

Reviving Sectoral Collective Bargaining

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Executive Summary

In the UK, collective agreements are almost exclusively negotiated at the firm or workplace level. This norm – along with structural barriers to collective organisation – severely limits the reach and coverage of collective agreements. The absence of sector-wide coordination leaves workers vulnerable to undercutting, as employers are incentivised to compete by lowering labour costs, confident that higher standards secured in one workplace will not spread across the sector. This dynamic weakens unions' bargaining power and discourages organising in dispersed and high-turnover workplaces.

This paper offers a practical and scalable framework for sectoral bargaining in the UK. The framework is designed to enable sector-level coordination between firms and trade unions, expand collective bargaining coverage quickly, and do so without undermining macroeconomic stability or the bargaining autonomy of firms and unions.

The proposed system is guided by four binding principles. First, national coordination should guide but not dictate sectoral bargaining outcomes. Second, sectoral agreements should establish non-competitive minimum standards rather than regulate the detailed operation of firms. Third, the state's role should be limited to enabling, extending, and enforcing agreements, without bargaining or setting wages. Fourth, the system must be cost-effective and rely primarily on existing public institutions.

Key Recommendations

Establish permanent sectoral councils

- Legally recognised, permanent bodies composed of trade unions, employer associations, and independent experts
- Councils provide a stable forum for negotiating minimum labour standards on pay, working time, training, health and safety, and related matters.

Preserve firm-level autonomy

Adopt a decentralised, two-tier bargaining model where:

- Sectoral councils set enforceable minimum labour standards through sector-level bargaining.
- Firms retain autonomy to negotiate pay and conditions above the floor through firm-level bargaining.

This design gives firms operational flexibility, enabling them to innovate and remain competitive.

Establish a national coordination institution

- Provides macroeconomic guidance to sectoral councils, ensuring wage settlements are sustainable.
- National benchmarks in guidance serve as **reference points only**. Their non-binding status protects the bargaining autonomy of unions and employer bodies.

Fair Pay Agreements (FPAs)

- Deploy FPAs as a gateway for initiating sectoral bargaining, in sectors where:
 - Permanent councils are not yet viable, but could be in the future; and
 - Labour market failure is evident.
- FPAs must, on an indefinite basis, assess a sector's readiness and capacity to build representative and self-sustaining institutions (unions, employer bodies and sectoral councils) that can bargain authoritatively on behalf of the sector's workforce and businesses.
- Government should offer conditional, tapered support to unions, firms and employer bodies only where there is credible progress towards the existence of representative bargaining partners at a sectoral level.
- In sectors with few recognised unions or employer associations, the state should temporarily accredit alternative bodies to establish an initial negotiating forum and enable structured dialogue during the FPA phase.

Expand ACAS' statutory mandate

- Give ACAS (Advisory, Conciliation and Arbitration Service) the authority to approve legal extension requests from sectoral councils that have concluded sectoral agreements.
- Design legal tests for approval that protect extension decisions from judicial review and keep decision timelines short.
- ACAS acts as an enforcement coordinator, delegating enforcement of sectoral minima to existing public authorities.

Introduction

In many sectors, profitmaking has come to rely on low-cost labour as opposed to innovation, technology, or workforce development. Firms compete by holding down wages and minimising costs rather than by investing in skills or creating efficiencies. This dynamic has left Britain with an economy where work is often poorly paid and insecure – even when employment is abundant. Such conditions depress incentives for firms to compete for talent with attractive training, wage and career development offerings. The result is a self-perpetuating cycle of low productivity and low pay – subsidised by an ever-growing welfare bill shouldered by taxpayers.

Meanwhile, employers across critical high-growth sectors – including construction, clean energy, digital technology, and advanced manufacturing – report chronic difficulties recruiting and retaining skilled workers. The UK’s fragmented system of wage-setting and training has failed to produce coherent, sector-wide responses to the economic challenges and opportunities that the country faces. Training is too often employer-specific, inconsistent, or underfunded, while coordination between industry, education providers, and government remains weak.

