme: to promote regeneration and job creation (the stated 'core' policy aim); to establish Freeports as national hubs for global trade and investment, and to create hotbeds for innovation. The programme is also part of the government's claims to be seeking to "end the geographical inequality which is such a striking feature of the UK",¹ through the 'levelling up' agenda, with several Freeports located in areas of high deprivation and low levels of income and employment. The government also claims that the Freeports will contribute to meeting decarbonisation and net-zero goals. Two Scottish Freeports have been branded 'Green Freeports', and others include sectors important to meeting climate goals.

UK Freeports are not, however, a new idea. Freeports were first introduced by the Thatcher government, alongside designated 'Enterprise Zones', as part of a shift to a neoliberal approach to industrial policy which prioritised market-led industrial development driven by financial and regulatory incentives for private capital. Despite the long-term failure of market-led deindustrialisation and government-led deregulation, the Tory government appears to be doubling down on this approach, right at the time when a green industrial strategy for a just transition is desperately needed.

In the absence of such a strategy, the Freeports programme appears to be serving as a stand-in around which regional authorities' economic development, employment, and decarbonisation goals are being structured. Many of the Freeports' host regional authorities have stressed that the sites will be beneficial in terms of employment, pay, job quality and skills, as well as serving to support net-zero goals and supporting strong rights at work.

This emphasis on quality jobs, pay and employment rights can be understood as a political response to the fierce criticism of the Freeports proposals by trade unions. Unions have largely opposed the proposals, based upon the evidence that such special economic zones – in the UK and globally – are

¹ HM Government. (2022). Levelling Up the United Kingdom.

associated with labour-rights violations, in particular attacks on labour organising and freedom-of-association rights. Moreover, the extent to which such zones benefit host areas is also extremely varied, and the public subsidies granted may often pass into the pockets of corporate executives and shareholders.² At the same time, unions have called for concrete measures to protect rights and ensure subsidies generate well-paid, secure, unionised jobs and provide value for money.

It is early days in the Freeports rollout. The tax sites were activated during late 2021 and 2022, and the first five business cases were fully approved in February 2023. This briefing argues that the Freeports present a set of challenges for trade unions in five areas: *job quality and pay; effective workers' rights; green jobs and just transition; reducing inequality, and Freeport ownership and governance*. The assurances given by the government, and local and regional authorities cannot be taken at face value. To date, the governance structures of the zones – with the notable exception of Wales - have refused worker representation. Whether they have a seat at the table or not, unions must build power to turn the risk Freeports pose to workers' interests into a strategic organising success.

(1) Quality, secure, well-paid jobs

The government and regional authorities have made much of the jobs-creation potential of Freeports, with the claim that up to 170,000 jobs would be created across the eight English ports in the next five to ten years.³ One of the principal benefits to employers setting up in Freeport zones is the offer of employers' NIC relief for up to three years per employee. This is expected to incentivise hiring by reducing costs, particularly for low and middle earners.⁴ There is evidence that such incentives can work, although it is also clear that much 'additional' employment created in the zones is in fact displaced from elsewhere. There is little evidence however that Freeports are beneficial in terms of pay.⁵ It is also the case that some of the types of industrial activity which are likely to be expanded in the zones, such as food manufacturing, and warehousing and transportation-support sectors, are characterised by low pay, poor working conditions and high use of precarious and agency contracts.⁶

Some Freeport authorities have committed to linking the tax benefits of the zones to mechanisms to support fair pay and job quality. The Liverpool City Region (LCR) Freeport plans to integrate the Freeport with the city's 'Fair Employment Charter'. Metro Mayor Steve Rotheram has emphasised that the Liverpool Freeport will drive "a race to the top rather than a race to the bottom", providing "well-paid secure jobs and opportunities", and will attract investors who will "help us to protect workers' rights and uphold standards".⁷ The LCR Combined Authority are developing a 'gateway policy' obliging businesses to demonstrate how their sites will deliver "inclusive, quality jobs to communities of need". This will be regulated by the tax site authorities who have discretion over the

² Unite the union, 'Briefing : From Freeports to Union Ports'

<https://www.unitetheunion.org/media/3649/freeports-briefing_080221.pdf>.

