



# OUR POWER

Demand Briefing Paper

**93%** of 1092 offshore workers surveyed support this demand

# COLLECTIVE BARGAINING WITH STRONG RANK AND FILE UNION REPRESENTATION ACROSS THE WHOLE OFFSHORE INDUSTRY

## SUMMARY

The weakening of unions in the UK has contributed to an environment where employers are able to dictate increasingly untenable and precarious contracts and wages. We must restore power to the rank and file of ordinary workers and end the division between ad hoc and core contract

status in the energy sector to curtail the power of employers. The renewables industry should be built on industry-wide collective bargaining agreements covering all workers, that are reached through negotiation between the unions, industry and the government.

**“ If we want a workforce that is capable of self-defence in the emerging renewables industry then we need a trade union led by the rank and file. We need organisers within the rank and file. And that is hard work, when people try to achieve it they will be singled out, intimidated. It isn’t easy, but it needs to be done. ”**

– Alistair, Rigger

## CONTEXT

The increasing shift to casualisation across the UK economy, alongside legislation that is ever more aggressive to trade union organising, has weakened the position of workers and unions. Collective bargaining agreements protected 80% of workers in the UK in the early 1980s. Today, this is down to 25%.<sup>1</sup> While there is no official data on the employment status of workers in the industry, many are self-employed or off-payroll (IR35).<sup>2</sup> Under IR35, the worker is formally contracted through an ‘intermediary’ company, which in practice usually involves the offshore worker acting as their own ‘intermediary’. This set-up burdens the workers even further, as it requires the worker to pay tax and National Insurance as if they were the employer (which is not the case for simple self-employment).

Offshore self-employed and off-payroll workers are frequently cut out of the benefits of union representation, and securing collective bargaining must happen through initiatives such as the Offshore Divers’ Industry Agreement (ODIA).<sup>3</sup>

For workers on the payroll in oil and gas, there have been a series of recent successes delivered through organising

- 1 <https://hull-repository.worktribe.com/OutputFile/3744238>
- 2 <https://platformlondon.org/wp-content/uploads/2021/06/Training-Costs-Survey-Results.pdf>
- 3 <http://www.odia.org.uk>

This briefing paper forms part of a collection of resources on **Our Power: Offshore workers’ demands for a just transition**. A full report detailing the 10 demands created by offshore workers is available to read online and contains technical information, costs and a complete series of recommendations for decision makers.

A methodology paper is also available for more information on how the demands were created.

To protect their anonymity, all the names of workers quoted have been changed.



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in their trade unions. The recent Energy Services Agreement (ESA) between unions and employers under the auspices of Offshore Energies UK (formerly Oil and Gas UK) sets base terms and conditions covering fourteen companies and thousands of direct employees.<sup>4</sup> The ESA was secured by RMT, Unite and GMB following the dissolution of the Offshore Contractors Association agreement.

A collective agreement covering individual members of the Caterers Offshore Trade Association (COTA) and both Unite and the RMT was also reached in 2020. The agreement sets out the minimum level of terms and conditions of employment by COTA member companies in catering, accommodation and ancillary services on recognised offshore installations. Following negotiations in 2022, offshore catering members of Unite and RMT accepted a 10% rise on basic salaries and backdated payments.

In the offshore renewables industry, there is currently no sectoral collective bargaining deal covering offshore workers, and nothing equivalent to the ESA. Even energy companies like Scottish Power, that have traditionally participated in collective bargaining for their onshore generation and distribution assets, have resisted carrying over their own collective bargaining agreements when establishing and separating out their renewable energy divisions.<sup>5</sup>

Despite the successes achieved by offshore trade unions for their members in recent years, there are many external factors restricting collective rights and workshop participants point to the organising challenge for trade unions. Against the backdrop of often hostile approaches from offshore management and reports of blacklisting of trade union activists, it is difficult for workers to feel secure in joining and being active in their trade union. This particularly reflected the concerns of the self-employed and off-payroll participants.

**“ As a contractor at the moment, [there’s] no point in joining a union because you could get let go at any point. ”**

– Francis, Plater

Every offshore job should be covered by a sectoral collective agreement, negotiated with trade unions and employers at the table, that covers pay, health and safety, and benefits at work - including for workers on payroll, off-payroll or in self-employment. Government should require, enable and enforce the collective agreement through all available levers including licensing agreements, Crown Estate lease auctions, Contracts for Difference, and legislation.