Reintroducing and scaling sectoral collective bargaining offers the UK a means to break this cycle. By coordinating minimum standards for pay, working conditions, and training across entire industries, sectoral bargaining ensures that workers share in the gains of economic growth, while providing employers with predictable labour costs and a mechanism for addressing skill needs collectively. Crucially, it encourages firms to compete on innovation, quality, and efficiency rather than on who can drive wages lowest.

The UK’s current economic trajectory shows that fragmented, low-wage competition cannot deliver prosperity. Through sectoral collective bargaining, it can escape a low-growth, low wage trap; create a model of industrial relations that is built on coordination, shared ambition and mutual gain; and become a more productive, high-wage, and inclusive economy.

This policy paper therefore explores how a tailored, modern sectoral bargaining system can be introduced and scaled in a UK labour market characterised by low bargaining coverage, low union density, a company-level bargaining model, and a large service-based economy.

Chapter 1 examines the UK’s historical experience with sectoral bargaining, and the current Labour government’s recent efforts to reinstate it. Chapter 2 analyses the limitations and challenges of the UK’s company-level bargaining model. Chapter 3 sets out the conceptual and constitutional principles that should underpin a UK system of

sectoral bargaining. Chapter 4 develops the institutional architecture for said system. Chapter 5 explains how Fair Pay Agreements can be used to create representative bargaining institutions in sectors with weak and dispersed social partners. Chapter 6 details a streamlined model for the legal extension and enforcement of minimum labour standards in sectoral collective agreements.

Chapter 1: The History & Future Prospects of UK Sectoral Bargaining

1.1 History of Sectoral Collective Bargaining in UK Industrial Relations

Sectoral collective bargaining was once a central feature of the United Kingdom's industrial relations system. From the early twentieth century through to the 1970s, pay and working conditions in industries such as coal, steel, engineering, rail, and printing were negotiated at the industry or regional level between trade unions and employers' federations. These arrangements were supported by institutions such as the Whitley Councils, established in 1917, which created formal joint consultative bodies for employers and employees to negotiate wages, hours, and employment conditions.¹ While initially advisory, the Councils helped institutionalise cooperation between labour and management and laid the groundwork for widespread sector-wide agreements that promoted stability, consistent standards, and reduced inequality.

The decline of sectoral bargaining began under the Conservative governments of Margaret Thatcher (1979–1990) and continued throughout the 1990s. Thatcherite legislative reforms (such as restrictions on strike action, stricter union recognition requirements, and the abolition of many wage councils) significantly curtailed trade union power.² As union density fell sharply – particularly in manufacturing and heavy industry – unions' ability to bargain effectively across entire sectors eroded. Thus, employers' voluntary adherence to industry-wide agreements became increasingly untenable.

At the same time, employers' federations lost cohesion. Firms faced intensifying domestic and international competition and so expressed a growing appetite for operational flexibility and cost control. They calculated that adherence to sectoral agreements was limiting their ability to adjust wages, working conditions, and employment practices to their own competitive circumstances.³ Employment became dispersed across smaller, lower-union-density workplaces as the UK transitioned to a

¹ *Joint Industrial Councils in Great Britain*, *Bulletin of the U.S. Bureau of Labor Statistics*, no. 255 (Washington, D.C.: U.S. Government Printing Office, 1919), 6–8, 174 (PDF pagination).

² Resolution Foundation. (2022). *The Thatcher legacy*

³ Keith Sisson, *Introducing sectoral bargaining in the United Kingdom: Why it makes sense and how it might be done* (IRRU/Warwick Business School, 2024), 3–4.

service-based economy. This made coordinated bargaining harder to sustain. As a result, many firms withdrew from or weakened employers' associations.⁴

At present, sectoral bargaining has largely disappeared from the private sector, while limited sector-wide coordination remains in the public sector via national pay-setting frameworks. Even so, pay determination is increasingly controlled by the Treasury, and public sector unions – once active negotiators – have been relegated to the role of consulted stakeholders.

1.2 The Labour Government's Sectoral Bargaining Ambitions

At Labour Party Conference 2021, the party announced that, if elected to government, it would pass legislation to implement the “*New Deal for Working People*” – an ambitious package of labour market reforms. As part of this package, Labour pledged to “bring in Fair Pay Agreements to drive up pay and conditions for *all* workers, using sectoral collective bargaining”. It described them as instruments that would facilitate sector-wide negotiations over pay, pensions, training, working time, health and safety standards and even the deployment of new technologies. This vision for UK industrial relations marked a clear departure from the enterprise-level bargaining that has dominated the UK's liberal labour-market model since the 1980s.