³ Solent Gateway ' A GOLDEN OPPORTUNITY FOR TRADE AND MANUFACTURING'

<https://www.solentgateway.com/services/freeport/>

⁴ S Adam and D Phillips, 'Freeports: What Are They? What Do We Know? And What Will We Know?' (*Institute for Fiscal Studies*, 2023) <<https://ifs.org.uk/publications/freeports-what-are-they-what-do-we-know-and-what-will-we-know>>.

⁵ *ibid.*

⁶ UK Government. (2023). United Kingdom Labour Market Enforcement Strategy

⁷ Liverpool City Region Freeport <https://www.liverpoolcityregion-ca.gov.uk/growing-our-economy/liverpool-city-region-freeport/>

100% business-rates relief available, who will consider the Freeport management board recommendations in relation to this.⁸ The Plymouth and South Devon Freeport authority, Devon County Council, is exploring the scope for building labour agreements – including local labour clauses – into local planning and contractual frameworks. However, this may be limited due to risk of conditions being found unreasonable in appeals processes.⁹ The Celtic Freeport in South Wales intends to place requirements within tax site delivery agreements to oblige companies to provide “fair working conditions” to qualify for rate relief.

Whilst the spirit of these initiatives on guaranteeing labour conditions is welcome, there are major questions about whether they would have any effect in securing quality jobs, good pay and benefits. Local employment charters typically lack meaningful monitoring and enforcement mechanisms, operating on the principle of ‘celebrating’ best practice to encourage improved standards.¹⁰ It is not clear whether concrete requirements of ‘accredited’ employers such as paying the real living wage would be mandatory, or if ‘aspiring’ employers would be able to gain approval. The Scottish ‘Green Ports’ will require companies to sign up to the ‘Fair Work Principles’, including a commitment to pay the real living wage, but it is not clear yet whether this will be legally binding. If the enforcement of standards is to rest with the tax site authorities, will they have the capacity to inspect sites and provide effective monitoring of compliance, and impose sanctions such as withdrawing of rates relief? More importantly, many of these schemes appear to rest upon soft definitions of ‘fair employment’ rather than concrete commitments concerning key issues such as trade-union recognition, pay rates, and direct regulation of precarious contract use. Without effective measures to secure good pay and terms and conditions, the public subsidies granted to companies in the zones risk benefiting senior managers and shareholders at the expense of workers. Whilst some regional authorities may have the best intentions, they lack powers to enforce concrete standards. Effective union organising across the Freeport zones is the only guarantor of quality jobs and good pay.

(2) Effective rights at work

Whilst the architects behind the Freeports program may have dreamed of “regulatory flexibility” within the zones, in practice, the Freeports programme was introduced without primary legislation, and as such there are no provisions for derogation from UK-wide employment rights or environmental standards. However, evidence from free zones globally suggests that, whilst formal derogations from national employment protections are rare, administrative measures are often deployed to undercut effective rights, in particular freedom-of-association rights.

Freeports and Export Processing Zones (EPZ’s) in many countries are associated with labour and human-rights abuses and suppression of attempts to improve standards.¹¹ Regulation of EPZs is frequently characterised by “labour subordination” through legislative and administrative measures to limit labour activism.¹² The International Labour Organisation (ILO) has commented on significant discrepancies between formal rights at work and practice within EPZs. These include barriers to the right to organise and join organisations, the right to strike, and collective bargaining rights within

⁸ Sean Benstead, ‘Future Freeports’ (2023).

