TUC

Changing the world of work for good

Falling behind on labour rights

Worker protections in the UK compared to the rest of the Organisation for Economic Co-operation and Development (OECD)

Summary

This report uses statistical protocols developed at the University of Cambridge to benchmark labour law protections in the UK against those in other developed countries.

This method reveals a consistent gap in protection between the UK and the OECD average, with UK labour laws being significantly less protective over the period from 1970 to 2022.

The gap in protection between the UK and other developed economies has grown further since 2010.

The largest divergence between the UK and other OECD countries is in the case of laws on working time. But there are significant gaps too with respect to dismissal law, the law on employee representation, and the law governing industrial action.

Introduction

In July a Labour government was elected on a programme that included its *Plan to Make Work Pay*.[1]

This package of measures is designed to boost rights for workers both as individuals and as trade union members.

This report sets out the scale of the task facing the new government.

It shows that on almost every measure of employment protection, the UK is significantly behind the average for other countries in the Organisation for Economic Development and Cooperation (OECD), 38 countries generally understood to be those with a high level of economic and social development globally.

The analysis reveals that the UK has long lagged most equivalent countries when it comes to safeguarding people at work. The gap widened after Conservative-led governments took power from 2010. This matters because separate research shows that strong labour protections are associated with better economic outcomes like higher employment and a greater share of profits for workers.[2]

Today, the UK is on the cusp of significant change in employment rights. Pledges made by the incoming government include extending unfair dismissal protection to day one on the job; cracking down on insecure forms of work such as zero hours contracts; and modernising highly restrictive trade union laws.

The analysis in this report supports the Trades Union Congress's (TUC) view that reform must be both swift and far-reaching to bring the UK's worker protections up to scratch, delivering stronger growth with rewards that are fairly shared.

The report also shows how hyperbolic the claims are that this will lead to the UK matching or exceeding the worker protections offered by our nearest European

---

[1] Labour Party (2024). *Labour's Plan to Make Work Pay* https://labour.org.uk/updates/stories/a-new-deal-for-working-people/

[2] Deakin, S., and Pourkermani, K., (April 2024). *The economic effects of changes in labour laws: new evidence for the UK,* Digital Futures at Work Research Centre https://digit-research.org/publication/the-economic-effects-of-changes-in-labour-laws-new-evidence-for-the-uk/

neighbours given the existing gulf between the UK and the international mainstream.[3] Overall, labour laws in the UK are about half as protective as those found in France and significantly below other leading European countries such as Spain, Italy and Germany.

The analysis in this report was carried out for the TUC by Dr. Irakli Barbakadze, research fellow, and Professor Simon Deakin, director, of the Centre for Business Research at the University of Cambridge.

The Centre for Business Research at Cambridge University publishes a Labour Regulation Index (the 'CBR-LRI') which uses an original coding protocol to benchmark labour laws around the world. Originally applied to five countries in 2007, it was extended to the current 117 in 2013. A new version of the dataset, which codes for the years 1970-2022, was published in the autumn of 2023.[4] The protocol used to construct the CBR-LRI index divides labour or employment laws into forty individual indicators, which are grouped into five sub-indices: laws governing the definition and regulation of different employment relationships (included here is a coding for the laws governing employee or worker status, as well regulations affecting part-time, fixed term and temporary agency work); working time; dismissal; collective representation; and industrial action. For an account of the methods used to construct the index and related dataset, see box below.

Research methods

The CBR-LRI index is constructed using the methodology set out in the *Handbook on Constructing Composite Indicators* published under the joint auspices of the OECD and European Commission in 2008 (OECD, 2008). A statistical 'construct' of this kind is built up in a series of steps. The idea is to capture an aspect of social reality in numerical form. In this case, the reality being captured is labour regulation, understood as the content of laws governing work relationships. The laws are 'coded' using a series of protocols which assign numerical values to rules depending on how protective they are. Data are retrieved in the form of original texts of laws, and the protocols applied in order to arrive at consistent codings. The dataset thereby

[3] Maddox, D. (17 July 2024). "Labour warned that French-style overhaul of workers' rights that gives immediate access to flexible working, sick leave and dismissal protection could end up costing jobs because employers will be wary of costly litigation", *MailOnline* www.dailymail.co.uk/news/article-13644361/Labour-warned-overhaul-workers-rights-cost-jobs.html

[4] Adams, Z., Billa, B., Bishop, L., Deakin, S. and Shroff, T (2023). "CBR Labour Regulation Index (Dataset of 117 Countries, 1970-2022) Codes and Sources", in Deakin, s., Armour, J. and Siems, M. (eds.) *Leximetric Datasets [Updated 2023] Apollo - University of Cambridge Repository*, Cambridge: Centre for Business Research

generated covers the laws of 117 countries, representing around 95% of world GDP, over a period of several decades, 1970-2022 in the case of most systems. Over 4,000 individual legal events (statutory changes and court rulings) have been coded.

Comparing the UK to the OECD average

The extensive divergence between UK labour law and the OECD average between 2010 to 2022 is revealed by Figure 1.

Scores for the 40 individual indicators are aggregated to arrive at an overall score for labour laws (all), and the same approach to aggregation is then used to arrive at scores for the sub-indices. The average OECD score here refers to the average score for the 38 OECD countries over the period.

As can be seen from Figure 1, labour laws as a whole in the UK have been consistently less protective than the OECD average since 2010. The same pattern is repeated across each of the five sub-indices. The exception is the index on "different forms of employment", where the UK is just above the OECD average, thanks in large part to laws protecting part-time, fixed-term and temporary agency workers stemming from the UK's membership of the European Union.