However, by 2024, this ambition had been watered down. In a Labour policy document titled “*Plan to Make Work Pay*”, the party confirmed that it would establish a new Fair Pay Agreement just for the adult social care sector and then “assess how and to what extent FPAs could benefit other sectors”. The document also cautioned that “a Fair Pay Agreement will not be the best solution for many parts of our economy, where labour markets are operating effectively or where existing collective arrangements at employer or sector level are already working well and are supported by trade unions”.⁵ This implied that Labour would roll out sectoral bargaining through an incremental approach – one that acknowledged the diverse characteristics of industries across the UK economy, as well as the need to tailor sectoral bargaining mechanisms accordingly on a sector-by-sector basis.

Labour's retreat from its initial pledge on FPAs underscores the complex institutional and economic challenges the government must take account of as it attempts to rebuild sectoral bargaining. The design, sequencing, and governance of sectoral bargaining

⁴ Alan Goberman, Malte Hauptmeier, and Edmund Heery, “The Decline of Employers' Associations in the UK, 1976–2014,” *Journal of Industrial Relations* 61, no. 1 (2019): 11–32.

⁵ Labour Party, *Labour's Plan to Make Work Pay: Delivering a New Deal for Working People* (London: Labour Party, 2024), 11.

mechanisms require careful consideration. Labour's decision to pilot its first FPA in the social care sector allows it to test the institutional design and economic benefits of FPAs before considering any wider application across the economy.

Chapter 2: Britain's Uncoordinated & Decentralised Bargaining System

The UK labour market is shaped primarily by a company-level bargaining model defined by ‘uncoordinated decentralisation’. Under this model, pay and conditions are typically negotiated with individual employers on a firm-by-firm basis rather than with employer associations at sectoral or national negotiating fora.⁶ As a result, bargaining outcomes are largely company-specific rather than industry-wide: less workers enjoy coverage under collective agreements, and so the impact of spillover effects on those who don't is quantitatively less.

The absence of a mandatory extension mechanism in UK labour law also impedes broad sectoral coverage. An extension mechanism is a statutory process that allows a collective agreement's terms to bind all employers and workers in a sector, including those not party to the original agreement that has been ‘legally extended’. Without such mechanisms, the protections in collective agreements remain confined to the workplaces where they are directly negotiated.

The result is that only around one quarter of UK workers benefit from collective bargaining coverage.⁷ What's more, low-paid service workers find it especially difficult to coordinate bargaining, due to a range of structural characteristics associated with the service economy: fragmented workplaces, high turnover and casual contracts, and complex outsourcing chains.

In several ways, the UK's company-level bargaining system also contributes to weak productivity growth. Firms facing little coordinated pressure to invest in workforce development often underinvest in skills, training, and innovation. In coordinated systems, higher negotiated wages are typically tied to productivity improvements; in the UK, by contrast, low pay often substitutes for productivity investment, locking the economy into a cycle of underinvestment and slow growth.⁸

At a macroeconomic level, the absence of sectoral (and cross-sector) coordination makes it difficult for policymakers to align wage growth with inflation, productivity,

⁶ OECD & AIAS, *Main indicators and characteristics of collective bargaining (United Kingdom country note)*, 2.

⁷ Department for Business and Trade, *Trade Union Membership, UK, 1995–2022: Statistical Bulletin*, Table A18 and accompanying notes (LFS estimate of collective agreement coverage)

⁸ King's College London (KCL) Policy Institute, *Improving Pay and Productivity with Sectoral Bargaining* (London: King's College London, n.d.), 4–6.

and employment objectives. This produces unpredictable wage dynamics that hinder efforts to maintain balanced economic growth and price stability.⁹

Ultimately, while firm-level bargaining delivers short-term flexibility for employers, it does so at the expense of long-term stability. Without predictable, sector-wide standards, both employers and workers face greater uncertainty, and economic shocks are absorbed unevenly across firms and regions – amplifying volatility and deepening structural divides within the labour market.

