



Ethnic Minorities
& Youth Support
Team Wales

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All Wales BAME Engagement Programme Online Forum: Employment & Recovery from Covid Crisis 27 May 2020

Rocio Cifuentes opens the forum by stating that the topic of today's forum focusses on coming out of lockdown and recovery from the Covid 19 crisis, particularly in relation to employment, recovery of jobs and safe return to work. Shavanah Taj, General Secretary of Wales TUC is a special guest and will speak to issues of safety in workplace, workers' rights and accessing your rights. We will begin with opening remarks from Shavanah and then open the field for questions and discussion. We also have on hand Matthew Eade from Cardiff and Vale CAB who is a specialist advisor on employment and Monica Frackowiak from questions for Shavanah, Mathew Monica, People are invited to put questions in chat while Shavanah is speaking.

Address from Shavanah Taj, General Secretary Wales TUC:

She acknowledges thanks for the invitation and notes this talk is a bit difficult because so much is going on and you could look at many angles. There have been a number of forums recently, so rather than focussing on issues that have already come up, she will rather speak to key issues affecting workers right now, BAME workers in particular: knowing your rights but also how to advocate for yourself and work with others, including trade unions, to be able to stand up for your rights. How to use your rights that are there for the taking – especially regarding COVID 19 and in relation to health and safety. TUC was concerned that while a significant number of people in Wales are trade union members, there are many that are not and BAME workers are less likely to belong to unions. Background to TUC: Wales TUC has 48 different affiliated unions and 400,000 members in a trade union. Other organisations and trade unions organise workers in certain sectors that are not affiliated with TUC. Also, over the weekend, Acorn was set up – a union for people with issues around housing – another gap for young, BAME, and all Workers, especially in Wales, many of whom are on low wages. There are also lots of agency workers and zero-contract hour workers on precarious terms and conditions. AT TUC level, they have tried to engage UK Government, which is not used to negotiating with trade unions – different from here in

Wales where with concept of social partnership, etc, Welsh Government is more open to working with trade unions.

The key for TUC right now is how people return to work. People here may have heard, seen or experienced themselves – what does a safe return to work look like and what does a safe workplace look like? Covid has highlighted bad vs. good employers. Welsh Government did well by legislating 2m distancing and enforcement, but we are yet to see some of that in practice. A National Safety Forum is being set up with many partners to deal with cases where employers fail to implement the guidelines. Legislation only goes so far. How do you deal with things on a practical basis? People are afraid to report on their employers and when they do, often do so anonymously. TUC influence is limited in non-recognised workplaces. In those places they can share information with workplace safety executives. EHRC has been affected by austerity and is limited on extent to which they can do work on safety in workplace. TUC has picked up that some employers have asked employees to sign a disclaimer saying PPE is not the end all be all and that workers recognise they still may come into contact with Covid in the workplace. People are being asked to sign away rights to litigate against employers. If that is happening in unionised workplaces, it's definitely happening in non-unionised workplaces. Very important to advise to people never give any rights up even that is the only way you can work that day. But in reality, people must eat, work, and pay bills. There are also issues where landlords have benefitted from mortgage holidays that have not been passed on to tenants. TUC and others have been pushing those issues with Welsh Government because they affect people. The primary issues are protecting people at work, safety, and advocating for people who don't have voices at the moment. And advocating at UK level for those on precarious contracts. At UK level, the Government has found the creation of the job retention scheme to be quite difficult because of the variety of different types of contracts out there.

We also need to start to think about what happens going forward. Redundancy. The good jobs for instance in Wales, Airbus and the aviation sector have been really impacted. Young grads are very affected. It is not just a particular sector. Regarding the future for recovery – whilst the Government is consulting BAME communities about impact of COVID 19 at this time, it's important for grassroots organisations to ask, "Where do we feature in conversations about recovery? You cannot bring us in at last minute. It needs to be the opposite." She was in meeting with First Minister about track/test/isolate, whereby they need 1,000 people to act as tracers. The point has been made that it's important that individuals employed as contact tracers need to be diverse and multi-lingual (and not just English and Welsh speaking). Likewise, if isolation becomes mandatory, for instance in the case of a workplace outbreak, what happens? A worker will be expected to isolate for 14 days. How does an agency worker deal with that? They will need more than statutory sick pay. People have been looking if Wales can get additional funding to address these issues but at the moment are not confident such funding will be forthcoming from the UK govt.