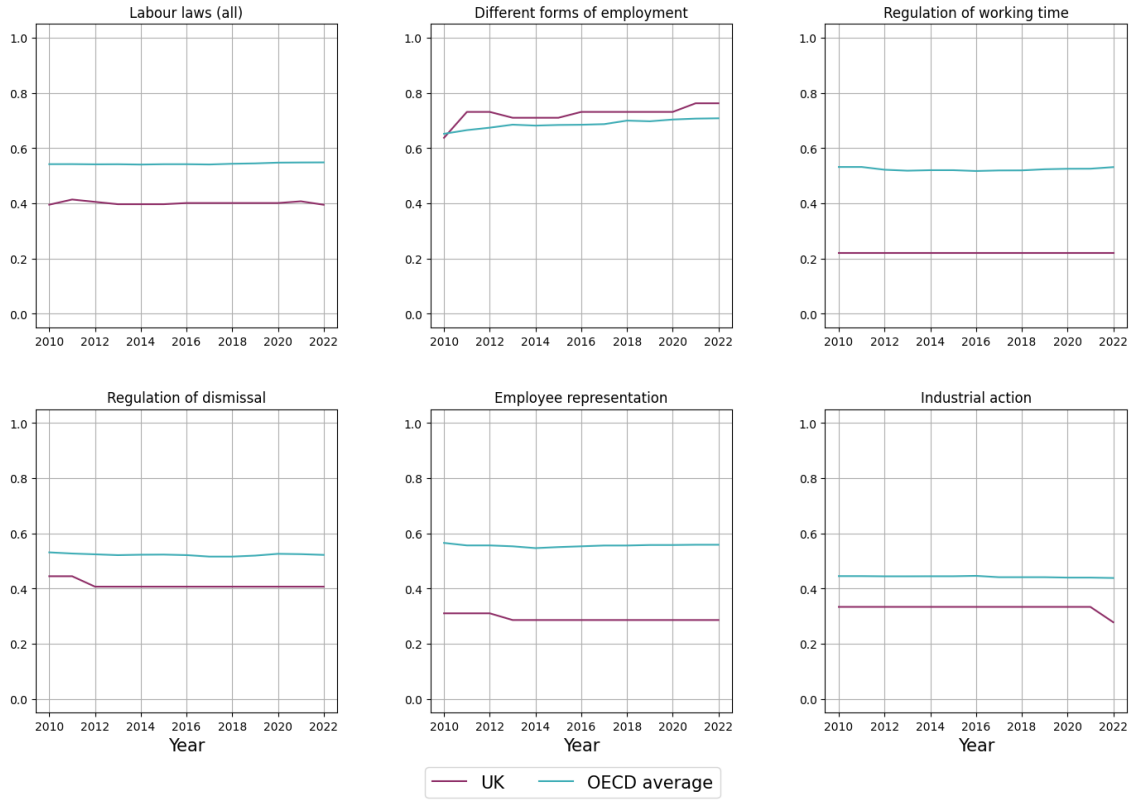

Figure 1. Labour laws in the UK and OECD, 2010-2022. Source: CBR Leximetric Database (Adams et al., 2023). Note: the charts indicate average scores across a range of indicators representing the level of labour protection set out in law for a given country and period of time. A higher score on the vertical axis indicates a greater degree of worker protection, measured using the CBR coding protocol for labour regulation.

In Figure 2 we take a longer-term perspective. By going back to 1970, the first year covered by this dataset, we can see that for most of the 1970s, the UK had labour laws which were as protective as the OECD average.

Declines in protection in the UK began during the 1980s. While there was a partial recovery in the 1990s and 2000s, the UK did not fully catch up with the norm in other developed countries at this time. The gap widened again after 2010 as other OECD countries modernised their labour laws to cope with emerging issues while the UK cut protections in key areas such as protection against dismissal.

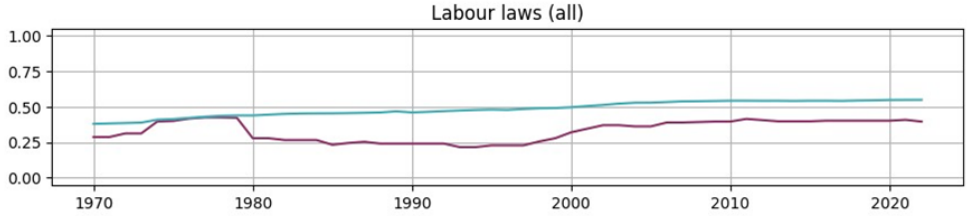

Figure 2. Labour laws in the UK and OECD, 1970-2022. Source and notes: see Figure 1.

As they stand, labour laws in the UK are barely half as protective as those found in France and significantly below other notable European countries (see figure 3). This

strongly suggests that there is significant scope for improvement before British labour law is even close to matching that of our nearest neighbours.

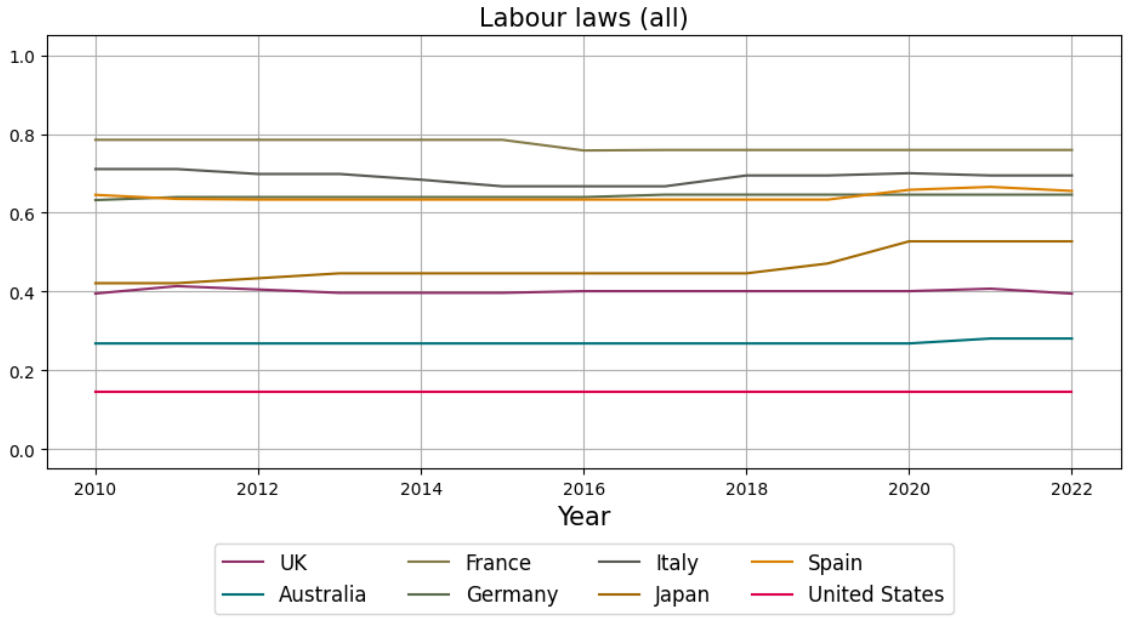

Figure 3: Labour laws in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

Figure 4 shows the size of the gap in protection between the UK and OECD average for each of the forty indicators.

