

CitySprint Response

Matthew Taylor's Review into Employment Practices in the Modern Economy

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Introduction

CitySprint is the UK's leading same day distribution network, offering SameDay Courier and Logistics services, as well as International Courier and UK Overnight deliveries. Our 3,500-strong fleet currently includes the largest fleet of pushbikes in London, motorbikes, and small and large vans. We are truly represented across the UK, with 41 service centres nationally and 77% of our revenue generated by our regional operations. Established in 1985, CitySprint has built a reputation as the premier express delivery company within the UK by providing exceptional service to both business and customers.

We have been operating in the courier industry for over 30 years and have a proud track record of protecting and advancing our employees and our self-employed courier fleet. Whilst CitySprint is not an emerging, disruptive organisation of the sort traditionally associated with the 'gig' economy, we accept our industry has changed and want to take proactive steps to sustainably compete in the modern work environment. Our recent Employment Tribunal case, where our appeal has been accepted for a full hearing, has shown that there is still widespread confusion around the interpretation of employment law and we welcome the clarity we hope this review provides.

We support the proposed scope of the review set out by Matthew Taylor. The security of our contractors' income is central to our ethos, as equally is the job flexibility afforded by the self-employment model. At CitySprint, we always aim to support and protect our fleet. Fundamentally, we believe in the concept of 'good work' and are committed to delivering this for our couriers. We say that 'good work' means work which the individual wants to do, mostly enjoys, is reasonably good at and earns them an adequate living. But, we do not agree that 'good work' in any sense necessarily equates to 'worker work'.

In developing our response to this consultation, we have identified specific policy areas which we believe the Government and our industry should prioritise in order to ensure the future growth of the transport logistics sector:

- **Provide better support and help for businesses across the UK.** We require clear, detailed guidance from government on worker status to allow us and others to know where we stand;
- **Acknowledgement from government of self-employed status for contracting couriers.** Allowing transport logistics organisations the flexibility to incorporate a diverse ecology of status. Also, allowing couriers who wish to operate on that model to do so;
- **An industry-wide commitment to a Code of Conduct for transport logistics.**

As such, CitySprint welcomes the opportunity to respond to The Independent Review of Employment Practices in the Modern Economy. We have focused our response on three of the areas which are of greatest relevance to the transport logistics sector and where we feel we can add most value:

1. Security, pay and rights
2. The balance of rights and responsibilities
3. New business models

Security, pay and rights

CitySprint is the UK's largest and fastest growing same day distribution company, managing specialist final mile and contract distribution services. CitySprint has more than doubled in size since 2010 in terms of turnover, courier fleet size and employee numbers. As a result of the rapid growth of our business, the demand for couriers has significantly increased and continued access to labour is a constant consideration. We manage the balance of couriers on the fleet to provide enough work, providing an attractive offer which both protects income and provides security for our couriers.

The success of that offering is demonstrated by the fact that 27% of our couriers have worked with CitySprint for more than three years; indeed, some have been with us for over 30 years. Our courier fleet maintains a substantial pipeline of people attracted to the balance of income and flexibility which genuine self-employment provides. Many people have left our fleet and re-joined in later years. We're proud of our fleet and currently have a diverse ecology of couriers, spanning a breadth of backgrounds. Of the 3,500 couriers in our fleet, approximately 32% are over 50 of which 20% are over 60. In addition, our fleet includes 128 Lifestyle Couriers, who provide courier services on strictly local routes, of whom approximately 20% are women.

We provide our couriers with the opportunity to achieve amongst the highest earnings in the industry. CitySprint's pushbike couriers operate on a self-employed model and are paid per job, similar to the way most taxi drivers operate. The equivalent average earnings for our pushbike couriers is £10.48 per hour, approximately 40% higher than the National Minimum Wage (at £7.50). However, our highly productive couriers can earn significantly more than our average hourly equivalent. Those who would prefer an employed or worker status position for the same overall remuneration could find one, and yet they choose not to do so.

As a self-employed courier, drivers and riders are able to have the flexibility to set their own hours and to supply a suitable substitute to carry out work if they are unable to do so. All our couriers provide

their own mode of transport and - unless they want to work on certain sorts of jobs - are not required to wear a uniform. We have 41 service centres where we provide benefits such as a free space for our couriers to socialise, as well as free refreshments. We also give our couriers optional access to organisations who can provide insurance and guidance on tax submissions. In addition, CitySprint provides basic training for all our couriers, including transferable skills to help them perform the role of a courier anywhere.

We believe that the vast majority of our fleet and office staff find CitySprint a good place to work. We currently employ 800 office staff, who are all paid at least the Living Wage (£8.45 per hour) and we do not have any couriers working on zero-hours contracts.