Every offshore worker, regardless of contract status, should have union representation and the ability to influence decisions in their union branch and workplace.

Strong and powerful trade unions across the offshore industry will organise and develop leadership within the offshore workforce, in particular its casualised part. Union negotiations on the sectoral collective agreement should be accountable to the membership. Governments should give active support, both by applying conditions to funding, investment and regulatory consents; and through funding the development of trade union capacity to participate in just transition planning and negotiations, as the Scottish Government has started to do.

<sup>4</sup> [https://oeuk.org.uk/wp-content/uploads/woocommerce\\_uploads/2022/01/OEUK-Energy-Services-Agreement-Issue-5-July-2022-warfuu.pdf](https://oeuk.org.uk/wp-content/uploads/woocommerce_uploads/2022/01/OEUK-Energy-Services-Agreement-Issue-5-July-2022-warfuu.pdf)

<sup>5</sup> Interviews with Unite and Prospect organisers.

## PATHWAY

To guarantee collectively negotiated terms and conditions for workers offshore,

### THE UK GOVERNMENT SHOULD:

- Legislate for a right to sectoral collective bargaining, a right to union representation at work and a right to union access at work, that covers both payroll, off-payroll and self-employed workers.

### THE UK AND SCOTTISH GOVERNMENTS SHOULD:

- Use licensing or Contracts for Difference conditions to enforce the above rights for offshore energy workers.
- Convene talks with employers and trade unions across the energy industry, modelled on examples like the NAECI process, to reach a collective agreement on offshore energy terms and conditions, to cover both payroll and self-employed workers, across the offshore oil and gas and renewables sectors.
- Provide funding and support to trade unions to enable worker participation in just transition planning processes, including through learning programmes and training for stewards and health and safety representatives.

There is an opportunity for trade unions to rebuild high union density in the energy sector and rank-and-file participation in leadership by:

- Expanding the resources devoted to the challenge of organising self-employed and off-payroll workers in offshore sectors.
- Strengthening support for rank and file offshore members to participate in existing union democratic structures.



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### COSTS

The costs of facilitating and enforcing sectoral collective bargaining would likely be negligible on a government budget level.

6 <https://wageindicator.org/Wageindicatorfoundation/publications/2021/cetrulo-a-2021-national-collective-bargaining-agreements-in-italy-an-investigation-on-wages-and-remote-working-colbar-europe-institute-of-economics-embeds-scuola-superiore-sant2019anna-pisa>

7 <https://www.ier.org.uk/news/spanish-government-restores-sectoral-collective-bargaining>

8 <https://www.njceci.org/national-agreement>

9 <https://www.ucea.ac.uk/our-work/collective-pay-negotiations-landing>

10 <https://www.seafarers.org/canadian-maritime-unions-win-major-cabotage-rights>

11 <https://www.ifow.org/news-articles/evri-uber-deliveroo-collective-bargaining>

12 <https://www.seattle.gov/business-regulations/taxis-for-hires-and-tncs/for-hire-driver-collective-bargaining>

13 [https://www.uni-europa.org/wp-content/uploads/sites/3/2022/01/Fulton\\_UNI\\_Europa\\_November\\_2021-1.pdf](https://www.uni-europa.org/wp-content/uploads/sites/3/2022/01/Fulton_UNI_Europa_November_2021-1.pdf)

14 [https://www.uni-europa.org/wp-content/uploads/sites/3/2022/01/Fulton\\_UNI\\_Europa\\_November\\_2021-1.pdf](https://www.uni-europa.org/wp-content/uploads/sites/3/2022/01/Fulton_UNI_Europa_November_2021-1.pdf)

15 <https://www.findlaw.co.nz/articles/4280/union-access-to-workplaces.aspx>

16 <https://hansard.parliament.uk/commons/2019-06-04/debates/EED47F5D-5EA5-48F1-BB3A-0CD255E77AE9/TradeUnionAccessToWorkplaces>

### HAS THIS BEEN DONE ELSEWHERE?

**Sectoral collective bargaining** predominantly sets wages and working conditions in Italy, where 90% of jobs are covered by a national sectoral collective agreement.<sup>6</sup> In Spain, sectoral collective bargaining was reinstated as a legal right in 2022, and, crucially, covers subcontracted workers.<sup>7</sup>

