



ACS & SGF Submission: Taylor Review

ACS (the Association of Convenience Stores) and SGF (the Scottish Grocers' Federation) welcome the opportunity to respond to the Independent Review of Employment Practices in the Modern Economy. ACS is the national trade association for the convenience sector, representing over 50,000 convenience stores employing almost 390,000 people in communities across Britain. Members include Co-op, McColls, One Stop and thousands of independent retailers. SGF represents the 5,000 plus convenience stores trading in Scotland.

We recognise the rise of the 'gig economy' in the UK labour market and support the Government's commitment to undertake research into 'gig' working and the reasons people take it up¹. The Taylor Review should recommend Government action to provide a clear legal framework on employment statuses and associated rights. This would provide clarity to retailers on the terms of work they can offer, as well as the terms of work their competitors with alternative business models in the 'gig economy' can offer.

Employment in the Convenience Sector

The convenience sector provides almost 390,000 jobs across over 50,000 convenience stores in Britain. ACS' Local Shop Report shows that 70% of colleagues work less than 30 hours per week and 70% of colleagues are aged 25 – 60, with 19% aged under 25 years old and 11% aged above 60 years old². Staff turnover, defined as people employed for less than a year, is low at 22%, and 41% of colleagues have been with their current employer for six years or longer³.

Employment Contracts

Traditional forms of employment remain dominant in the convenience sector and most colleagues are employees with employment contracts and associated rights. This means they are entitled to statutory sick pay, maternity and paternity leave, protection against unfair dismissal, time off for emergencies and the right to request flexible working⁴. The sector provides employment which is typically both secure and flexible, with convenience stores providing hyperlocal employment within communities across the country.

Most (60%) convenience retailers do not use zero-hour contracts in their businesses. A further 37% would only use zero-hour contracts when special circumstances apply, for example when colleagues request them, for seasonal workers or probation periods for new staff⁵. Employment in the sector is largely part-time, contracted work.

Relationship with the 'Gig Economy'

¹ BEIS. Taylor review on modern employment practices launches. 30 November 2016.

² ACS Local Shop Report 2016

³ ACS Local Shop Report 2016

⁴ <https://www.gov.uk/employment-status/employee>

⁵ ACS National Living Wage Survey 2016

The 'gig economy' is currently not commonly used as a basis for work in the convenience sector. However, we have heard of cases where retailers are offering order and delivery services through 'gig economy' employers.

Convenience stores can be in competition with 'gig economy' operators, with many stores offering mealtime solutions in response to changing social trends such as increasing single-person households and irregular working hours which are causing more consumers to shop little and often. The sector would therefore benefit from clarity surrounding employment law.

Technology

Technology has influenced the way customers engage with convenience stores and how retailers manage their business. For example, 41% of stores now offer contactless payment, 27% offer mobile payment and 21% have digital advertising screens. Over half (53%) of retailers use EPOS systems to help manage their stock and 2% of stores have self-service checkouts⁶.

Self-service checkouts can offer savings in some sites, but the introduction of self-service checkouts is mitigated by the cost and the need to offer personal and friendly service: 'friendly and helpful staff' and 'local staff who know me' both feature in the top five drivers to stores for customers⁷. The ACS Colleague Survey also finds that 'helping customers' is the third most important aspect of the job for staff, followed by 'the people I work with'⁸.

Family Employment

21% of convenience retailers employ only family members in the business⁹. These retailers can be new entrants to the sector or have a business which has been passed down generations. They are typically strongly committed to developing an effective family enterprise and trade at the heart of local communities. Revisions to employment law should not undermine genuine family businesses in the convenience sector and across the wider economy.

Commission-operated Petrol Forecourt Sites

The majority of colleagues in the convenience sector are employees. However, 23% of fuel retail groups operate commission-based sites which are run in partnership with self-employed entrepreneurs, often known as 'Contract Managers' or 'Commission Operators'¹⁰.

These retailers are self-employed entrepreneurs who partner with a fuel retail group to operate a forecourt convenience store on their premises without the need to purchase the property or pay for utility costs. Some fuel retail groups also work with self-employed people in an agreement using the retailer's own limited company. In this example, the retailer would be legally responsible for debts at the site up to the extent of the amount of capital they invest. In both cases, the profitability of the retail site is then monitored and operators are remunerated accordingly.

The fuel retail group will typically plan store layout and product planograms but the Commission Retailer has responsibility for organising staffing within the store and must stock the shop using their own capital. A capital outlay to the retail fuel group is required before

⁶ ACS Local Shop Report 2016

⁷ ACS Local Shop Report 2016

⁸ ACS Colleague Survey 2017

⁹ ACS Local Shop Report 2016

¹⁰ ACS Local Shop Report 2016

employment under this model for cash flow purposes, which is returned after the partner agreement is terminated.