As set out above, the protection of our contractors' income is central to our ethos and we want to encourage our drivers to make a success of their own business. We frequently review our rates for our couriers. Over the last three years, we have increased these rates, which together with a greater volume of work and smarter scheduling of delivery jobs, maximises their income per journey.

Were we to convert our contractors to worker status, one potential challenge would be the impact on couriers' current rate of pay. Part of the implementation of worker status requires employers to adhere to the National Minimum Wage (NMW) and associated holiday pay. As such, we would have to ensure our couriers provide a level of service to justify this payment. Although a proportion of our fleet is highly productive, there may be considerable number of couriers who would not meet the productivity threshold required to be paid the minimum wage. This may be because they have another source of income, or perhaps they prefer to work less.

To supplement this shortfall, we would have to increase the price rate per drop. In a highly competitive market, this would dramatically increase costs for our clients and ultimately make our business unsustainable. We have outlined two scenarios below, demonstrating how implementing worker status across our fleet would impact on individual pay and job security.

Scenario A: Impact on Highly Productive Workers

We currently operate on a meritocracy model. Payment on a job by job basis means couriers that put in the most effort, earn the most money. To ensure couriers are completing enough drops to earn the NMW, CitySprint would have to create a more level playing field. Ultimately, this would mean taking jobs from highly productive workers and giving jobs to less productive couriers. The need to artificially feed less productive couriers with more jobs means that highly productive couriers would see a significant decrease in their take home pay.

This ultimately means the best members of our fleet would be penalised, potentially leaving CitySprint and eroding our skills base, leading our services to suffer.

Scenario B: Loss of Income for Less Productive Workers

Alternatively, if this tension cannot be bridged and CitySprint are forced to pay more per courier, the number of couriers we could have operational on the fleet would be reduced. Couriers who do not meet the productivity threshold would have to be let go.

This means that the less productive individuals would be both worse off financially and may eventually risk requiring welfare support.

In addition, implementing the NMW requires accurate knowledge of the hours being worked, monitored in real time. "Working" for these purposes means that the individual must be in the right location, with a communication device switched on and ready to work. This presents a significant administrative challenge in circumstances where couriers are contractually entitled to reject any individual job, whilst simultaneously waiting for the next job to begin.

The administrative, productivity and organisational burden of moving over to worker status for CitySprint – and our industry more generally – is challenging, with inevitable increased costs to end users. Ultimately implementing worker status across our fleet would affect our ability to engage with and make payments to our couriers. We are keen to soften the impact as much as possible – to help protect jobs, to protect our contractors' income and keep CitySprint a sustainable and competitive business.

The balance of rights and responsibilities

Our 3,500-courier fleet comprises of 84% van couriers, 7% motorbike couriers, 6% car couriers and 3% cycle couriers– who all undertake distinct kinds of jobs. The type of work couriers undertake usually illustrates their potential status. People who require more regular hours, are free to choose a contract which provides them with continuous work at an hourly rate. A self-employed contract allows them to operate in a highly flexible way, and at their own pace. Our self-employed contractors have no obligation to accept any particular job and are entitled to be providing services to both CitySprint and other organisations simultaneously. Our couriers are attracted to this type of work because CitySprint can offer support to them in running a small business in their own right. Our industry does not fit the typical nine-to-five profile, and CitySprint's clients' demand for services facilitates this model.

Our data shows for example:

- Only 51% of our pushbike fleet choose to work five days a week;
- Almost 20% of them work less than three days a week;
- Some couriers choose to only work part of a day;

We support this two-way flexibility model between employer and courier. Many take advantage of the flexible hours to supplement other careers which require flexibility, pursue further education

opportunities or to take extended holidays at certain times during the year. We find that our couriers enjoy the freedom to work flexibly and on their own terms, ultimately giving them greater fulfilment in their work. It is for them, 'good work' as we describe above. As we pay our couriers well-above the minimum wage, we already consider holiday pay in effect to be incorporated into our contractors' pay, under our self-employment model.

According to the Confederation of British Industry (CBI), recent rising levels of employment highlights the merit of a flexible labour market¹. Under the self-employment model, we aim to foster the entrepreneurial spirit of couriers who make a successful independent business. Many of our couriers work for CitySprint and other providers concurrently and manage their own small fleet of couriers.

CitySprint would like to give our couriers increased transferable skills training, so more people can effectively run and ultimately grow their own profitable small business under our umbrella. However, we are restricted in the training we are able to provide under the self-employment model as it currently stands – a model which is supported by our couriers. It may be relevant that our only claimant to date, cyclist Maggie Dewhurst, has a leading role in the Independent Workers Union of Great Britain (IWGB) and that she brought and pursued the claim facing opposition from other cyclists on our fleet.