Laws in the UK are less protective for the large majority of the indicators. The gap is particularly wide for laws regulating the use of agency work; virtually all the working time indicators; the qualifying period for unfair dismissal; laws governing the extension of collective agreements; and virtually all the industrial action indicators.

Figure 4. Difference in scores for individual indicators, UK and OECD, 2022. Source and notes: see Figure 1

A closer look at particular areas of law

Dismissal law

UK dismissal law is notably less protective than the OECD average (see Figure 5).

The UK has had statutory unfair dismissal law since the 1970s. This type of protection against arbitrary terminations originated in mainland European countries in the middle decades of the twentieth century and is now a long-established part of UK labour law.

The UK's standards governing procedural and substantive fairness in dismissal are similar to those elsewhere in Europe. They are more protective than the US rule of 'employment at will', which allows no-fault dismissal. Remedies for unfair dismissal, on the other hand, are weaker in the UK. Reinstatement to the worker's job is more difficult to achieve and compensation less generous than elsewhere in Europe.

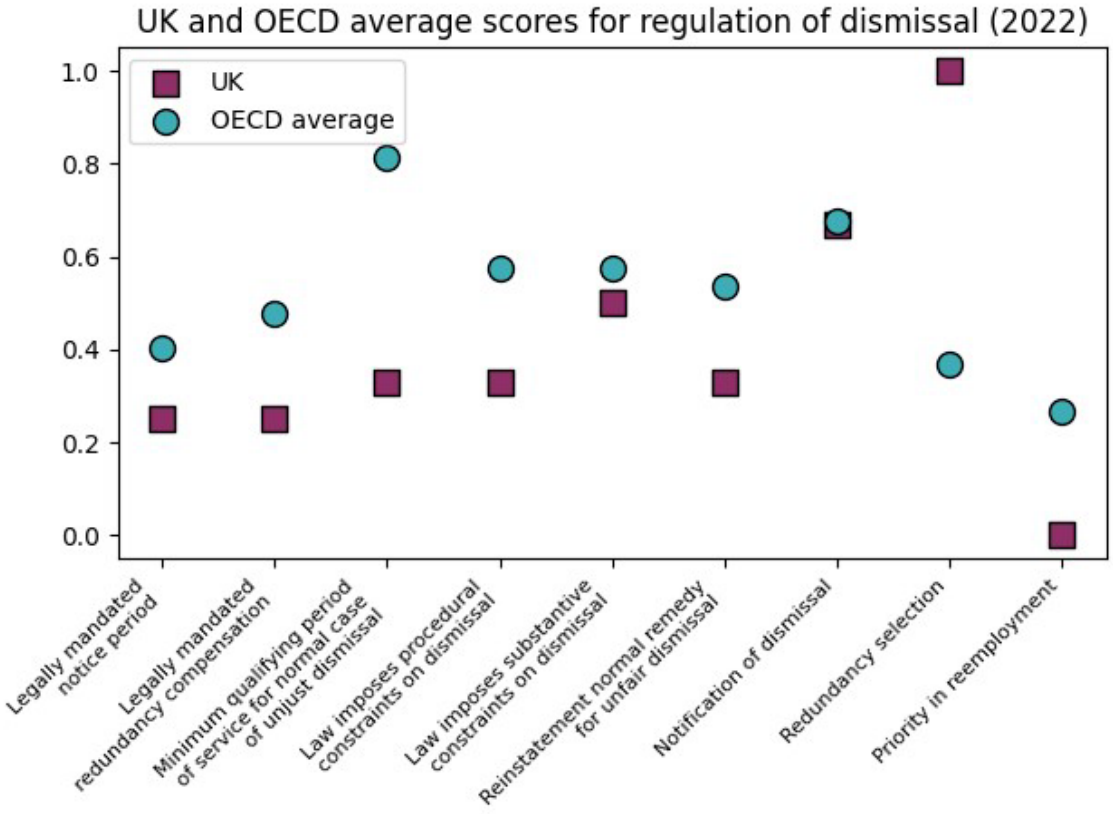

Figure 5. Laws governing dismissal in the UK and OECD in 2022. Source and notes: see Figure 1.

The UK has a much longer qualifying period for general unfair dismissal protection. A Tory-led government increased the period to two years in 2010, considerably longer than is normal in developed economies.

With respect to dismissal law, the slim chances of being reinstated to your job after an unfair dismissal in the UK explains much of the gap with other European countries. There is no equivalent in the UK, for example, to the power of a works council to veto an unfair dismissal as in Germany. The US, with its rule of employment at will, which places few restrictions on an employer's ability to dismiss one of their workers, remains an outlier internationally.

The UK also lags behind other OECD countries in terms of the substance of unfair dismissal protection. In France, for example, 'real and serious cause' must be shown if the dismissal is to be justified. This is a considerably stricter test than the requirement, in UK law, that an employer should have acted reasonably in treating a potentially fair reason as justification for dismissal.