Back to issues around future and what that may look like. Going back to the 2008 crash, there was a successful programme set up for Jobs Growth Wales, an employment guarantee for young workers. There is an opportunity now for us to look at that. The Government is

keen to revisit looking at that, but it needs to be fit for purpose and needs to include young BAME workers. There are wider issues around digitalisation that should be looked at as well. "I could go with so many different directions." With workers, there are a number of issues which are systemic, structural and deeply embedded. She thinks a public inquiry by EHRC should look at Covid and how it has impacted BAME communities. Before Covid happened, she had conversations, including with Rocio, and WG officials around institutional structural racism. They were advising that Government have race equality strategy for Wales. The Recovery programme should include a race equality strategy.

Workplace Safety

- Question: A lot of employers are talking about maintaining working from home post Covid for reasons such as protecting the environment or saving money. Can they enact or enforce that without consulting employees? What about people who don't have space, access to hardware, etc, or want to go to a workplace for various reasons, such as home situation, lack of space, digital access, etc?
 - Shavanah notes this is always around what is practical and safe. In the switch to home working, employers haven't been carrying out safety checks, and we haven't had systems to make sure workspaces are safe. For instance, with caring responsibilities, flexibility must be allowed and included. If an individual does not feel they can safely work from home, the employer should furlough that individual. TUC have had many cases in this area. It hasn't been straightforward in making pace, but they have had some good outcomes. Employers have better understanding of what furlough means now. When it first came out, they didn't really understand how it applied. And now getting to safe return to work, e.g. school reopening, they will have to apply 2m social distance rule and put screens up where people come into contact with each other. It's a two-way process between an employer and an individual and the individual can request a furlough.
 - Matt from CAB notes that an employer has duty of care – including mental health. If there is possibility as lockdown eases and employers hold employees at home, the employer will have to consider the safety of homeworking, including reasonable adjustment for mental health, which may mean having employees go into work 1-2 days per week. .
 - One director of an NGO noted that her employees feel they need to be in office sometimes, to get away from house. Allowing a couple of people at a time in the office has allowed people in crowded living conditions to come in and get on with jobs. Others noted in the chat that women who are furloughed or forced to work from home may be in more danger from abusers living in the home.
 - From chat: WEN Wales key asks are around Covid-19 are : 1. Keep women safe at home; 2. keep women safe at work, 3, Protect women from poverty. More about this here <https://wenwales.org.uk/impact-of-covid-19-on-womens-rights/>

- BAME Covid 19 NHS risk assessment tool was announced yesterday. This is a risk assessment for health care workers, which has been trialled with health workers and their unions were involved in the process. This will be available for all BAME workers across NHS. The tool is good and welcome but there are some data gaps.
 - There is discussion of rolling out or adapting this tool for other sectors with health and social care being the first. There are 2,300 BAME workers in social care, many of them agency workers and most social care in Wales is privately run. How do we ensure it is rolled out in those areas as well?
 - Businesses have called for a risk assessment tool because they are worried about litigation potential. Ideally, the NHS tool may be amended for a range of sectors, with social care highlighted as one of those sectors.

- The group discussed the policy/practice gap: “Policy has never been the problem anywhere in the world. The problem is always in practice.” In relation easing lockdown, there are worries about this gap in relation to workplace safety and there must be monitoring and evaluation of employer compliance to guidelines.
 - TUC has called for Welsh Government to set up a National Health and Safety Forum to deal with employer lack of compliance and enforcement. In such a forum, representatives from Government, business, trade unions and the third sector would work together to resolve issues. Such a forum would give the ordinary person a feeling of confidence that the Government is doing something. At the moment, the guidance speaks to employers about what they must do, but not so much to the employee about their rights as an individual. This forum would work on a case by case basis along with providing wider advice.
 - TUC operates an anonymous whistleblowing site for individuals who have health and safety concerns at work. A person can report anonymously but they will also be made aware of different options for support if they wish, including if they are a member of a union or want to join a union. TUC whistleblowing site will not share information unless individual gives them permission to do so. They have had successes in factories as well as health and social care settings, where they have been able to go in conduct risk assessments and make those workplaces safe.
 - Link to TUC Wales Health & Safety Concerns at Work with connection to whistleblowing form - <https://www.tuc.org.uk/news/covid-19-health-and-safety-concerns-work>
 - Even with an anonymous reporting tool, how do we get BAME people to gain confidence to use that tool, given the widespread feedback that people are scared to report for losing jobs?