Ultimately, we believe that making all of our couriers full-time employees would limit their ability to work on their terms, at times that suit them. We've long argued that, based on feedback from the vast majority of our fleet, that moving towards a fully-employed or even a worker structure would be unfavourable. Couriers assigned a worker status would have to confirm their availability for specific periods and it would be more difficult for a worker to turn down a job or substitute work. Essentially, this would impede on the autonomous nature of the role.

We were disappointed with the outcome of CitySprint's recent Employment Tribunal case (*Dewhurst v CitySprint UK*). It is important to stress that this ruling was not a test case and only applied to a single individual on a very specific area of self-employment. The Tribunal highlighted a number of findings about the way Maggie Dewhurst operated as a CitySprint courier, and why she did so. We do not agree with these findings but recognise that there are limits on our ability to challenge them, as they solely apply to Ms Dewhurst. Our appeal for Ms Dewhurst's case has now been accepted for a full hearing.

CitySprint won our only other Tribunal in 2012, involving a van driver in Warrington who used a substitute. He acknowledged that there was no mutuality of obligation and had been working on a self-employed basis with various companies over several years, until his contract was terminated.

We have a proud track record of how we treat our people, both employed and self-employed. During our 30-year operating history – which has involved over 20,000 couriers – Ms Dewhurst is our second Employment Tribunal case. Despite high levels of publicity surrounding the Tribunal, we have only received one request from our fleet to review their current status of employment. We therefore do not think this is an endemic problem in our organisation. Indeed, Ms Dewhurst continues to work for

¹ Rising employment highlights merit of flexible labour market - [CBI Press Release](#), 17.05.2017

us as a self-employed cycle courier and has acknowledged the merits of working with CitySprint; including the opportunity to earn the highest rates in the industry.

This case has demonstrated that there is still widespread confusion regarding the interpretation of this area of law. Had there been clear, detailed official guidance, one party or the other might have accepted the position at the outset.

New business models

We recognise the shift in consumer behaviour, which increasingly prioritises convenience – favouring brands, products and services that will ultimately improve their lives. For the distribution industry, this translates as a shift towards same and next day services, specified time slots and instant deliveries. As a result, we have developed technology that assures consumer needs keep pace with modern business models. Technological advances have also benefited our fleet – giving them more visibility of their earnings per job. Same day delivery is revolutionising logistics, driven by the demand for convenience and the investment in technology which helps us remain competitive.

Finding innovative solutions to help boost emerging industries has given CitySprint an injection of growth as a business. As such, we have recently expanded our business to food delivery.

As we have previously stated, the type of work couriers undertake usually illustrates their potential status. The expansion of our business into food delivery has recently led us to introduce the worker status benefits for these couriers. We did this because we recognise that food delivery is subject to significant differences from our general fleet in control, instruction and autonomy – meaning there is clear blue water between food delivery couriers and our main fleet. As such, we have defined aspects below of the role, which clearly distinguish food delivery from our main fleet:

- The courier must work fixed hours
- The courier has a defined role
- The courier has additional training
- The courier must wear a client uniform
- Service will be decided for the courier
- The courier's ability to refuse a job is limited
- Service must be committed to four weeks in advance by the courier
- The courier must serve specific fixed locations out and back each time rather than moving wherever incoming jobs take him or her
- It is a personal service and the courier cannot substitute
- The courier is bound to that contract and cannot do other work between jobs
- The courier may have to use special equipment provided by the client

As detailed in our submission, CitySprint are not transferring the responsibility of rights from employer to worker unfairly. However, we welcome greater guidance around status, and look forward to the findings presented by the Taylor review to define a clearer status for each group.

Conclusions & recommendations

Uncertainty necessitates bold action and an ambitious vision for the future of the UK economy. This review is a welcome first step towards making this vision a reality, but the short-term complexities surrounding employment status in modern working practices also require greater guidance.

This is why we are calling on the Government to provide better support and help for businesses across the UK who could be similarly affected. We have addressed our issues and recommendations around greater clarity below:

1. **We require clarity around statutory law with detailed guidance from government.** We want to ensure both individuals and businesses have an informed, reliable view of worker status.
2. **We believe that redrafting the worker definition in law will make it harder, not easier for individuals to understand and enforce their rights.** Express references to definitions around issues such as control, substitution etc. will just create scope for an industry of satellite litigation around who qualifies for worker status.
3. **We seek clarity around whether the requirements for genuinely self-employed status are compatible with our current business model.**
4. **We recommend a legislated form of acknowledgement to be included in contracts.** This will clearly set out the statutory rights and protections of self-employed contractors. If the individual then signs this document, they would be determinative of their self-employed status.
5. **After these revisions, we recommend that individuals are then bound to decisions on rights, duties and protections.** Just as individuals are bound in relation to other contracts (car hire, credit card etc.).

As expressed within our submission, our sector faces a number of specific serious challenges in the months and years ahead. We stand ready to work with government departments on taking the recommendations forward and ensuring the success of the Taylor Review.

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