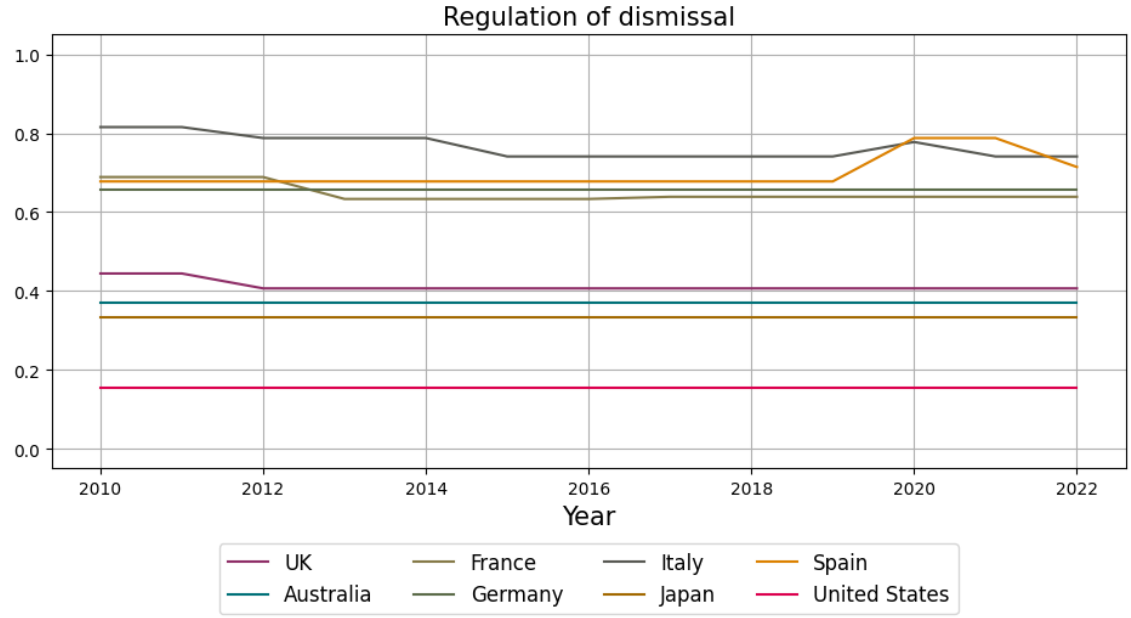

Figure 6: Dismissal laws in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

The new Labour government has stated that it wants unfair dismissal protection to start on day one in the job which would have the effect of bringing overall dismissal protections closer to the OECD norm.[5]

[5] Prime Minister's Office (2024). *King's Speech 2024: background briefing notes* www.gov.uk/government/publications/kings-speech-2024-background-briefing-notes

Working time

With respect to working time, the degree of protection through law in the UK is significantly below the OECD average (see Figure 7).

Even after adopting measures in the EU's Working Time Directive in 1998, the UK has some of the weakest working time laws in the developed world.

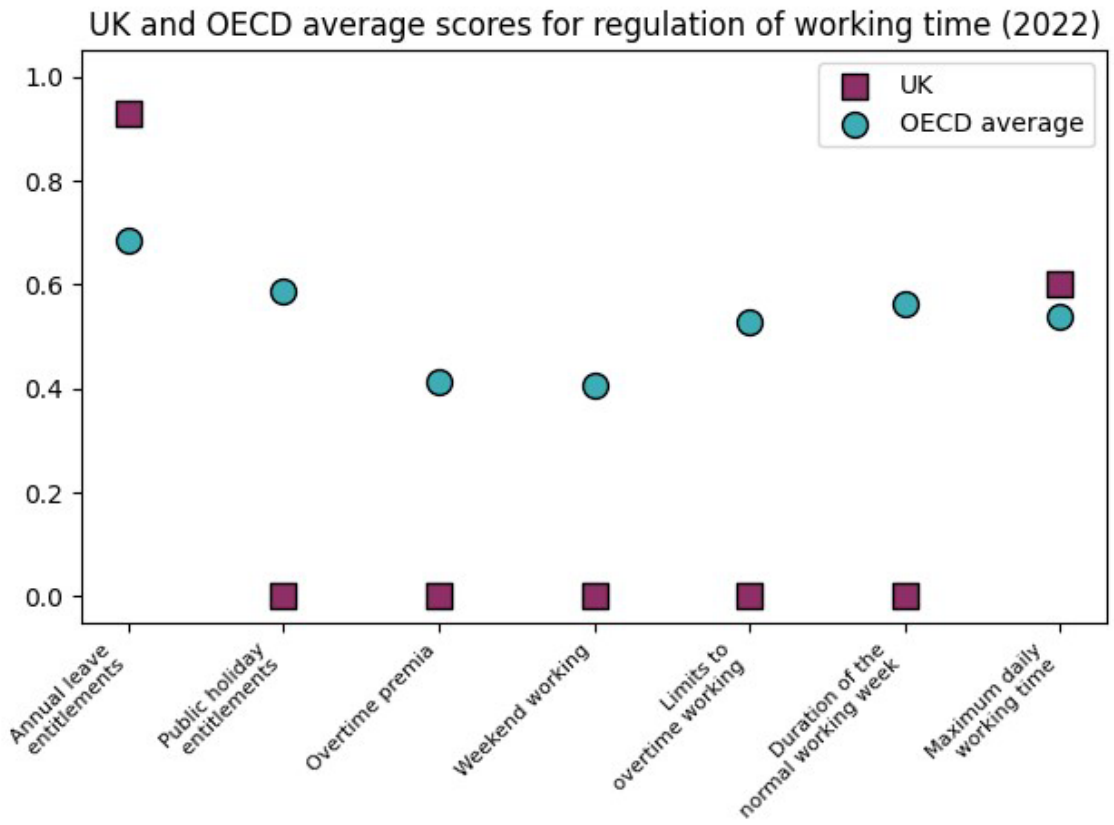

Figure 7: Laws governing working time in the UK and OECD in 2022. Source and notes: see Figure 1.

In principle, the UK's working time regulations set an upper limit of 48 hours per week. But this is subject to exceptions which are wider than those in most other countries. This means that the statutory upper limit provides no real constraint on employers.

For example, the UK is one of the few countries in the developed world to allow an individual opt-out from the statutory upper limit on working time of 48 hours per week. There is no legally guaranteed right to paid leave on specified public holidays in the UK, contrary to the position in most other developed economies.

There is also no legal underpinning to the concept of a normal working week in UK law, no statutory right to overtime, and no guaranteed legal right to time off at the weekend or a premium wage rate for weekend working. Many OECD countries have

laws specifying Sunday as the default day of weekly rest and provide a right to a premium for weekend working either through legislation or legally binding collective agreements. This is the case, for example, in both France and Germany.

The only part of UK working time law which comes close to general OECD practice is the right, originating in the EU Directive, to annual paid leave.

While France was taking steps to introduce a normal working week of 35 hours, the statutory limit on weekly working hours in the UK remained at 48, as required by the EU's Working Time Directive, and even then, as noted above, was subject to numerous exceptions.