⁹ *ibid.*

¹⁰ Liverpool City Region Fair Employment Charter <https://www.liverpoolcityregion-ca.gov.uk/wp-content/uploads/LCR-Fair-Employment-Charter.pdf>

¹¹ Milberg, W. and Amengual, M. Economic development and working conditions in export processing zones: A survey of trends. International Labour Office, Geneva: ILO 2008

¹² Caspersz, D. (1999) Export Processing Zone Style Developments and the Regulation of Australian Women's Labour. *International Review of Women and Leadership*, Special Issue, 1999 pp.54-63

EPZs across multiple countries.¹³ Measures impacting freedom of association include restricting access to zones for trade-union representatives, dismissal for union activity, suspension, transfer and blacklisting. Workers' organisations have pointed out that even where there are no legislative barriers, they faced great practical difficulties in gaining access to fenced-off zones and the workers employed there.¹⁴ Unions have reported high levels of surveillance, intimidation and abuse of workers in numerous free zones around the world, in relation both to union organising activity and unions seeking redress for health and safety breaches.¹⁵ These problems are accentuated where law enforcement in zones is inadequate.¹⁶ Many countries face difficulties enforcing legislation in EPZs as elsewhere due to weak labour inspectorates.¹⁷ In the context of the UK these issues are of particular concern. Trade-union density and collective-bargaining coverage in the UK are low, and the UK is non-compliant with ILO standards on freedom of association, in particular the right to bargain collectively and the right to strike.¹⁸ Labour law enforcement in non-unionised workplaces is heavily dependent upon individual enforcement, and the capacity of bodies such as the GLAA and the HSE is limited.

Whilst local authorities lack the power to require union recognition, Freeports must make clear provisions for trade-union access, and to promote recognition and bargaining rights for unions. These provisions have been sought by TUC regional bodies in the form of framework agreements with Freeport authorities around the country. In contrast to voluntary measures such as Fair Employment Charters, framework agreements can establish a set of standards for trade-union rights, health, safety and environmental practices, and quality of work principles across the operations of the Freeport. These principles set a baseline of expectations of employment and industrial-relations practices within the zone, and provide mechanisms for union involvement in the governance of the Freeport to ensure principles are upheld.

Yet it does not appear that any such agreements have been concluded. As such, building effective worker representation and union power in Freeport zones and beyond requires effective organising. As Unite has identified, the 'agglomeration effects' of Freeports (the clustering of related businesses and supply chains) presents opportunities for union organisation. Unite has developed a clear, step-by-step approach to building union power in Freeport areas.¹⁹ Reps and shop stewards can organise across sectors to develop a coordinated joint industrial programme across the zones. This can include identifying undercutters, setting and monitoring union rates of pay and conditions within the job, coordinating collective bargaining and the joint organising of key 'choke points' between sites, within the supply chain or in the new zone's infrastructure.²⁰ This type of strategic organising can enhance the collective-bargaining power of workers across the site, and provide leverage against non-union employers.

¹³ ILO (2002) p.7

¹⁴ ILO (2002) p.8

¹⁵ Unite, 'Unite Submission to Freeports Consultation' (2020).

¹⁶ ILO (2008) p.33

¹⁷ Ibid p.8

¹⁸ Moretta, A. (2020) *Benchmarking freedom of association: The UK's non-compliance with international standards*. Institute of Employment Rights

¹⁹ Unite the union (n 2).

²⁰ *ibid*.

(3) A Green industrial strategy for a worker-led transition

Whilst the Freeports programme has been touted as a driver of decarbonisation, in practice it lacks direct mechanisms to achieve this. More importantly, it is a poor substitute for a worker-led, green industrial strategy to drive the energy transition and secure workers' and communities' interests. This failure to take workers' interests seriously is increasingly driving polarisation as UK climate policy becomes increasingly contested. In this vacuum, what is needed is a worker-led industrial strategy in industries affected, building upon knowledge of workplace sustainability, skills utilization and forecasting of training needs, and workplace, sectoral and cross-sectoral union organising.

Freeports can partly be seen as part of trend in climate policy amongst Global North countries to 'de-risk' investment in 'clean tech' sectors through policy mixes to incentivise, and direct, private capital investment: a set of 'carrots' and 'sticks'. However, there are no specific financial incentives related to skills, innovation and decarbonisation in the zones, despite these being core objectives of the Freeports programme. For example, there are tax incentives for buildings, plant and machinery but not for research and development. Whilst the bids process encouraged applications which support the meeting of environmental and net-zero goals, the actual activity that takes place in the zones is not tied directly to the public subsidies offered.