- A suggestion was made for organisations and citizens to write to MSs about people being asked to sign disclaimers such as referenced in Shavanah’s opening remarks.

Furlough & Redundancy

- Question: Can someone can be made redundant before bringing them back from furlough?
 - Matthew from CAB notes that redundancy can be made while employees are on furlough, but an employer must use fair and correct procedures. There must be a legitimate reason for a redundancy; it cannot be used as a pretext to get rid of a staff member. If an employee has been in a workplace for more than 2 years, they have more rights. Those who are employed less than two years, less so, but still should ask for advice and guidance, particularly if they think the procedure has not been done fairly or is discriminatory against a protected characteristic.
 - Shavanah adds that currently there are issues around redundancy consultation, which is different because people are not in the regular working environment. Employers need to take that into account, especially if the employee is shielding. Employers must conduct an equality impact assessment, and you are within rights to request that. It is important that you feel confident in what support is your employer going to provide you with seeking future employment. One worry now is many businesses have benefited from WG specific funding to support those businesses. As part of that agreement, they are advised to go through certain mechanisms to ensure they do all they can to retain workers. The whole purpose for which they are getting money in first place is to survive the next year. And be able to keep employing people.
- Question: Is there helpful guidance about the Covid situation in relation to redundancy?
 - CAB notes that it would be guidance around fair redundancy procedures. He notes that the main issue with Covid is that some employers are using this time to make cuts especially to employees of less than two years, whom employers can often get rid of. HOWEVER, people should always ask for support because if there were unfair discrimination or processes in a redundancy procedure, that can be challenged regardless of length of an employee's service.
 - Shavanah recommends that BAME people contact local assembly members if they feel an employer is unjust.
 - EHRC has produced guideline for employers on workplace discrimination and their obligations in making decisions about changing ways of working in Covid crisis: <https://www.equalityhumanrights.com/en/advice-and-guidance/coronavirus-covid-19-guidance-employers>
- There will be a review of the furlough scheme on 16th June. Employers will have to start contributing from August. Very few workers ended up on 100% wages. Some

have been on as low as 40% and the maximum is 80%. Even with a 20% cut, a lot of people on already low wages are really hurting.

- There were suggestions for a potential furlough for at risk BAME people or workers who live with a person who is shielding. Some at the meeting had heard that idea was discussed at ministerial level, but initial feedback has been negative.
- Shavanah notes that thus far, Welsh Government has focussed a lot of money they found on supporting business so people would have jobs to go back to. The discussions now have more focus on what govt. can do to help people. The issue was always going to be, "If I am furloughed, can I be made redundant? Will people have a job to go back to?"

Vulnerability of migrant workers and those on precarious contracts (or both)

- It's a serious concern that EU citizens may be particularly more vulnerable to redundancy in this period, due to overrepresentation in precarious employment.
- Many workers in health and social care are migrant workers who have no choice but to do extra shifts. Redeployment or being put on a voluntary scheme won't be economically viable for them.
- Likewise, those same workers can't make ends meet on statutory sick pay. Same for agency workers and those on precarious contracts. There may be talk of a scheme to support people who have to self-isolate because of workplace outbreaks, such as a top up for statutory sick pay – that would be beneficial.
- Chat note from Wales Strategic Migration Partnership RE Right to Work Checks: The Home Office recently published guidance on gov.uk to allow for an adjusted process for right to work checks for employers during this period. The Home Office make it clear in this guidance that because of COVID-19, some individuals may be unable to evidence their right to work and that employers should use the Employer Checking Service if a prospective or existing employee cannot provide any of the accepted documents. Also, that during this period, employers must take extra care to ensure no-one is discriminated against as a job applicant or employee because they are unable to show them their documents. <https://www.gov.uk/guidance/coronavirus-covid-19-right-to-work-checks> and <https://www.gov.uk/employee-immigration-employment-status>