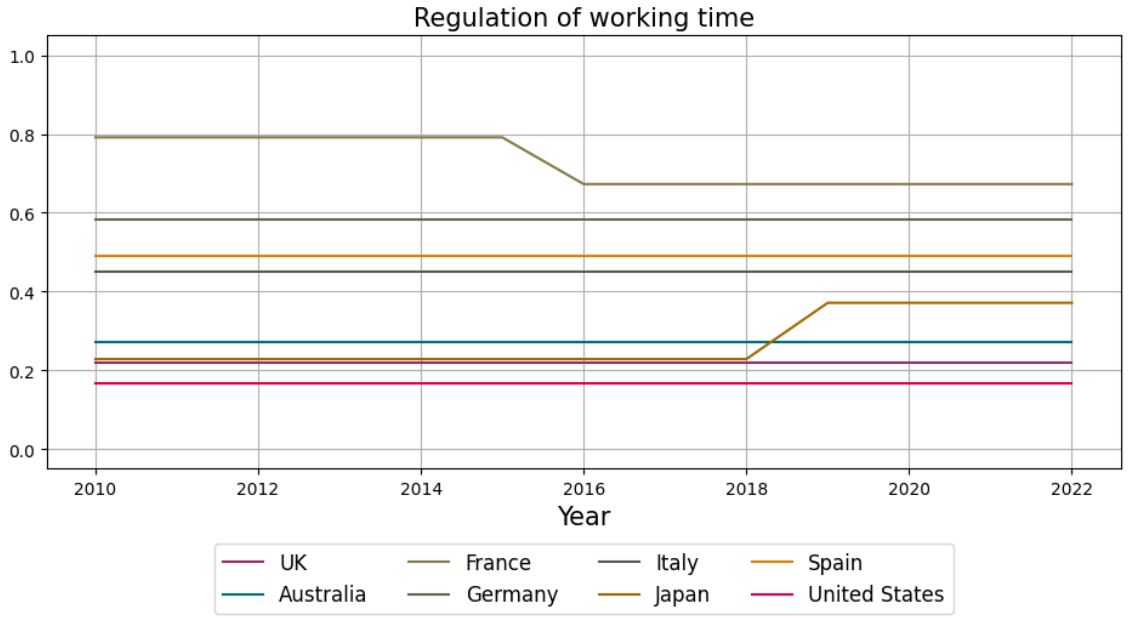

Figure 8: working time laws in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

Different forms of employment

The sub-index on different forms of employment tracks changes in the laws governing part-time, fixed-term and temporary agency work, and in the definition of the employment relationship.

It provides a measure of how much protection is given to workers who are on arrangements other than full-time permanent work. Without strong legislation, workers on part-time and agency contracts are often treated more poorly than permanent or full-time employees.

It also considers whether an employer can avoid legal responsibilities by inserting substitution clauses (which in theory allow a worker to pass their work to others) or similar terms into agreements which can mean a worker doesn't attain employee or worker status and is therefore denied employment rights.

With respect to these laws, the UK is currently above the OECD average on the overall measure. This reflects its compliance with EU directives dating from the 1990s and 2000s (see figure 9, showing the extent of the gap for each individual indicator in 2022). These directives require a degree of levelling up between the conditions on which part-time, fixed-term and temporary agency workers are employed, and the terms and conditions governing full-time, permanent and regular contracts. However, UK governments have tended to implement only the basic requirements, leaving the country lagging the main European countries in the protection offered.

UK law also scores as highly as the OECD average on the rules governing attempts by employers to avoid platform work following the Supreme Court's *Uber* judgment in 2021, which established that drivers were entitled to the employment protections given to those with worker status. However, the UK approach to matters of employment status is still less protective than that in France, for example, where the courts regard the scope of employment protection legislation as a matter for public policy rather than the terms of the individual agreement. The UK Supreme Court's ruling in *Deliveroo* (2023) took the opposite approach in validating the use of 'substitution clauses' to take certain types of platform work outside the scope of the laws governing the right to seek recognition for the purposes of collective bargaining.

However, there are very few controls on agency work in the UK. As noted above in figure 9, the UK significantly lags the OECD on its protections for agency workers. This contrasts with a country like France where agency workers can only be hired for the temporary replacement of permanent employees or short-term increases in workload and seasonal employment and placements are generally limited to 18 months. This ensures that agency workers cannot be treated by employers as a long-term cheaper alternative to employing someone permanently on full pay and conditions.

