

Questions for evidence session on worker's rights, p2p transport & logistics – 26 July 2017

RSA Submission

Worker's rights

1. What data or evidence can you provide on the impact the gig economy is having on Scotland's labour market?

The RSA refers to gig work as the trend of using online platforms to source small, sometimes on-demand jobs.

The RSA undertook the largest survey on the UK's gig economy and found that there are an estimated 1.1 million gig workers in the UK. There can be a tendency to think of gig work as driving for Uber or making deliveries through Deliveroo, but most people (nearly 60 percent) who are working in this way are in professional, creative or administrative services. Overall, driving and delivery comprised about 16 percent of gig work, although there has been higher and faster growth in this sector and that of skilled manual or personal services.

Currently, gig workers are concentrated in London (over a quarter), but this may change over time. We found that an estimated 21 percent of people in Scotland would consider gig work in future, which is more than those in London. This indicates to us that gig work may become a more significant part of the labour market in Scotland in future, and thus it's important to ensure now that this development is a positive one.

2. Do you think that the existing classifications of workers' e.g. employed/self-employed remain adequate for the evolving work place?

Yes; it's important to note, however, that both of those categories further break down into the 'worker' category. For example, agency workers are 'workers' under the employee category, and some gig workers would likely be considered 'workers' under the self-employed category. This essentially means that these workers provide their services as part of a business undertaking carried on by someone else. They are entitled to more rights, such as the Minimum Wage, holiday pay and rest breaks. Here is a link to a chart the RSA created with support from the LITRG to clarify applicable legal statuses, employment rights, tax obligations, pension contributions and Universal Credit for gig workers:

<https://www.thersa.org/globalassets/images/infographics/rsa-gig-economy-chart.pdf>

The question that is perhaps more pertinent to ask here is how straightforward is it for workers to identify what their status is under the law and challenge their status if they believe they are being misclassified?

3. How do we ensure that gig economy work does not displace secure jobs by creating part-time, low-paid work that offers workers few or no statutory benefits or protection?

Address perverse tax incentives to misclassify workers. Employers pay a rate of 13.8 percent per an employee, but platforms using self-employed labour, or 'workers', do not pay an equivalent. Employing people then becomes a disproportionate burden on businesses. If Uber, for example, had to pay Employer NICs, it was estimated by a

tax lawyer that the platform would accrue costs of around £13m per month (or roughly £156m annually). Arguably, it's this sort of tax bill, in addition to the costs of enacting employment rights, which many companies would be looking to dodge.

The Taylor review recommended that the tax treatment of 'workers' be aligned with that of employees, but the RSA suggests that anyone – whether a household or business – using self-employed labour be required to pay a tax. We go this extra step further because some platforms may continue to claim that their workers are genuinely self-employed or change their business models to fit this configuration, denying 'workers' more rights in the process. Moreover, gig workers are only in small part driving up the proportion of self-employed workers, which means that we won't be able to slow the erosion of the tax base by only addressing the tax status of gig workers.

We also need to find ways of encouraging new business models, for example, models that are co-operative in nature and favour profit-sharing and invest in 'WorkerTech' to enable workers to wield more power.

It is worth considering amending competition law to consider the interests of workers alongside consumers. For example, this could be as radical as ensuring that platforms exploiting the network effect to scale and claim a disproportionate share of the market must pay dividends to their workers who made that growth possible.

4. How can we ensure that the gig economy presents equal opportunities for women, particularly in light of the Gender Pay Gap Inquiry recommendations as well benefiting workers in rural locations or those that have disabilities?

In our survey, we found that gig workers are more than twice as likely to be male than female. This mirrors the gender split in self-employment. We also found that women are half as likely as men to have tried any form of gig work, and of those who have they were much more likely to stop than men were. Nearly 40 percent of those who did report trying gig work had given it up.

There are some segments in the gig economy where women are heavily concentrated, such as in cleaning (as the data from cleaning platform Hassle shows us), but the number of cleaners, for example, is still a small fraction of the overall trend.

It's possible that women may be under-represented because newer platforms tend to offer work that women are typically not drawn to in the wider labour market; for example, women are not very well represented in the taxi industry, so it should come as little surprise that not many work for Uber. However, given that women are more likely to be in professional, creative or administrative services in the economy as a whole, we would expect platforms aimed at freelancers or 'crowdworkers' to be attracting more women. A starting point might be asking these platforms how they promote opportunities to women and minorities.