⁹ European Central Bank (ECB), *Institutional Features of Wage Bargaining and Their Implications for Monetary Policy* (ECB Working Paper Series, no. 1195, Frankfurt am Main: European Central Bank, 2010), 17–19.

Chapter 3: Four Binding Principles for a UK Sectoral Bargaining System

The design of a UK sectoral bargaining system must be grounded in a clear constitutional logic that both respects the autonomy of social partners (unions and employer associations) and aligns with the country's long-standing 'voluntarist' tradition. Unlike highly centralised models abroad, the UK has historically relied on voluntary negotiation between employers and trade unions, with the state playing a supporting, rather than substitutive, role. Any institutional framework must therefore preserve this culture while providing mechanisms to coordinate, scale, and enforce fair outcomes where necessary.

This paper proposes that the UK's sectoral bargaining system rest on **four binding principles**:

- 1. National coordination should guide, not overrule, sectoral bargaining**
National bodies can facilitate responsible sectoral bargaining by setting broad economic guidance, sharing information about pay trends, and managing expectations across the economy. However, they should not dictate the bargaining outcomes of negotiations conducted by sectoral councils. Decisions about pay, conditions and other sector-specific matters must be made by sector councils themselves. These councils should be free to depart from national guidance without being penalised, ensuring that the bargaining autonomy of social partners is preserved.
- 2. Sectoral minima should establish core protections – but not over-prescribe.**
The main role of sectoral bargaining is to agree basic minimum standards that prevent undercutting and unfair competition which result in race-to-the-bottom dynamics. However, these minima should not be overly prescriptive. Employers and unions must remain free to negotiate better pay, clearer progression routes, and improved conditions at company level or through sector-level voluntary agreements.
- 3. The state enables, extends, and enforces – but does not bargain or set wages.**
Consistent with the UK's voluntarist tradition, the state acts as a facilitator and enforcer. It supports the formation of sectoral councils through time-limited facilitation, gives sectoral agreements legal effect, and ensures compliance with extended minima through existing regulatory bodies. At no stage does the state negotiate, set, or substitute wage outcomes.

4. The system must be cost-effective

A UK sectoral bargaining system must be designed to minimise costs to the taxpayer. The creation of new standalone agencies or permanent quangos should be avoided where possible. Instead, existing public authorities should perform legal extension, oversight, and enforcement. Furthermore, any public money spent on scaling social partners must yield results or be withdrawn.

Chapter 4: Institutional Architecture

4.1 Sectoral Councils

Sectoral councils are the most important institution in any future sectoral bargaining system. They are permanent, legally recognised bodies made up of recognised trade unions, representative employer organisations, and a small number of independent experts. Once established, they provide a stable forum for setting sectoral standards and ensuring basic protections across a sector. Independent experts help ensure that councils give fair consideration to evidence, including the findings of the national coordination institution (discussed below).¹⁰

The UK has historical experience with this type of institution. Wage Councils, which operated for much of the twentieth century, set legally enforceable minimum pay and conditions in low-paid sectors where firm-level bargaining alone was insufficient. The proposed sectoral councils build on this legacy, providing a broader and more flexible framework while preserving voluntary negotiation and autonomy.

The central task of sectoral councils should be to agree non-competitive floors. These are minimum standards that apply to all firms in the sector and insulate core labour conditions from competition. Floors cover:

- Minimum pay rates by grade, job family, or skill level
- Apprenticeship and entry-level pay floors
- Overtime rates and shift premia
- Maximum working hours and minimum rest periods
- Paid leave above statutory minimums
- Sector-specific health and safety standards
- Minimum training and qualification requirements
- Equality and anti-discrimination protections

These minima are **binding and enforceable** where extended, providing clear, non-competitive protections across the sector.

Alongside these binding floors, sectoral councils may agree **optional terms for signatory employers only**. These include:

- Broad job classifications and skill levels
- Pay progression frameworks
- Reference pay rates above the minimum
- Voluntary guidance on training or sectoral coordination

¹⁰ International Labour Organization, *Collective Bargaining: A Policy Guide* (Geneva: ILO, 2015).