A requirement that companies are aligned with a net-zero pathway consistent with the Paris Agreement would be an obvious requirement for the achievement of the decarbonisation element of the Freeports policy. Whilst in Scotland the so-called 'Green Ports' require companies to demonstrate their 'contribution' to achievement of net zero, this appears to fall short of a direct commitment to net zero.²¹ In short, they are all carrot and no stick. More importantly, they are no substitute for the coherent, national planning required to secure a just transition through establishing clear jobs pathways for workers in polluting industries.

Nevertheless, the Freeports programme and the operation of the ports themselves present an opportunity for more effective green industrial strategies at the regional level. Many Freeport sites are attracting significant investment in renewables technologies. Teesside Freeport is home to SeAH Wind Ltd's multi-million pound offshore wind manufacturing facility at Teesworks. The Humber Freeport expects to host Europe's first rare-earth processing hub at Saltend. At the same time, partnerships across employers, education providers and local authorities are directly encouraged in the governance structure and development of the zones. For example, the East Midlands Freeport has developed plans for a Hydrogen Skills Academy in partnership with Loughborough, Nottingham and Derby universities.

In some cases, unions are involved in such skills partnerships. However, whether unions have a seat at the table or not, these kind of cross-sectoral partnerships on jobs and skills can be emulated through cross-union organising and campaigns, particularly with regard to green jobs and skills. For example, education unions have identified that the pay-and-conditions crisis in Further Education is driving undercapacity to deliver on skills for the energy transition. At the same time, industrial unions are identifying huge skills gaps in critical sectors such as renewables, indicating a failure of industrial strategy. As such there is great potential for cross-union campaigns for investment in skills and retraining to meet these common aims. Local and regional authority strategies linked to Freeports can serve as a focal point for coordination of cross-union campaigns and organising for more effective green industrial policy at the regional level, influencing local and combined authorities and Freeport bodies.

²¹Scottish Government (2021) 'Delivering green ports' <https://www.gov.scot/news/delivering-green-ports/>

At the same time, unions must demand that Freeport authorities promote engagement with unions on issues of decarbonisation, sustainability and the development of just transition measures. This should include demanding maximum transparency on investment policies and infrastructure-development plans related to decarbonisation, and effects upon employment. Perhaps more fundamentally, union organising for quality, secure and safe jobs in the zones must be articulated as climate and sustainability demands, in recognition of the inherent link between social and environmental sustainability.

(4) Reducing local and regional inequalities

The Freeports policy is also explicitly framed as an element of government's claim to be 'levelling up' to localities and regions marked by deprivation and poor social and economic outcomes.

The expected boost in employment within the zones is likely to be overstated. The numbers obscure the fact that a significant proportion of these jobs will not be new but are likely to be the outcomes of relocation of existing economic activity to inside the zones, many from within the same region. The Office for Budget Responsibility predicts the Freeports will generate little additional activity, with most of it being displaced from other areas.²² This is backed up by evidence from the UK 'Enterprise Zones' (EZs) programme of the 1980s, which did produce some net employment gains but also led to job and firm displacement. Of the estimated 125,000 increased jobs in the zone areas 58,000 were estimated to be 'additional'. Yet many of these additional jobs were relocated from elsewhere: 24% of firms relocated from within the region and 17% from elsewhere in the UK. The real number of 'additional jobs' is likely far less than 58,000.²³ The public sector cost per additional job created in the 1980's EZs (including relocations) is estimated at £38,000 (in July 2023 prices).²⁴

The government is trying to minimise this displacement effect through tying tax breaks to new employment and investment. Companies will be required to show 'viability gaps' preventing investment which can be unlocked through access to Freeport benefits, and Freeport authorities will be able to apply a 'displacement test' to deny relocators access. In practice these measures may be somewhat less effective. It seems likely that a 'viability gap' could be easily conjured with some creative accounting. Furthermore, beneficiary councils and authorities have no incentive to block relocators from outside their area and may knowing or unknowingly collude in encouraging displacement. The effect of the programme then appears to pit different Ports, areas and regions against each other in a race to the bottom: exactly what neoliberal policies based upon tax and regulatory incentives are supposed to do. Clearly, this brings the risk of 'levelling down'. Jobs transfers from one region to another have the double effect of one area losing employment and revenues for local authorities, whilst the benefits accrue not to the new host local authority but directly to the employer in the form of subsidies, de facto regulatory exemptions and tax breaks. In a context of collapsing local-authority budgets and endless austerity spending, such losses are hard to justify. Host local authorities may also bear the costs of infrastructure and public-service maintenance, as well as planning and support costs. Relocating businesses may also seek to shed existing union recognition arrangements in the shift to new workplaces. Resisting this and ensuring the economic benefits of the zones accrue to local populations requires transparency in the