In the UK, sectoral collective bargaining exists in some forms, for example,

- The engineering contractor industry, where the National Agreement for the Engineering Construction Industry (NAECI) and associated agreements guarantee common wages and terms and conditions for workers on a variety of infrastructure projects around the UK.<sup>8</sup> Similar agreements exist for electrical, plumbing, HVAC and other trades.
- Universities, where agreements on pay are reached on a national level between unions and the Universities and Colleges Employers Association.<sup>9</sup>

But most of these existing UK sectoral agreements only cover certain companies, with little leverage to bring onboard others in the sector, and no legislative foundation.

In Canada, **cabotage laws** protect workers against exploitation by requiring crews on vessels sailing in Canadian waters for more than 30 days to be under Canadian wages and working conditions.<sup>10</sup>

**Rights to union representation** already exist in the UK but do not extend to self-employed workers. Self-employed workers working for 'platform employers' like Uber and Deliveroo have recently begun acquiring trade union rights, either through legal challenges or through voluntary agreements.<sup>11</sup>

**Recognition of rights of self-employed workers to trade union representation** based on occupation:

- The City of Seattle in the US locally legislated for the right of for-hire drivers to trade union representation and collective bargaining.<sup>12</sup>
- Freelance journalists are covered by collective bargaining agreements in Austria and France.
- Delivery workers are covered by collective bargaining agreements in Italy and Spain.<sup>13</sup>

In other cases, self-employed workers gain collective bargaining rights based on demonstrating 'economic dependence' on an employer. This is the case in Germany, Ireland, Italy and Spain, with the single-source percentage of income specified at between 50-100%.<sup>14</sup> Based on these examples, it is conceivable to imagine legislating for collective bargaining coverage for self-employed workers offshore either based on sector (oil & gas or offshore renewables) or dependence on a single employer.

The **right to union access to workplaces** exists in New Zealand, where union representatives have the right to access any workplace where work normally covered by the union happens or where a union member works, with employer consent (and the employer cannot 'unreasonably' refuse consent).<sup>15</sup> For comparison, in the UK there is no legal right for trade unions to access workplaces, which means that it is legal for employers to eject trade union representatives from a workplace, or change shift patterns for workers in a way that prevents trade union representatives from being able to talk to them.<sup>16</sup>



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### CASE STUDY



Pseudonym: ..... **Matt**

Age: ..... **53**

Job Title: ..... **Deck Crew**

Location: ..... **Aberdeen**

The offshore industry is making horrendous profits, but these big oil companies are still cutting, believe it or not, they're hell bent on cutting. It's incredible offshore, the worst I've ever seen in my 32 years working in the industry.

In the last downturn, in 2015-2016, the deck crew I was working on had a 22% wage drop and our rota changed to three weeks continuous work instead of two. No consultation, take it or leave it. Recently, guys have been putting in grievances, trying to get their terms and conditions back from 2015-2016. The oil and gas industry might have been in a bad place for a short while, but it's in a good place now. They're just not playing ball.

The big oil companies are the only ones benefiting from the current situation. Especially the one I'm subcontracted to at the moment, they used to be a good company to work for, they've gotten so greedy it's incredible. Everything we order gets scrutinised and in most cases rejected, but they made billions in the last quarter. This so-called big oil company is not a very pleasant company to work for now.

If they tried to drop your wages in Norway the way they have here, it wouldn't happen. We're not strong and unionised in the UK sector, so they know they can do what they want. And they do. But times could be changing, a lot of workers are joining unions at the minute. And that's good, because if you're not in a strong union you won't get very far, especially offshore.

If we want a renewables industry that is different from the way offshore is now, we need sectoral collective bargaining agreements. It's the only way companies will feel obliged to keep workers happy. The union is the way forward, it's hard to educate people sometimes, but it's the protection we need. The companies are greedy, it's all about money for them.

Workers need to build this power but oil and gas companies don't want unionisation, not with the profits they're making. The government needs to step in to keep them in check. The only way the energy transition is going to happen faster is with the government on our side because the offshore industry won't move forward if we don't have the strength and high union numbers, I know that for a fact. We've got to push it and we've got to push the government to be on our side.