The Commission Retailer must offer existing in-store staff continuous employment under their current terms as per the Transfer of Undertakings (Protection of Employment) Regulations 1981. Existing staff therefore still have access to statutory sick pay, holiday entitlements and the national minimum wage.

The Colleague Perspective

ACS completes an annual survey of employees working in the convenience sector. The survey has been framed by independently-chaired qualitative focus groups and designed in collaboration with ACS' Employment Policy Group, which is comprised of senior HR professionals and independent retailers within the sector. The 2017 edition of the ACS Colleague Survey was completed by 1230 staff via online or paper copies. Participants' responses are kept anonymous.

We can explore the views of shop floor colleagues in the sector by analysing responses to the survey from staff below store manager level. Using this sample, the ACS Colleague Survey finds that over two-thirds (72%) of those working in the sector have commitments which restrict the working hours they can undertake¹¹. These commitments may include childcare, older family members and volunteering. The survey also shows that 46% of shop floor colleagues walk to work and the average travel time is 12 minutes with an average cost of only £1.65 per day¹². This evidence demonstrates that the sector is providing valued and local employment which flexes around existing commitments, often for demographic groups who may struggle to find traditional forms of employment elsewhere locally.

The ACS Colleague Survey also asked staff to rate different aspects of their job. Shop floor colleagues are most satisfied with the convenient location of their job, working within the community, and having supportive colleagues. They have also rated positively their job security (7.03/10), safety of working environment (7.03), predictability of their pay (7.00), and flexible working hours (6.99). 76% of colleagues in the sector are either 'very satisfied' (30%) or 'fairly satisfied' (46%) with their current work circumstances, with satisfaction highest amongst colleagues employed in entry-level sales assistant positions (87%)¹³.

Two-thirds (64%) of shop floor colleagues believe they will either be in a more senior role (40%) or similar role (24%) with their current employer in five years' time. Only 12% of these colleagues feel they will be working outside of the industry in five years' time, when 7% of staff who have study commitments outside of their job¹⁴. Convenience stores are therefore providing long-term job security for colleagues who wish to remain in the sector and transitional employment for colleagues who may wish to work elsewhere following study commitments.

Skills

Convenience retailers make investments in workforce development to both ensure staff are competent and confident in their job roles and maintain strong compliance with legal requirements. Retail is a heavily regulated sector and retailers must ensure they are compliant with preventing underage sales, selling fireworks, food hygiene regulations and

¹¹ ACS Colleague Survey 2017

¹² ACS Colleague Survey 2017

¹³ ACS Colleague Survey 2017

¹⁴ ACS Colleague Survey 2017

managing health and safety, for example. Colleague training therefore inevitably focusses on meeting these requirements to avoid substantial penalties for non-compliance.

This focus on regulatory compliance is reflected by staff rating their training on food hygiene most positively (82% either 'very good' or 'fairly good'), followed by on the job learning (79%), health and safety (77%), and preventing underage sales (76%). Career development training in the sector is also viewed positively by colleagues (67%), but many workers value their job for reasons other than the potential for promotion, with only 21% ranking 'opportunities for training and progression' in the top three important aspects of their job¹⁵.

Demand for retail apprenticeships is low in the sector and 84% of colleagues are not interested in becoming an apprentice. Younger workers (aged 21-24) are also twice as likely to expect to be working outside of the sector in five years' time than all older age groups¹⁶. This limited demand for retail apprenticeships is caused by there being few skills barriers to gaining work in the sector, the opportunity costs associated with promotion, and perception of work in the sector not being career-orientated. Colleagues believe they have the skills to do their job effectively but there is limited demand for further training to develop skills and achieve career progression.

Employment Costs

Retailers are trading in a context of rising cost pressures which are escalating the costs of doing business. The overall cost of employment is rising significantly due to several regulatory interventions, including the National Living Wage, auto-enrolment pensions, employer liability for statutory sick pay, overtime hours becoming included in holiday entitlement calculations and the Apprenticeship Levy.

National Living Wage

The National Living Wage is the largest factor contributing to rising employment costs for convenience retailers. The introduction of the £7.20 National Living Wage in 2016 was a 10.8% cent increase in the statutory minimum rate for workers aged 25 and over¹⁷. The National Living Wage has a set target to reach 60% of median earnings by 2020, which the most recent projections by the OBR suggest will be £8.75¹⁸. This means wage costs will continue to rise for retailers.

