

Presentation to the Scottish Expert Advisory Panel for the Collaborative Economy

IPSE’s overall view of the gig economy is that it presents more opportunities than threats, and, as noted recently by Matthew Taylor in his ‘[Review of modern working practices](#)’, a significant majority of those who work in it, like it. Nevertheless, it does present certain challenges and IPSE is very grateful for the opportunity to contribute to this discussion.

This briefing is a bullet point summary of IPSE’s position on the gig economy, organised into the themes we have been asked to focus on. It builds on our formal submission to the panel made in June, which included our ‘self-employment matrix’ and which is reproduced here.

Displacement of jobs

- There is no available data on a direct causal link between the rise of the gig economy and a displacement of total jobs
- There is a strong causal link between self-employment in general and the record employment figures Scotland has reached recently. A recent paper titled “Self-employment in Scotland: trends and its implications for productivity” by Kenny Richmond and Jonathan Slow found that self-employment “accounted for almost half of overall employment growth over the past decade and over 80% of the growth in the number of businesses in Scotland. Self-employment in Scotland, however, accounts for just over 1 in 10 jobs, lower than in many other countries”¹

Workers’ classification/status

- Uncertainty over employment status arises because of ill-defined terms such as ‘control’
- Individuals cannot be sure of their status and rights, while larger businesses face similar uncertainty because their business model is in the hands of subjective tribunal decisions
- Individuals need clarification over their status to stop them being exploited, and companies need certainty about how best to engage with the self-employed
- IPSE has developed a framework (our ‘matrix’), with help from expert lawyers, freelancers and companies

Definition and segmentation matrix		
Factor	Definition	Weighting
	Autonomy	
Lack of mutuality of obligation	An employer is obliged to provide work and the employee is obliged to complete it. This includes those on a fixed term contract, because although there is no obligation once the contract ends, mutuality exists for the duration of the contract. Where this mutuality does not exist it indicates a relationship between a self-employed person and a client. Score 15 points if there is no mutuality in the relationship.	15
Right of substitution	The right of the contractor to have another individual do the work. If the individual can clearly demonstrate they have the unfettered right to substitute and the responsibility for paying the substitute, it is a strong indicator the individual is self-employed. The only limitation a client should be able to place on this right is that the substitute is qualified to do the job. Score 5 points if the individual has a right to substitute.	5
Use of a substitute	If an individual has used their right to substitute during an engagement score an additional 10 points. The use of a substitute should score a total of 15 points.	10

¹

Lack of exclusivity	Where an individual has a contract that specifies they are only to work for one client. If there is a situation where exclusivity applies, it points to an employer-employee relationship (unless there is a clearly justifiable reason, e.g. security or sensitive information). If exclusivity does not exist score 5 points.	5
		35
Control of process and working environment		
Control of tasks (what is done)	Control of the day-to-day work the individual undertakes. If their tasks are dictated by the client or the client is able to instruct the individual to change tasks without a change to the contract, it indicates an employer-employee relationship. If this is not the case and the self-employed individual has full control of tasks score 15 points.	15
Control of method (how it is done)	Control of how the work is conducted. If the client has the right to dictate the method and process of working, it indicates an employer-employee relationship. For example, if the individual is instructed to use a script when talking to customers or has to adhere to a code of conduct at work, the client has control of the method of work. Health and safety rules should not be considered when making an assessment of who controls the method of work. Where an individual has control of their method of work score 10 points.	10
Control of hours	If the contractor has full control of the time they do work and only a deadline for delivery is set, it indicates they are self-employed. Health and safety limitations on hours should not be considered when making an assessment of who controls the hours of work. If the individual has control of their hours score 5 points.	5
		30
Business risk		
Pay per job/task	Where an individual is paid on completion of a job or task rather than by time worked. This indicates the individual is operating on a self-employed basis. If this is the case, score 10 points.	10
Number of clients	Individuals that have a number of clients appear more likely to be self-employed. If an individual has two or more working relationships at one time, even if the contracts themselves do not overlap, it is a pointer towards self-employment. Where this is the case score 5 points.	5
Entrepreneurial activity	An entrepreneur takes initiative and risk in order to profit. If the individual has an ongoing responsibility for creating business (through marketing, networking etc.) and takes the financial risk of business failure it points to self-employment. Score 5 points if there is evidence of entrepreneurial activity.	5
Rate of pay	The right to set or negotiate the rate of pay, particularly where the individual initiates the negotiation with a client using their own pay scales, points to self-employment. If this is the case score 5 points.	5
		25
Level of integration in client business		
Representation	This determines who the individual is representing in the delivery of a service to the client. If an individual appears to be representing their client while they are conducting their work, it points to an employer-employee relationship. For example, if an individual is required to wear a uniform, they are representing their client. If the individual represents themselves while conducting their work score 5 points.	5
Equipment and tools	If an individual uses their own tools and equipment to complete the work, this points to self-employment. For example, if an individual uses their own car for driving work or a designer uses their own laptop to complete work, score 5 points.	5
		10