Crowdwork is also likely to be the best bet for work in rural communities as the markets are global whereas on-demand work tends to be based in a specific locality. Again, worth asking these platforms about their recruitment strategy.

Peer to peer transportation & logistics

1. How could peer to peer transportation & logistics help connect rural locations such as deliveries or transport where it is not financially viable to have year round public transport infrastructure?

There tends to be a reason why platforms usually launch and take off in cities as opposed to rural locations. This is because they rely on establishing strong network effects early on to grow. It may be that these rural communities need to invest more in promoting general awareness and incentivising people to try carsharing, perhaps by subsidising the cost, or even consider launching a platform if it can't attract platforms to those areas.

2. Should there be a minimum fare set for peer to peer transportation/private hire and taxis so that all drivers receive a living wage?

The issue to be resolved is unlikely to be as simple as setting a minimum fare. Firstly, what would the mechanics of this be? Would passengers be required to spend at least a certain amount per ride, and what would this amount be? Or, would platforms be required to ensure that drivers receive an hourly minimum wage?

According to Uber, drivers earn an average of £16-17 per hour, which is much higher than the living wage, but this doesn't take into account their expenses, which vary; for example, the cost of petrol or leasing their car, which is why many drivers now report they make less than the living wage (in addition to Uber dropping its rates). During periods of high demand, drivers may make several trips in an hour that may be short and cheap for the passenger, but in aggregate mean that the driver is making more than the living wage. These drivers also have the flexibility to choose when to work, so should platforms be expected to ensure that these drivers earn the minimum wage if they choose to work during a period of low demand and spend their shift either waiting for a ride or giving a couple of short rides?

The Taylor Review's proposal, while controversial, is worth considering because it engages with these complexities. The Review sets three conditions: Platforms would have to prove that their average worker earns at least 120 percent of the minimum wage, they would have to give workers complete freedom about when to work, and they would have to provide accurate real-time data about how much someone would earn at a particular time. If those conditions were met, the company could not be prosecuted for failing to pay all workers the minimum wage at all times. This was articulated as a way to ensure that workers are paid fairly, but also retain flexibility, ultimately sparing platforms from the need to schedule workers for shifts.

3. How can peer to peer transportation & logistics help meet Scotland's Greener Scotland targets on emissions and congestion?

A starting point for addressing this would be to commission a study or evaluation of the impact of car sharing on the environment, particularly if there has never been one in any area of Scotland. Car sharing companies are usually able to make strong cases about the benefits individuals will accrue if they turn to ride shares, particularly financially, but their claims about the benefits to society and the environment are less clear. A 2009 study in Berkeley, California found that ridesharing fuelled greater

consumption, but only in the first year and then it tended to tail off as people switched to other environmentally-friendly alternatives such as walking and cycling. However, concerns have been raised in cities about increased traffic congestion from carsharing and related consequences for air pollution and the health of passersby, such as cyclists. There are also claims that carsharing is taking people off of buses and other public transportation. In conducting a study, you may not find that you should be increasing carsharing necessarily, but that you ought to consider introducing a new cap on the number of private hire vehicles licensed on the road.

4. How could bike sharing and similar models help Scotland's population become more active and healthier?

There is a public health case to be made for rolling out more cycling schemes and it shouldn't be difficult to make – more exercise has proven health benefits. The question is then why it is necessary to even make this case. For example, is it that you want to encourage more councils to invest in bike schemes? For these schemes to be viable, they'll require some sort of partnership with the private sector, investment in promoting awareness of these schemes, and in ensuring there is the cycling infrastructure such as bike lanes, etc. alongside it.

Reflections from the evidence session:

- As raised by a panel member, not all co-operatives have been good to workers in terms of employer rights/paying the minimum. Yet, given wider context of growing inequality and market power of platforms, it's worth considering co-operatives as a model which aims to fairly redistribute wealth and is more inclusive of workers (in terms of corporate governance, worker voice).
- On competition, Uber noted that it was possible to compete with the platform in four different ways and then in the same breath noted that Uber offers a sophisticated platform that it ploughs billions of dollars into. There is competition in theory, and then there's the reality of market share and finance. It is going to be very difficult for any other platform to match the level of investment that Uber has, including co-operatives. Worth following up with GMB about the difficulties they have had in getting their ridesharing co-op with nef off of the ground.
- Following on from the Taylor Review, it's important to pick up on issues of competition, tax, and enforcement of employment rights.