Since the introduction of the National Living Wage, there has been a 4% drop in the number of jobs provided by the convenience sector between 2015 and 2016¹⁹. Retailers responded to the £7.20 National Living Wage rate by reducing staff hours (74%) and reducing staff numbers (67%), while independent retailers have also increased the number of hours they work in their business (65%)²⁰. Multiple retailers with numerous centrally managed stores have limited capacity to increase their own working hours, so have delayed business investment plans and reduced paid working hours in their business at a faster rate compared to independent retailers.

Increased employment costs have also forced retailers to review their employment packages, by cutting premium pay for working antisocial hours, cancelling benefits and development training, and changing policies on lone working. Some of these measures are

¹⁵ ACS Colleague Survey 2017

¹⁶ ACS Colleague Survey 2017

¹⁷ Low Pay Commission. Autumn Report 2016.

¹⁸ <http://budgetresponsibility.org.uk/faq/where-can-i-find-your-latest-forecasts/>

¹⁹ ACS Local Shop Report 2015 and 2016 – from 407,000 to 390,000.

²⁰ ACS National Living Wage Survey 2016

one-off and cannot be repeated, meaning future actions to mitigate rising staff costs will have a greater impact on the overall structure of paid staff hours in the business.

These retailer responses to the National Living Wage are set to increase as the rate rises towards its 60% of median earnings target. If the National Living Wage reaches this target, 90% of retailers would reduce staff hours, 81% would reduce staff numbers and 77% would reduce staff benefits²¹.

Workplace Pensions

Convenience stores have not traditionally offered workplace pensions, with 87% offering no pension scheme to their staff in 2013²². However, auto-enrolment means all businesses will have to contribute to workplace pensions for eligible colleagues. Most larger retailers in the convenience sector have now surpassed their staging date for delivering on auto-enrolment pensions responsibilities, although some smaller members have yet to pass this landmark.

Requirements on retailers from auto-enrolment are an additional cost and administrative burden for the sector. Employer contributions to auto-enrolment pensions are set to double in 2018, before rising to 3% in April 2019²³. This will further increase the costs of employment. The costs of auto-enrolment pensions have been higher than anticipated, with opt-out rates far lower than the Government's original estimates. 23% of retailers have had no colleague opt-outs, 35% say a small minority have opted out, while only 16% of retailers have had all their employees opt-out of auto-enrolment²⁴. As a result, retailers are paying contributions for a larger number of staff than expected.

The costs of auto-enrolment will also rise as a direct result of increases in the National Living Wage. Based on the current National Living Wage rate of £7.50 per hour, a convenience store employee would need to work 15 hours per week to reach the lower level of qualifying earnings (£5,824) and 26 hours per week to be automatically-enrolled (£10,000). ACS data shows that 63% of employees work 16 hours or more per week, meaning that most convenience store staff require the availability of auto-enrolment²⁵.

Statutory Sick Pay

The Percentage Threshold Scheme, which allowed employers to recover the costs of statutory sick pay for their employees' sickness ended in 2014. This means that employers must now fund sick pay themselves at the current rate of £88.45 for up to 28 weeks. This forces a considerable and unexpected expenditure onto retailers who must pay this in addition to another wage to cover the colleague absence²⁶.

For smaller retailers, requirements to pay statutory sick pay can markedly increase expenditure on staff, which impacts investment decisions and undermines business planning. Convenience retailers paid statutory sick pay to 9% of employees over the last year²⁷. A survey of our members shows that reinstating Government funding for statutory

²¹ ACS National Living Wage Survey 2016

²² ACS Voice of Local Shops survey: February 2013

²³ Now Pensions. What are the minimum auto enrolment contribution rates? 20 December 2016.

²⁴ ACS National Living Wage Survey

²⁵ ACS Local Shop Report 2016

²⁶ <https://www.gov.uk/statutory-sick-pay/overview>

²⁷ ACS National Living Wage Survey 2017

sick pay is the most desired policy measure amongst retailers to mitigate rising employment costs²⁸.

Holiday Entitlement

The Employment Appeal Tribunal confirmed (in the case of Bear Scotland vs. Fulton) in 2014 that non-guaranteed overtime had to be included in holiday entitlement calculations under the Working Time Directive²⁹. This is an administrative burden and additional financial cost for retailers who must re-calculate holiday entitlements for their staff on a regular basis to reflect fluctuations in working hours. It is common for staff to swap shifts amongst each other and change their working hours around their commitments outside work, contributing to these fluctuations.

Apprenticeship Levy

Most symbol and multiple groups in the convenience sector are now paying the Apprenticeship Levy, but will struggle to recoup the costs through funding for training. The Apprenticeship Levy is a 0.5% levy on retailers' overall wage bills, against which a £15,000 allowance is provided. This effectively means businesses with a wage bill above £3 million are liable for the Levy. Limited demand for retail apprenticeships means retailers will not be able to fully recover their Levy funds by funding apprenticeships in England through their Digital Apprenticeship Service account. In Wales, funds from the Levy are not being made directly available to retailers and the Welsh Government has explicitly stated it will not target the funding at Level 2 retail apprenticeships or apprenticeships for long-term staff³⁰. This means the Apprenticeship Levy is perceived as an additional employment tax on the sector.