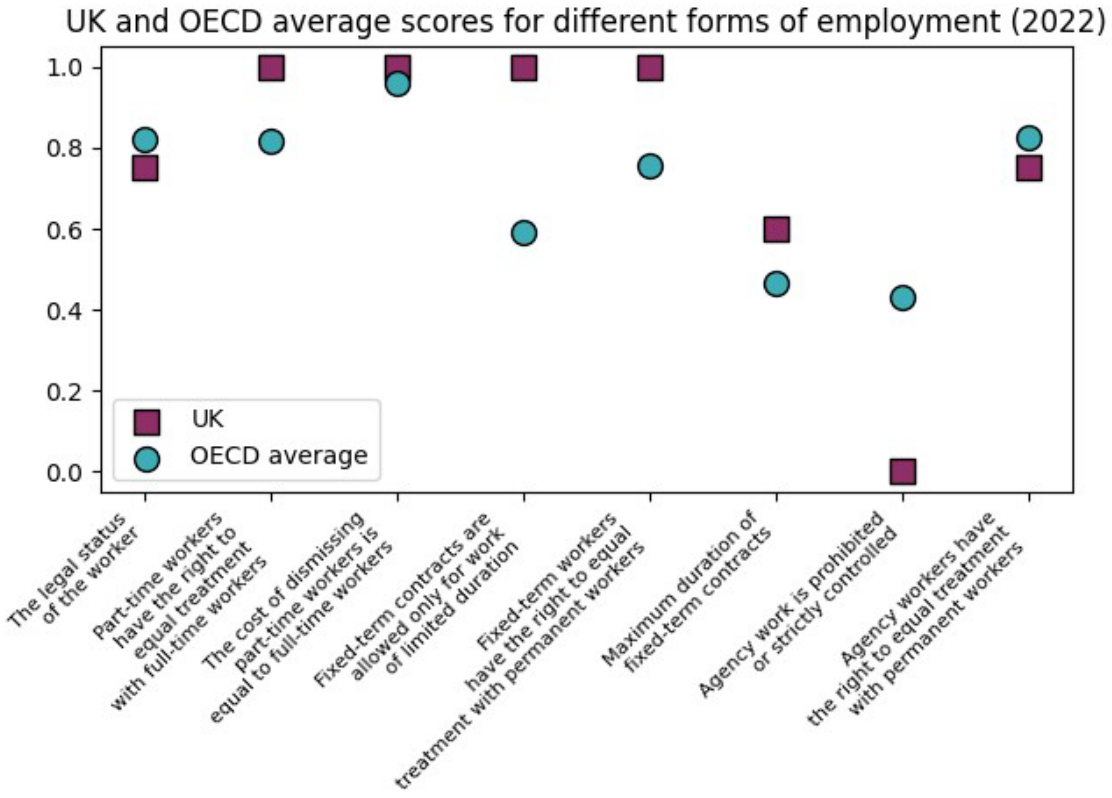

Figure 9. Laws governing different forms of employment in the UK and OECD in 2022. Sources and notes: see Figure 1.

With respect to laws on different forms of employment like part-time work, the UK offers more protection than countries outside Europe, but is the least protective of the four European countries shown in figure 10.

This is because of the UK's approach to implementing the EU directives on part-time, fixed-term and temporary agency work, which was one of bare compliance. Most European countries set standards above than those required by these directives. For example, both France and Germany have stricter laws than the UK on the issue of when fixed-term employment must be treated as permanent. Italy and Spain have recently strengthened their laws governing different forms of employment, as, beyond the EU, have Japan and Australia.

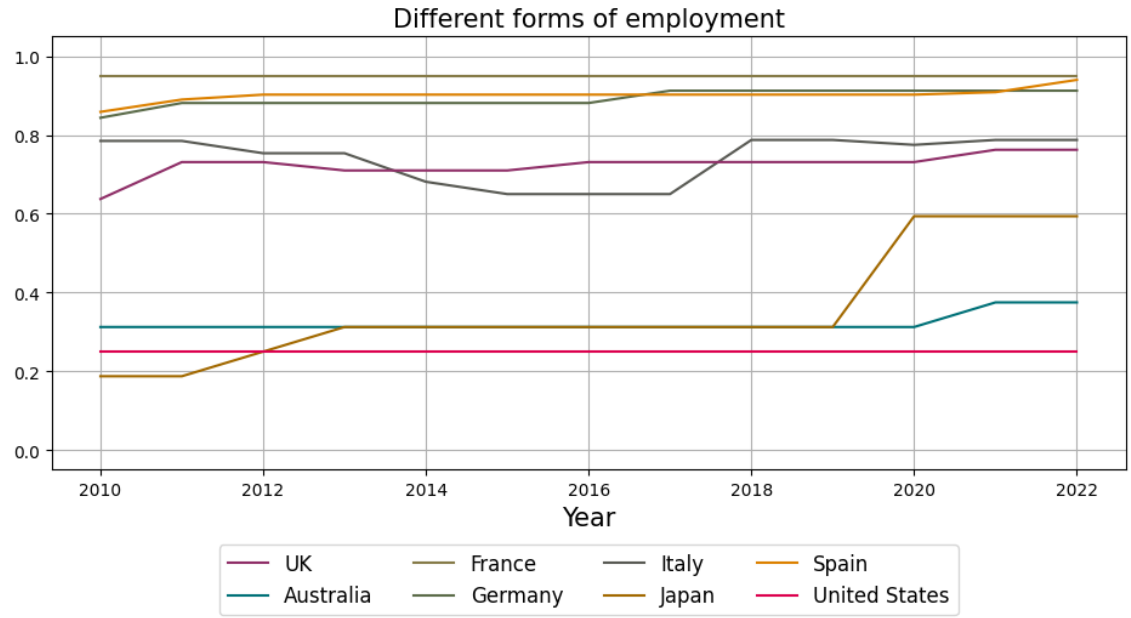

Figure 10: working time laws in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

Employee representation

There is a sizable gap with the OECD average in the level of protection provided by UK laws on employee representation (Figure 11). This is because the UK lacks laws, common across developed countries, to underpin multi-employer collective bargaining. This is when workers and employers from across an industry agree basic pay and conditions.

As it stands, there is no duty on the part of UK employers in a sector or industry to agree a sector-wide code of terms and conditions, and where one exists, it cannot be made legally binding on all firms.

UK also scores low in terms of protection when it comes to laws on collective consultation and information, and with respect to codetermination in the workplace and on corporate boards.