Total points	100
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Self-employed	If an individual scores 65 points or more they should be considered self-employed.	65+
Likely to be self-employed	If an individual scores 50-64 points they are likely to be self-employed.	50-64
Unlikely to be self-employed	If an individual scores 35-49 points they are unlikely to be self-employed as they display many characteristics of an employee working for an employer.	35-49
Not self-employed	If an individual scores below 35 they should not be considered self-employed.	<35

Protecting workers' rights

- In order to best protect workers' rights, their status needs to be made clear. In its response to the Matthew Taylor review into Modern Working Practices, IPSE called for a statutory definition of self-employment
- Beyond this, we support the need for statutory maternity pay, paternity pay and an adoption allowance for self-employed people. Parental benefits are funded by the state, not employers, and there is no reason why self-employed people should receive less support than employees

Equality and accessibility

- We're not aware of any data specific to the gig economy in Scotland. However, there is some data on the UK in general
- A very recent report² by the think-tank Reform has found:
 - The UK gig economy is rapidly growing and expanding into new sectors, such as teaching and domiciliary care
 - Most work in the gig economy is highly flexible, and several surveys of gig workers indicate the value they place on flexibility
 - Many jobseekers such as older and disabled people have a demonstrable preference for flexible work
- According to a recent report from the RSA, the gig economy is predominantly male, with a 69:31 split³. This mirrors the self-employed sector in general and may be due to the gender discrepancies in certain industries
- For example, heavily male-dominated industries such as taxi services, delivery services and skilled manual work account for 38% of gig work
- Interestingly, women are slightly better represented within Uber than within the private hire industry⁴, though they still make up only 5% of the drivers
- We are not aware of any data on other measures of equality within the gig economy
- Looking at self-employment as a whole, in Scotland, women accounted for 70% of the growth in the number of self-employed⁵ people

² <http://www.reform.uk/publication/gainful-gigging-employment-services-for-the-platform-economy/>

³ https://www.thersa.org/globalassets/pdfs/reports/rsa_good-gigs-fairer-gig-economy-report.pdf p.16

⁴ https://www.thersa.org/globalassets/pdfs/reports/rsa_good-gigs-fairer-gig-economy-report.pdf p.29

⁵ [https://www.strath.ac.uk/media/1newwebsite/departmentsubject/strathclydebusinessschool/fraserofallander/Self-employment in Scotland, trends and implications for productivity.pdf](https://www.strath.ac.uk/media/1newwebsite/departmentsubject/strathclydebusinessschool/fraserofallander/Self-employment%20in%20Scotland,%20trends%20and%20implications%20for%20productivity.pdf) p.6

Minimum fares/living wage

- The Taylor Review outlines a structure whereby the average piece worker, working at an average rate, should earn at least 1.2 times the present National Living Wage of £7.50
- However, Taylor also calls for the removal of minimum wage protections for 'dependent contractors' in the gig economy, but only when they are told they may not be able to achieve the minimum wage *before* they agree to the work
- IPSE is sympathetic to Taylor's view, but safeguards would need to be put in place to ensure any removal of the minimum wage protection was not abused.