²² Office for Budget Responsibility 'Economic and fiscal outlook – October 2021' <https://obr.uk/efo/economic-and-fiscal-outlook-october-2021/>

²³ Kieran Larkin, 'What Would Maggie Do ? Why the Government ' s Policy' (2011) 5 <<http://www.centreforcities.org/research/2011/02/28/enterprisezones/>>.

²⁴ *ibid.*

governance and running of the Freeport, particularly with regard to the social and environmental benefits of the activities sited in the zones.

(5) Freeport governance, ownership and control

Studies suggest that the success of economic zones in generating growth and quality employment is linked to models that include social dialogue with government and social partners.²⁵ Attempts have been made to secure union representation within Freeport governance structures. The TUC model framework agreement calls for a “high-level mechanism to discuss how to promote strategic priorities including (but not limited to) good green jobs; union access; high-quality apprenticeships; staff training and development; equality, diversity and inclusion; and health, safety and wellbeing”. It is intended that this will include a trade-union voting seat on the Freeport Management Board, steering committee and any thematic groups established to develop and deliver the Freeport, as well as quarterly meetings between TUC representatives and Freeport authorities to discuss strategic issues relating to the development and delivery of the Freeport and monitor its impact on workers and local communities.

So far, it appears that the request for representation within Freeport governance structures has not been successful in any of the English Freeports. It is clear the government is hostile to such arrangements. Andy McDonald MP has claimed that the Tories had placed a ‘ban’ on union representation,²⁶ although this is not apparent within the bid documents.²⁷ The Welsh Freeports are a notable divergence from this, due to the different statutory context. The Welsh Social Partnership Act has provided the basis for union engagement within the development and operation of Welsh freeports, and union representation on the Freeports’ governing boards. The Freeports also have worker consultative forums within their governance structure.²⁸

Worker representation at this level is a crucial mechanism for ensuring transparency and scrutiny of activities within the zone, and to enforcing labour standards and environmental policies, including ensuring union access for organising. Evidence from the previous Freeports and Enterprise Zones is that many of the benefits of the zones were captured by property owners (major landowners and developers constructing commercial property). Companies invested in upgrading office space rather than investing in business growth,²⁹ and rates relief was captured by landlords through higher rents.³⁰ Concerns over Port ownership have intensified as a result of the mass sacking of 800 P&O ferry staff without consultation or notice in 2022. The P&O decision is linked to parent company DP World, a Dubai based logistics operator and Port owner. DP world is the owner of the Jebel Ali Free Zone in Dubai, which has been associated with serious labour-rights abuses. The company is also the owner of the London Gateway, making it a major partner in the Thames Freeport. Clearly, such companies cannot be trusted to deliver on the economic, social and environmental benefits which have been promised by the Freeports programme. Worker representation in Freeport governance

²⁵ ILO (2002) p.12

²⁶ A McDonald, ‘Freeports and Why Boris Johnson’s Trade Union Ban Must Be Lifted If Levelling up to Work on the Tees and Humber – Andy McDonald’ *Yorkshire Post* (February 2022).

²⁷ Department for Levelling Up, Housing and Communities ‘UK Freeports Programme Annual Report 2022’ <https://www.gov.uk/government/publications/uk-freeports-programme-annual-report-2022/uk-freeports-programme-annual-report-2022>

²⁸ Benstead (n 8).

²⁹ Ibid

³⁰ Larkin (n 23) 5.

structures can provide a complementary mechanism to support labour organising against abusive and extractive corporate owners.