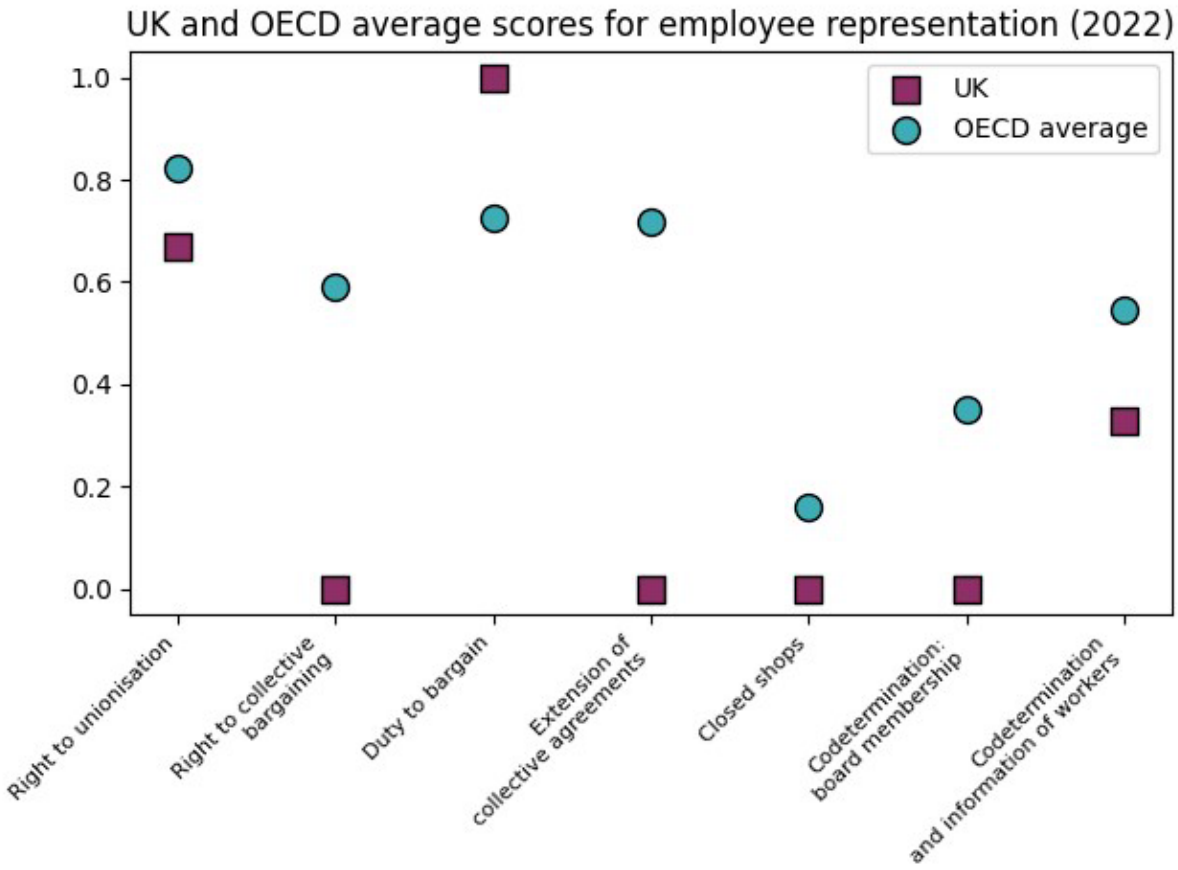

Figure 11. Laws governing employee representation in the UK and OECD, 2022. Source and notes: see Figure 1.

In relation to employee representation laws as a whole, the UK's laws are close to those of the United States in providing minimal legal protection for collective bargaining, but are below those generally in the OECD.

In mainland Europe, Australia and Japan, the law underpins terms and conditions negotiated through collective agreements, meaning that employers can only in very exceptional circumstances cut wages or extend hours unilaterally or via a 'fire and rehire'. Laws providing for the extension of collective agreements ensure that there is a sectoral floor to terms and conditions in most OECD countries. The UK had similar laws in place between 1940 and 1980 but since then has had no procedure for ensuring that firms in the same industry cannot undercut each other on wages and hours.

This may soon change. The incoming Labour government has pledged to bring this in in the form of Fair Pay Agreements, starting with the social care sector.

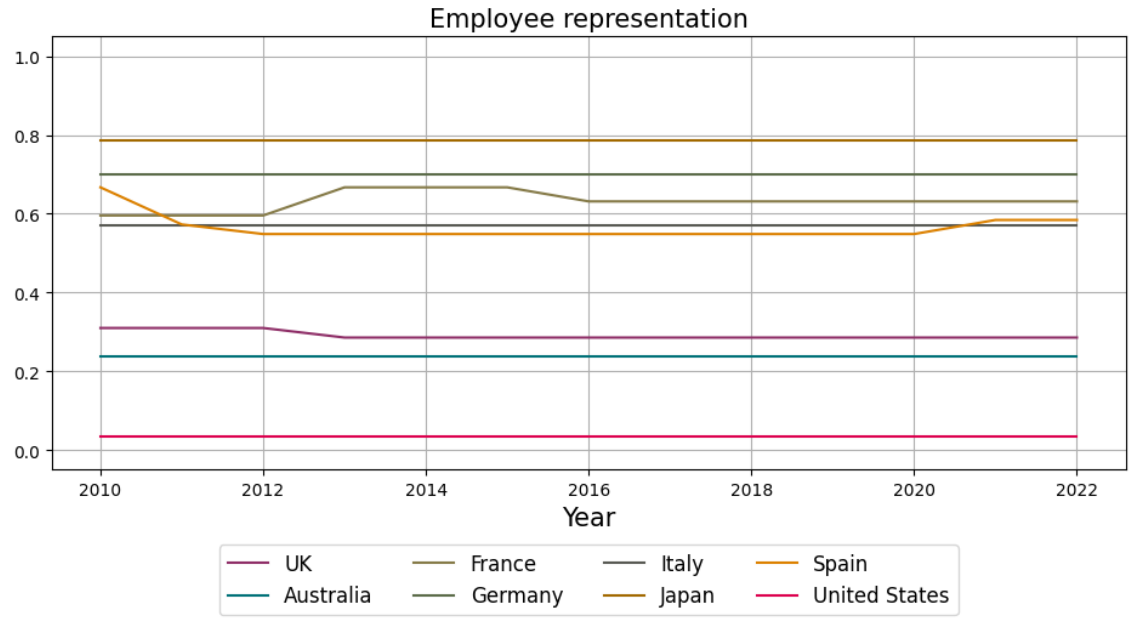

Figure 12. Laws governing employee representation in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

Industrial action

Finally, the UK's laws on industrial action are also significantly weaker than the OECD average.

Among the factors depressing the UK's score are the complex rules governing ballots and notices that make taking industrial action in the UK a difficult endeavour, compared to laws in other developed countries.

Indeed, so weak is UK law with respect to the right to strike that the UK scores zero for most of the indicators in this group.

The UK is only stronger than the OECD norm on a couple of indicators because we do not have any laws mandating conciliation and arbitration prior to a strike or penalising strikes during the term of a collective agreements.

