Submission to the Independent Review of Employment Practices in the Modern Economy

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1. By inviting Matthew Taylor to lead an Independent Review of Employment Practices in the Modern Economy, the Prime Minister has demonstrated her commitment to striking a fairer deal for people at the bottom of Britain's labour market who are striving for their keep.

2. The need not only for the Review itself, but also for the Prime Minister subsequently to initiate a reform programme in defence of the very low paid, is reinforced by the findings of an Ipsos MORI survey which was commissioned last year by the All-Party Parliamentary Group on Hunger: every week, three per cent of people in work find themselves and their household without enough money to afford food. Applied to the number of working households in the country, this equates to hundreds of thousands of workers and their families living on the breadline.[1]

3. The growth of self-employment in the modern economy, with an additional 900,000 self-employed positions added to the workforce since 2010, has become associated with the growth of what is called the 'gig economy'.[2] It has also helped to shine a bright light on life at the bottom of Britain's labour market. For some working people, the 'gig economy' provides the opportunity of flexible work, and a supplementary income, around which they can fit other commitments. However, for many others, the 'gig economy' represents a life of low pay, chronic insecurity, and exploitation, in which all of the risks in the employment relationship are unloaded onto them by the company with whom they are working, and the gains go almost exclusively to the company in question.

4. The predominance of self-employment in the 'gig economy' enables companies to avoid their obligations to pay the National Living Wage, tax and National Insurance contributions, occupational pension contributions, and holiday and sick pay. Likewise they are able immediately to dismiss working people, or enact severe reductions to their weekly hours, without there being any right of appeal against those decisions. Examples of the sulphurous effect of the 'gig economy' on our society, in which the odds are so heavily stacked in favour of companies, include working people:

- being bullied and having their work removed from them while caring for dying relatives.
- driving and delivering parcels with a broken arm, or carrying sick buckets with them all day, for fear of losing work if they are ill.
- losing work because they have attended urgent hospital appointments.
- being threatened with a loss of work when their vehicle breaks down, by managers who tell them they should have spare vehicles at home.

[1] https://www.ipsos-mori.com/researchpublications/researcharchive/3770/Working-families-without-enough-money-to-afford-food.aspx

[2] The 'gig economy' is a relatively new and expanding industry in which companies hire people to work mainly on a freelance, casual, temporary basis. Those people are generally required to provide their services 'on demand' to fit around consumer behaviour.

5. Clearly there is an incentive for companies in the 'gig economy' to engage with working people in this way. But that incentive, in the form of heavily reduced or no employer obligations, has to be paid for by somebody. That somebody is the worker. It is also paid for by us, the taxpayers. The annual cost of this incentive to taxpayers is estimated to reach £3.5 billion by the end of this Parliament.[3]

6. Although the true size and composition of the 'gig economy' remains unknown, early estimates suggest there is a small army of working people who are now dependent on it for their livelihood.[4] This submission has been shaped by the evidence submitted to us by 161 drivers working with two of the largest companies in the 'gig economy', Hermes and Uber, which alone account for tens of thousands of people who work in this industry.[5]

7. The evidence submitted by those drivers suggests that people working in the 'gig economy' are at risk of taking home as little as £2 an hour – less than a third of the National Living Wage – because the companies with whom they work pay low piece rates which have been cut in recent years. These rates are insufficient both to cover the costs people must necessarily incur to fulfil their jobs, as well as to provide a disposable income. In addition, the methods used by companies to calculate working people's earnings are sometimes presented in an unclear, opaque, and confusing way.

8. We believe the foundation of self-employment, upon which much of the 'gig economy' is built, is shaky. The evidence we have received highlights a discrepancy between what most of us would think of as self-employment – the freedom to decide when, where, and how to work, as well as being one's own boss – and the model that is to be found in the 'gig economy', in which companies control many fundamental aspects of people's working lives.

9. Some working people have begun successfully to challenge this injustice. Drivers working with Uber won an employment tribunal against the employment status the company had enforced upon them. Others working with Hermes are now preparing their own case which will be fought on similar grounds. However, large numbers of working people remain wrongly classed as self-employed.

10. One way of countering this problem would be for the Government automatically to classify people working in the 'gig economy' as workers – halfway between employees and self-employed, but with basic rights – and require companies to prove otherwise if they disagree with this employment status. This would effectively amount to a ban on false self-employment.

11. Another way of countering this problem, which could be introduced either alongside, or in place of such a requirement, is the creation of a new framework of protection for working people, based on the extension of rights rather than definition of status. The purpose of this

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[3] Office for Budget Responsibility, *Economic and fiscal outlook* (2016): p. 123
[4] Manyika, J., et al, *Independent work: choice, necessity, and the gig economy* (San Francisco: McKinsey & Company, 2016)
[5] Field, F., and Forsey, A., *Wild West Workplace: self-employment in Britain's 'gig economy'* (2016), and *Sweated Labour: Uber and the 'gig economy'* (2016)

policy would be to confer basic rights on working people with particular problems, and not restrict access to those rights exclusively to those who are classed as employed. This would help the Government to overcome the complexities associated with plotting a boundary between employment and self-employment.

12. Our main recommendation is for the new Director of Labour Market Enforcement to be given the powers they require to enforce a national minimum standard of fair work in the 'gig economy', covering all working people regardless of their employment status.

13. We propose that the national minimum should be built upon five main pillars:

- national minimum of income – to guarantee all working people an income that falls no lower than the level of the National Living Wage. This should incorporate working people's operating costs as well as the time spent preparing delivery rounds and travelling to their first delivery destination, for example.
- national minimum of safety – protect all working people from having to work continuously for dangerously long periods of time to earn a basic living (i.e. ensure that an adequate income can be earned by working for a safe amount of time, without having to resort to sweated labour).
- national minimum of decency – empower all working people to challenge threatening and intimidating employment practices which penalise them for being ill, for example.
- national minimum of stability – prevent companies from suddenly and immediately withdrawing people's work. A minimum of four weeks' notice should be required before any alterations to people's working patterns are enacted.
- national minimum of transparency – require companies to set out clearly and transparently the methods that have been used to calculate working people's earnings.

14. The Director of Labour Market Enforcement should be given the duty to intervene when companies are in breach of the national minimum, even in the absence of complaints from individual working people.

15. The Review may wish to consider incorporating within the national minimum a requirement for companies to offer workers on zero-hours contracts the option of fixed weekly hours.

16. The introduction and enforcement of a national minimum standard of fair work would give the Prime Minister the tools she needs to craft basic humanity, decency, and fairness into the bottom of Britain's labour market. Crucially, it would ensure that people working in the 'gig economy' are able to gain a greater share of the growing prosperity currently being enjoyed by the companies with whom they work, thereby ensuring the modern economy works for all of us, rather than a privileged few at the top.