Conditions for access to apprenticeship funding are also restricting apprenticeships in the convenience sector. To receive funding, apprentices must work a minimum of 30 paid hours per week. However, 70% of staff work fewer than 30 working hours per week³¹. Most colleagues also have commitments affecting the hours they can work and are less able to commit to the working hours and off-the-job training (20% of working hours) required to complete an apprenticeship. This means that only 5% of retailers currently employ an apprentice³².

**For further information on this submission, please contact
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ACS Public

Annex

²⁸ ACS National Living Wage Survey 2017

²⁹ CIPD. Holiday pay following Bear Scotland judgment on overtime. 6 November 2014.

³⁰ <http://gov.wales/docs/dcells/publications/170206-policy-plan-snapshot-en-v2.pdf>

³¹ ACS Local Shop Report 2016

³² ACS Voice of Local Shops Survey: February 2016

ABOUT ACS

The Association of Convenience Stores lobbies on behalf of over 50,000 convenience stores across mainland UK on public policy issues that affect their businesses. ACS' membership is comprised of a diverse group of retailers, from small independent family businesses running a single store to large multiple convenience retailers running thousands of stores.

Convenience stores trade in a wide variety of locations, meeting the needs of customers from all backgrounds. These locations range from city centres and high streets, suburban areas such as estates and secondary parades, rural villages and isolated areas, as well as on petrol forecourts and at travel points such as airports and train stations.

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WHO WE REPRESENT

INDEPENDENT RETAILERS



ACS represents 22,870 independent retailers, polling them quarterly to hear their views and experiences which are used to feed in to Government policy discussions. These stores are not affiliated to any group, and are often family businesses with low staff and property costs. Independent forecourt operators are included in this category.

SYMBOL GROUPS AND FRANCHISES



ACS represents 15,060 retailers affiliated with symbol groups. Symbol groups like SPAR, Nisa, Costcutter, Londis, Premier and others provide independent retailers with stock agreements, wholesale deliveries, logistical support and marketing benefits. Symbol group forecourt operators and franchise providers like One Stop are also included in this category.

MULTIPLE AND CO-OPERATIVE BUSINESSES



ACS represents 12,165 stores that are owned by multiple and co-operative retailers. These businesses include the Co-Operative, regional co-operative societies, McColls, Conviviality Retail and others. Unlike symbol group stores, these stores are owned and run centrally by the business. Forecourt multiples and commission operated stores are included in this category.

THE CONVENIENCE SECTOR



In 2016, the total value of sales in the convenience sector was £37.5bn. The average spend in a typical convenience store transaction is £6.13.



There are 50,095 convenience stores in mainland UK. 74% of stores are operated by independent retailers, either unaffiliated or as part of a symbol group.



The convenience sector provides flexible employment for around 390,000 people. 21% of independent/symbol stores employ family members only.



24% of shop owners work more than 70 hours per week, while 22% take no holiday throughout the year. 74% of business owners are first time investors in the sector.



Convenience stores and Post Offices poll as the two services that have the most positive impact on their local area according to consumers and local councillors. 84% of independent/symbol retailers have engaged in some form of community activity over the last year.



Between August 2015 and May 2016, the convenience sector invested over £600m in stores. The most popular form of investment in stores is refrigeration.

OUR RESEARCH

ACS polls the views and experiences of the convenience sector regularly to provide up-to-date, robust information on the pressures being faced by retailers of all sizes and ownership types. Our research includes the following regular surveys:

ACS VOICE OF LOCAL SHOPS SURVEY

Regular quarterly survey of over 1200 retailers, split evenly between independent retailers, symbol group retailers and forecourt retailers. The survey consists of tracker questions and a number of questions that differ each time to help inform ACS' policy work.

ACS INVESTMENT TRACKER

Regular quarterly survey of over 1200 independent and symbol retailers which is combined with responses from multiple businesses representing 3,970 stores.

ACS LOCAL SHOP REPORT

Annual survey of over 2200 independent, symbol and forecourt retailers combined with responses from multiple businesses representing 5,765 stores. The Local Shop Report also draws on data from him! research and consulting, IGO, Nielsen and William Reed Business Media.

BESPOKE POLLING ON POLICY ISSUES

ACS conducts bespoke polling of its members on a range of policy issues, from crime and responsible retailing to low pay and taxation. This polling is conducted with retailers from all areas of the convenience sector.

For more information and data sources, visit www.acs.org.uk