Optional terms apply only to firms that choose to adopt them and are not enforceable through extension. They are intended to guide good practice and encourage participation, without universal application on all firms in a sector.¹¹

The Labour Party has signalled interest in allowing Fair Pay Agreement negotiations a wide scope, potentially covering pensions, pay progression, work organisation, technology use, and broader training arrangements.¹² While sectoral councils can discuss these topics, careful limits are needed. Legally binding minima should remain focused on non-competitive worker protections and should not regulate the way that businesses are run.¹³

Pensions, pay progression, work organisation, technology use, and training vary widely across firms, and standardising these terms across a sector could impose costs and administrative burdens on firms (small employers in particular) that make it more difficult for them to hire or stay competitive.

Sector-wide rules on pay structures or career progression could push employers into adopting similar wage systems that limit their ability to reward good performance or reflect productivity differences in pay. Furthermore, rules on work organisation or new technologies could limit firms' ability to respond to customer demand and could depress incentives for innovation.¹⁴

Statutory minima should therefore cover only core protections, while operational decisions remain at the discretion of firms or through voluntary agreements. By distinguishing binding floors from optional terms for signatories, sectoral councils are able to raise standards, prevent undercutting, and provide sector-wide coordination without dictating the detailed operation of individual businesses. This preserves the UK's tradition of voluntarism and flexibility while ensuring meaningful sectoral protection.

¹¹ Traxler explains how voluntary coordination avoids regulatory overreach. See Franz Traxler, "Bargaining Structure, Bargaining Performance and the State", *European Journal of Industrial Relations* 9, no. 2 (2003): 141–161.

¹² *supra* note 6.

¹³ Peter A. Hall and David Soskice (eds.), *Varieties of Capitalism* (Oxford: Oxford University Press, 2001).

¹⁴ Daron Acemoglu and Pascual Restrepo, "Automation and New Tasks", *Journal of Economic Perspectives* 33, no. 2 (2019): 3–30.

4.2 Flexible Firm-Level Bargaining Above the Floor

While sectoral councils set legally-binding minima, firms should have the freedom to decide how far above the floor they go during firm and workplace-level bargaining.

This creates a decentralised, two-tier bargaining system:

- The sector sets the floor and basic framework, ensuring fair, non-competitive standards.
- Firms negotiate firm-level agreements that are adjusted to their business model, size, and workforce needs.

This structure ensures that UK firms retain the ability to compete, innovate, and respond to changing conditions, while guaranteeing that all workers enjoy a common, enforceable baseline of rights and protections.¹⁵

4.3 National Coordination Institution

As mentioned above (see Chapter 2), the absence of sector-wide coordination creates fragmented and unpredictable wage dynamics.

In advanced economies with ‘pattern bargaining’ systems (such as parts of Scandinavia), unions and employer groups meet regularly to share information about wages, working conditions, and economic trends across industries. They use this information to set agreements in one sector that serve as a reference for others,¹⁶ so wages in different industries rise in step rather than wildly diverging. By coordinating like this, wage growth stays predictable and gradual, which supports balanced economic growth and price stability.¹⁷

Pattern bargaining, however, is not feasible in the UK because the institutional and economic conditions required for a lead sector are largely absent. Effective pattern bargaining depends on the presence of a sector that is sufficiently large, internally cohesive, and strategically positioned to establish wage settlements that other sectors can credibly treat as a reference point. In the UK, no such sector exists. The economy is dominated by diverse and highly segmented service sectors, marked by wide variations in productivity, employment conditions, and competitive exposure. This

¹⁵ OECD evidence directly supports this. See OECD, *Employment Outlook 2018* (Paris: OECD Publishing, 2018).

¹⁶ Lars Calmfors, “Centralisation of Wage Bargaining and Macroeconomic Performance,” *OECD Economic Studies* no. 21 (1993): 161–191.

¹⁷ Torben M. Andersen, “The Scandinavian Model: Prospects and Challenges,” *Journal of Economic Perspectives* 21, no. 4 (2007): 5–28.

heterogeneity makes it difficult for any single sector to generate wage outcomes that are both economically sustainable and broadly applicable across the UK economy.

Sectors that might otherwise provide wage leadership lack the capacity to do so. Manufacturing, once a plausible lead sector, now employs far fewer workers and suffers with uneven union coverage.

