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Sleep-ins

UNISON says government must act now to overhaul broken system where staff are paid a pittance



Sleep-in decision blow for everyone in social care

The judgment by the Supreme Court that social care staff are not entitled to the national minimum wage for every hour they work, including sleep-in shifts, is a huge blow for thousands.

UNISON says the ruling is a major disappointment, but that it increases pressure on the government to bring forward much needed reform of the crisis-ridden sector.

Today's ruling marks the end of a long-running UNISON-backed case taken on behalf of care worker Clare Tomlinson-Blake against her now former employer Mencap.

Ms Tomlinson-Blake - who provided 24-hour support to two

men in their own home - argued that every hour of her night shifts should count as working time. She was required to keep 'a listening ear out', provide support where needed and respond to emergencies.

An employment tribunal initially found in her favour, but the Court of Appeal overturned the decision in July 2018.

Then in February 2019, the Supreme Court granted Ms Tomlinson-Blake permission to

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appeal and UNISON continued to support this case.

In their ruling, the Supreme Court acknowledged that no-one would doubt the importance of care workers who look after those who cannot look after themselves, and that sleep-in staff are among the low paid.

However, the justices said that workers must be paid national minimum wage when they are awake and working, but they do not need to be paid this when they're asleep.

A national social care system is needed now to transform the country's broken care service where skilled staff are undervalued and underpaid, and vacancy rates are high, says UNISON.

A well-funded service that mirrors the NHS would ensure workers are paid fairly, help fill job vacancies, and ensure those who depend on care receive quality support.

UNISON will now push for a change in the law so sleep-in shifts count as working time. The union is also urging employers and local councils commissioning care not to cut existing pay rates for already low-paid staff.

Commenting on the decision, UNISON general secretary Christina McAnea said: "No one is a winner from today's judgment. Everyone loses until the government intervenes to mend a broken system that relies on paying skilled staff a pittance.

"This dire situation was ignored by the government for years before Covid, and again in the recent Budget.

"Today's judgment shows ministers can't disregard the desperate need for major reform a moment longer. That includes a well-resourced national care service that ensures staff are paid fairly to help resolve soaring job vacancies.

"The longer the delay, the greater the betrayal of the most vulnerable in society and the dedicated workers who look after them."

Speaking after the judgment, Clare Tomlinson-Blake said: "This case was never about the money. It was about the principle of treating staff fairly.

"Sleep-in shifts aren't about just being on call - it's work. Staff are constantly on guard to protect the most vulnerable in society. The sound of a cough in the night could mean someone's in danger.

"It was nice to be clapped by the nation, but that was only temporary. The care workforce should be valued permanently. Respect for staff shows that the people we care for matter too."