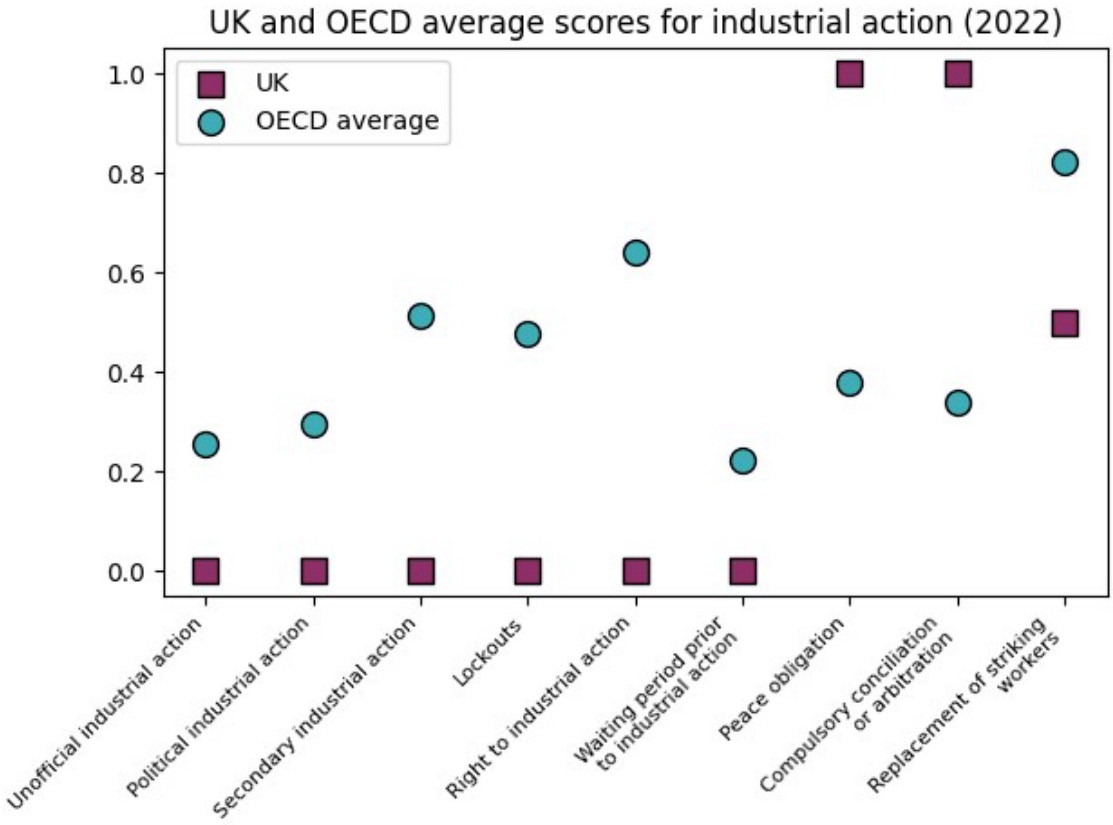

Figure 13: Laws governing industrial action in the UK and OECD, 2022. Source and notes: see Figure 1.

In contrast to the UK, the right to strike is recognised in the constitutions of several EU countries and in Japan. The UK has no equivalent acknowledgement that the right to strike is a fundamental human right. Laws on notice and ballots are much more complex in the UK than elsewhere. In France, for example, there is no requirement of union authorisation for strike action outside certain public sector contexts, and solidarity strikes are lawful when called in support of general worker rights, purchasing power and trade union interests. French law contains specific restrictions on the employment not just of agency workers but also of fixed-term workers during a strike.

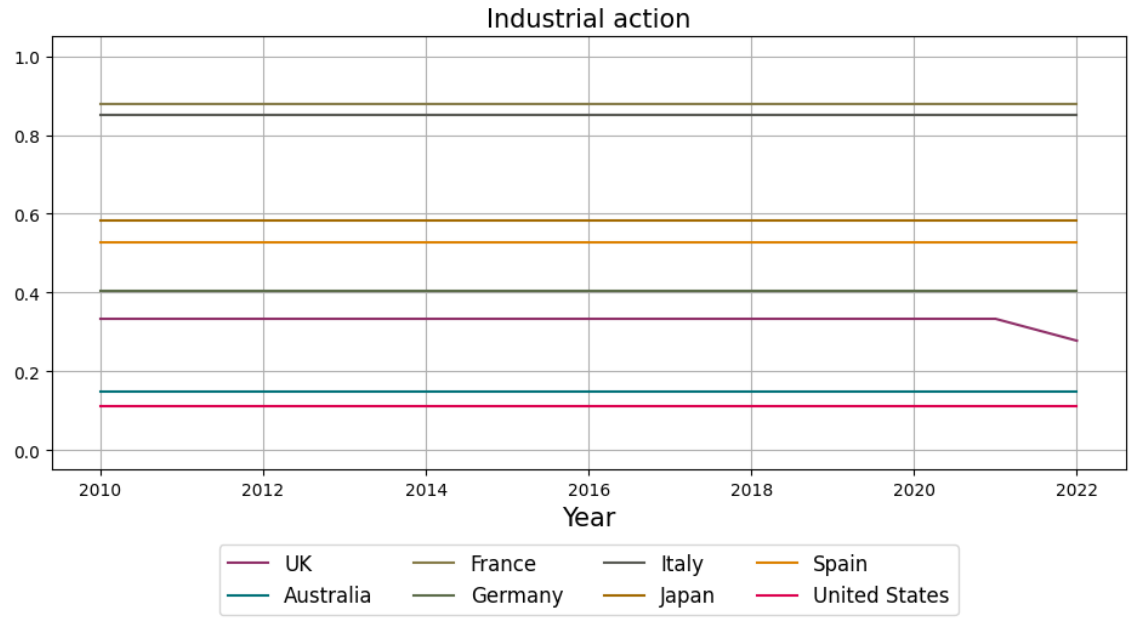

Figure 14: laws governing industrial action representation in the UK and selected OECD countries, 2010-2022. Source and notes: see Figure 1.

Conclusions

Labour laws in the UK are significantly less protective of workers' rights than the average in the developed countries which make up the OECD.

The gap between UK labour law and the rest of the OECD is particularly marked with respect to laws on working time, employee representation, and the right to strike.

While labour laws across the developed world have remained relatively stable over the past decade or so, the UK has failed to keep up with recent improvements and has seen declines in protections relating to dismissal, employee representation and industrial action, resulting in a widening gap with the rest of the OECD.

Acknowledgements

Support for the 2023 update of the CBR-LRI index was provided by the Economic and Social Research Council, through its support for the Digital Futures at Work Research Centre (https://digit-research.org/), and by the NORFACE consortium, through its support for the POPBACK project (Populist Backlash, Democratic Backsliding, and the Crisis of the Rule of Law in the European Union, https://www.popback.org/).