As such, the state should institute a national coordination institution with a remit to ensure that aggregated outcomes across sectors remain compatible with macroeconomic stability.¹⁸

The body would perform the same functions as pattern bargaining systems:

- **Macroeconomic anchoring:** monitoring inflation, productivity, and labour market conditions to inform social partners' negotiations
- **Expectation management:** providing guidance to employers, unions, and financial markets on sustainable wage trajectories
- **Data analysis:** assessing sectoral bargaining coverage, wage outcomes, and associated macro risks

National benchmarks developed by the coordination institution should serve as a reference point, rather than a prescription, in the wage negotiations of sectoral councils.¹⁹ Sectoral councils should not be required to adopt national benchmarks, nor should divergence from them be punished and affect extension decisions.

However, where wage outcomes diverge above or below national benchmarks, councils should be encouraged to provide a reasoned justification for such divergence, set out in explanatory memoranda rather than in clauses submitted for extension.

¹⁸ OECD work supports state-facilitated coordination where private pattern bargaining is absent. See OECD, *Negotiating Our Way Up: Collective Bargaining in a Changing World of Work* (Paris: OECD Publishing, 2019).

¹⁹ Traxler explains why benchmarks must remain advisory in decentralised bargaining systems. See Franz Traxler, "Collective Bargaining: Levels and Coverage," *European Journal of Industrial Relations* 5, no. 2 (1999): 207–226.

Chapter 5: Implementing Fair Pay Agreements

Not all UK sectors are immediately capable of sustaining permanent sectoral councils. In many low-paid or highly fragmented sectors, employer associations and trade unions are dispersed, weakly coordinated, or lack sufficient coverage to act as genuinely representative bargaining partners. This does not reflect an absence of worker demand for collective bargaining, but rather structural barriers to organisation.

Labour's *New Deal for Working People* meaningfully lowers several of these barriers by strengthening trade unions' organisational capacity and representativeness over time. Reforms to union recognition – such as sharply reduced membership thresholds, the removal of high support and turnout requirements, and simplified recognition procedures – make it significantly easier for unions to secure bargaining rights in dispersed or hard-to-organise workplaces.²⁰ New statutory rights of union access and communication further support union scaling by guaranteeing both physical and digital access to workers, alongside employer duties to inform employees of their right to join a union.²¹ Together, these measures create more favourable conditions for union growth, coordination and legitimacy, which are essential foundations for effective sectoral bargaining.

While these reforms are likely to improve union density and reach, they do not by themselves ensure that social partners in all sectors will rapidly become sufficiently representative, coordinated, or prepared to participate in sector-level bargaining.²² In sectors with extreme fragmentation, additional transitional mechanisms remain necessary.

To address this, this paper proposes that Fair Pay Agreements (FPAs) be used as a temporary, targeted entry pathway into sectoral bargaining. FPAs are not an alternative bargaining system. Rather, they are designed to help sectors determine – through a structured, continuously reviewed process – whether representative sectoral councils can realistically be established, while allowing social partners to build the organisational capacity required for full participation in permanent sectoral bargaining arrangements.

²⁰ *supra* note 18, Chapter 4, pp. 133–138.

²¹ UK Government, Employment Rights Bill (HC Bill 11, 2024–25), Part 4 (Trade unions and industrial action) and Explanatory Notes.

²² Visser Jelle., “What Happened to Collective Bargaining during the Great Recession?” *IZA Journal of Labor Policy* (2016), Section 3.

5.1 Fair Pay Agreements as a Convening Tool & Pathway to Sectoral Councils

FPAAs should operate primarily as a voluntarist convening mechanism, rather than as a compulsory forum. FPAAs do not force unions or employers to attend negotiations, nor do they compel agreement. Instead, they create a recognised framework and a set of incentives that encourage social partners to come together if they choose to do so.²³

At the outset, a sector should be formally designated as eligible for an FPA where two conditions are met:

1. There is evidence of labour-market failure, such as persistent low pay, high turnover, or undercutting between firms.
2. There is a realistic prospect that unions and employer organisations could, with support, build sufficient representative coverage to form a permanent sectoral council.