Equity and Racial Justice in Recovery

- Race equality must be central to planning for recovery, but the group wants to demand how will that take place, how it will be ensured and what action looks like.
- EHRC notes that it has written to the first minister, recommending an ambitious action plan to rebuild a more equal and fairer Wales, which addresses key inequalities and human rights issues that have been exacerbated through the impact of the Coronavirus pandemic.
- At the UK level, TUC has written to EHRC on issues, including what would race equality look like in recovery and is happy to share with Wales EHRC.
- Shavanah notes that the Future Generations Commissioner put out a document out yesterday: headlines for a just recovery. This area will have significant amount of interest and some discussions are taking place, but BAME communities have not factored in or been considered. What is interesting over this last period, and young BAME people have been talking about, there's often lot of broad things said about our communities – air pollution, digitalisation, changing one sector to another. We just don't feature in those conversations. We should be addressing those different companies and be asking them how many BAME people do they employ. At some point we need to get to grips – whether talking about quotas, where recruitment is from, etc. Also regarding a green economy, a just recovery – what does that mean for BAME communities? She knows some grassroots organisations have tried to have such consultations, but at the government level, we need to demand these conversations. “We are skilled individuals. You need to factor that in at get go. We don't want to be added in as extra.”
- Note from chat: At the moment it's mandatory for businesses with more than 200 employees to report on their gender pay gap and measures to address it. This moment is a good opportunity to push for something similar for BAME reporting (with an emphasis on what employers are doing to safeguard BAME staff in COVID return to work planning). Another noted there has been a consultation on how race pay gap reporting would work in public sector. Still waiting for result that consultation.
- Are we talking about addressing the systemic causes of inequality? The pandemic has shed a light on the levels of and impacts of inequality. As part of the transition to recovery, there should be a discussion about how decisions will be taken through a (racial) equality lens, including who benefits, pays for, and makes decisions – decisions about learning, further education and further opportunities. There must be clear plans as to how we will do this. One concern is that we maintain a system that has a range of disadvantaged positions. There must be a more transformative

way of doing things going forward and more equality focussed approach. Developing a plan and making transition out of crisis will take some time.

- Consideration of systemic inequity does come back to issue of representation and who is making those decisions; the make-up of decision makers has permeated everything. WG are constantly inviting recommendations and always consulting on these issues. There seems to be a lot of talk and little implementation. To further the point about representation, there currently are not sufficient channels for Welsh Government to talk to a range of BAME people. There are a handful of gatekeepers. Advocate to open up those channels.
- It is concerning that often discourse about BAME issues implies there is some small group of people who have been impacted. “We are part of Welsh society; that should be the definition of mainstreaming.” The key test going forward – how do we be sure equalities are integrated in all we do and part of that is representation – be spoken with not spoken about.

Specifically, on creation of new quality jobs creation includes BAME people

- “If good quality jobs were part of our way of doing things, a lot of the problems ingrained in our society wouldn’t be an issue.”
- The question is asked how to guarantee jobs creation to include BAME people. One key ask, already noted, should be the need for contact tracers to be multi-lingual and diverse.
- There will be a host of young people finishing education and going into an extremely uncertain jobs market. What happens to them? There is a need to set up an apprenticeship programme now to cope with these young people. There should be a specific job recovery programme, good jobs that pay well and have training opportunities.
- Likewise, creation of equitable enterprise opportunities alongside jobs.
- Future job recovery is important considering concern around teacher’s discrimination in giving predicted grades in place of sitting exams.
- It was noted that we need to unpack that category of BAME further when considering this issue. There are some communities further away from good employment than others.

Additional web resources:

- Wales TUC Coronavirus Advice for Workers in Wales: <https://www.tuc.org.uk/covid-19-coronavirus-advice-workers-wales>
- Wales TUC Covid 19 Equality Guides: <https://www.tuc.org.uk/EqualityGuides>
- Citizens Advice Wales:
<https://www.citizensadvice.org.uk/wales/health/coronavirus-what-it-means-for-you/>