Representative coverage refers to the extent to which unions collectively represent a meaningful share of the sector's workforce, and employer associations include a sufficient proportion of firms to bargain credibly on behalf of the sector as a whole.²⁴ FPAAs should be explicitly designed as a continuous review process, assessing whether this coverage is strengthening over time. If conditions in a sector do not allow and social partners are unable to become representative institutions, the process should cease to progress.

Formal recognition of FPA eligibility signals to unions and employers that there is a clear pathway towards a sectoral council. Those who engage early gain the opportunity to shape future sectoral standards and institutions. Those who choose not to participate remain free to abstain.

Because participation is voluntary, the convening power of FPAAs is persuasive and facilitative, not authoritative. If social partners do not engage, government support is withdrawn and the process ends.

²³ OECD explains that fruitful exchanges between social partners are not a given rely on voluntary engagement rather than compulsory outcomes. See supra note 18, Foreword and ch. 1.

²⁴ supra note 9.

5.2 Targeted, Conditional Government Support to Enable Participation

To make this pathway viable in sectors with fragmented and weak social partners, this paper proposes that measured and temporary government support be provided only to sectors with a realistic prospect of building enduring collective bargaining institutions. This avoids open-ended subsidy and ensures that public resources are used in a cost-effective way.

These measures are designed to lower start-up barriers (and do not use direct funding to sustain organisations indefinitely):

- **Time-limited seed funding for organising**
Provided on a sector-specific basis and tapered over time. Access would be conditional on demonstrable progress towards representative coverage, governance structures, credible plans to train up and delegate organising to lay representatives (in the case of unions) and paid staff (in the case of employer associations), and evidence of increasing self-financing capacity. Where progress stalls, funding is withdrawn.
- **Procurement and tax incentives as rewards for employer participation.**
The state can use its procurement or fiscal power to encourage employers to join recognised employer associations or fund their organisational development.²⁵
- **Access to shared labour-market data**
Provides unions and employers with reliable, sector-wide data. Reduces negotiation costs and supports evidence-based bargaining²⁶ (access reduces the need for them to conduct costly, unnecessary data research and prevents disputes over facts).
- **Re-establishment of payroll deduction of union dues**
Allows workers to opt into automatic deduction of union membership fees directly from their wages. This voluntary system would be comparable to existing payroll deductions for pensions or charitable contributions. Introducing this on a permanent basis would help unions remain financially stable as they

²⁵ IPPR provides the policy rationale for using procurement leverage to encourage employer coordination and compliance. IPPR, *Procurement for the Public Good* (2021), Chapter 3.

²⁶ ILO, *A Review of Wage Setting through Collective Bargaining*, section “Information that may support wage bargaining”, pp. 27–28.

aim to become representative organisations and would not require ongoing public expenditure.²⁷

- **Temporary accreditation of ‘alternative bodies’ to enable initial dialogue**
In sectors where recognised unions or employer associations are initially sparse, the state should allow the temporary accreditation of alternative bodies solely to help assemble a negotiating forum during the FPA phase. This enables initial meetings and structured dialogue where no viable forum yet exists.²⁸

Such accreditation is strictly time-limited and automatically expires once a permanent sectoral council is established. Alternative bodies should enable the formation of sectoral councils, not substitute for permanent institutions that are genuinely representative of employers and workers.

²⁷ The case for payroll deduction as a measure supporting union sustainability: See Ewing, K.D., Hendy, J. & Jones, C., *The Future of Labour Law* (Institute of Employment Rights, 2020), Chapter 5.

²⁸ ILO supports temporary or provisional representation mechanisms where permanent bodies are not yet viable. See ILO, *Representativity in Social Dialogue* (International Labour Office, 2013), Chapter 4.

Chapter 6: Legal Extension & Enforcement

As mentioned in Chapter 2, ‘legal extension’ is the statutory process by which a collective agreement concluded by unions and employer organisations (or certain clauses in it) is extended by law to cover non-signatory firms and workers within a defined sector. It promotes uniform labour standards across a sector and prevents unfair competition that results in undercutting.²⁹

6.1 The Legal Tests for Extension

Clauses should be eligible for extension only if they meet all three tests:

1. Non-competitive minima

Clauses must establish baseline protections that prevent undercutting without regulating competitive business decisions (see Chapter 4.1 for examples).

2. Public-goods test

Ensures extension is applied only where a clause addresses a collective action problem that cannot be solved by individual firms acting alone. The question is: *Does the clause prevent undercutting or harmful competition that would otherwise weaken sector-wide compliance?*

I.e., would the clause, if left a voluntary agreement, be undermined by competitive pressures to the extent that sectoral minimum standards are widely ignored across the sector?

- Pay floors, working-time limits, safety, and equality protections generally satisfy this test, especially in fragmented or low-margin sectors.³⁰

3. Administrative neutrality

Clauses must be mechanically enforceable without interpretation or discretion by the state. To qualify, a clause must be:

- clearly defined,
- objectively verifiable, and
- enforceable without case-by-case judgment.

²⁹ ILO, Global Wage Report 2020–21, section on collective bargaining coverage.

³⁰ International Labour Organization, *Sectoral Collective Bargaining* (Geneva: ILO, 2020).

This criterion's design takes account of the UK's limited enforcement capacity and ensures that extension does not require the creation of a new inspectorate, adjudicatory body, or discretionary approval process.

It also excludes any requirement for ACAS to assess economic reasonableness, wage affordability, productivity effects or alignment with national benchmarks (like those set by the national coordination institution).³¹

Taken together, these conditions provide legal certainty to social partners during the drafting of sectoral agreements and establish a presumption in favour of extension. Where a sectoral council negotiates clear, non-competitive minima and jointly requests extension, approval should be automatic rather than conditional on discretionary economic or policy review.

6.2 The Public Authority Responsible for Extension: ACAS

Extension decisions should be managed by a dedicated unit within the Advisory, Conciliation and Arbitration Service. Embedding this function within an existing statutory body avoids the need for a new quango, thereby saving taxpayer money.

There are several reasons why ACAS is particularly well placed to perform this role:

- **As a statutory body, it operates independently of ministerial control,** meaning its decisions would be insulated from political pressure.³² This independence is crucial for ensuring that extension decisions are perceived as fair and impartial.
- **ACAS' brings deep expertise in labour relations.** ACAS' practical knowledge of workplace agreements enables it to determine if clauses proposed for extension are clearly defined, objectively verifiable, and mechanically enforceable.
- **ACAS enjoys a high level of trust among employers and trade unions,** who generally regard it as a neutral and credible institution.³³
- **ACAS' mandate could be broadened to include extension powers without major structural changes,** given its existing statutory functions (e.g. maintaining confidential registers and handling detailed sectoral data).

³¹ Bogg warns that economic tests convert extension bodies into policymakers. See Alan Bogg, "The Constitutional Architecture of Labour Law," *Modern Law Review* 78, no. 3 (2015): 406–435.

³² Trade Union and Labour Relations (Consolidation) Act 1992, s.247

³³ Acas, *Annual Report and Accounts 2024–25*, Performance Report, *Highlights of the Year*, p. 38

This combination of independence, expertise, legitimacy, and adaptability makes ACAS a natural candidate for extension powers.

6.3 Enforcement of Extension Decisions

ACAS' Role in Enforcement

ACAS would set the rules and decide who they apply to. Its functions include:

- Approving extension decisions that make sector agreements legally binding.
- Determining which clauses are legally effective.
- Specifying the employers, sectors, or groups to which those clauses apply.
- Maintaining a public register of sector agreements.
- Issuing clear guidance to enforcement bodies on which clauses are enforceable and to whom.

ACAS would also be responsible for monitoring sector-wide trends and recurring problems. Where appropriate, it could convene enforcement agencies and align inspections, information-sharing, and enforcement timetables in cases of:

- Widespread breaches within a sector,
- Repeated breaches of multiple clauses, or
- Persistent non-compliance following enforcement action.

ACAS would not inspect workplaces, investigate employers, determine breaches, or impose penalties – those powers are exclusive to enforcement agencies. Outside the extension process, ACAS' role would be that of a coordinator rather than a regulator.

Enforcement Delegated by Clause Type

Enforcement Responsibility	Relevant Enforcement Authority
Pay floors	HMRC
Hours/safety	HSE
Training	Relevant skills bodies
Equality floors	EHRC
High-risk labour	GLAA

YOUNG
FABIANS