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Fawcett Society Submission

Independent Review of Employment Practices in the Modern Economy

May 2017

About us

1. The Fawcett Society is the UK's leading charity campaigning for gender equality and women's rights at work, at home, and in public life. Our vision is a society in which the choices you can make and the control you have over your own life are no longer determined by your gender.
2. We publish authoritative research to educate, inform and lead the debate; we bring together politicians, academics, grassroots activists and wider civil society to develop innovative, practical policy solutions and we campaign with women and men to make change happen.
3. The gig economy offers flexibility as a benefit to its workers – and flexibility in the workplace to accommodate the unpaid caring work that women still primarily shoulder is a long-standing ask of the Fawcett Society. But if flexibility in the gig economy is not accompanied by rights at work, maternity rights, childcare support, meaningful progression, or sex discrimination protections, an increase in women participating in that economy simply means a shift into less secure, often less well-paid work.

Women in the labour market and the gender pay gap

4. As demonstrated by the persistence of the gender pay gap, which currently stands at 13.9% using the mean average for full-time employees and 18.1% including part-time workers, the structure of work in the UK has an unequal impact on women and men. The causes of the gap fall into four main categories: unequal caring responsibilities, discrimination, labour market segregation, and men dominating the best-paid roles. The gap represents an under-valuing of women's skills and work, which is in turn a productivity issue for the UK economy.

5. The RSA's research, which the review will of course be aware of, demonstrates that the incomes of women in the gig economy tend to be significantly lower than men's, with three in four women earning less than the taxable threshold from gig work, compared with 61% overall.[1] This further reflects HMRC data on self-employed earnings, which suggested a 40% income gap between self-employed men and women.[2]

6. Fawcett's recent research shows how the gender pay gap intersects with ethnicity: women from almost every minority ethnic group experience a pay gap with White British men, with the gap ranging from a reversed full-time gender pay gap of -5.6% for Chinese women in Great Britain to 19.6% for Black African women. As well as this gender pay gap with White British men, pay by gender within the same ethnic group can vary widely. Indian women experience the widest full-time gender pay gap of this type with Indian men of 16.1%, compared to 5.5% for the equivalent gender pay gap between Pakistani and Bangladeshi men and women. But Pakistani and Bangladeshi women have the largest aggregate gender pay gap with White British men, which

[1] [1] Brhmie Balaram, Josie Warden, and Fabian Wallace-Stephens, 2017, *Good Gigs: A fairer future for the UK's gig economy*, RSA
[2] Hansard, Parliamentary Debates 4 March 2014, p. 132, 4 March 2014: http://www.publications.parliament.uk/pa/ cm201314/cmhansrd/chan130.pdf

today stands at 26.2%.[3] Gender intersects with other identities as well: for example, disabled men faced a pay gap of 11%, while disabled women faced a gap twice as large at 22%.[4]

7. We are glad that a number of parties have committed to monitoring ethnic as well as gender pay gaps in their 2017 manifestos, and encourage the Review to ensure their response takes account of intersectional differences.

Women and non-standard employment

8. Data on the modern working practices is difficult to come by, an issue accentuated by the variety of different forms of work that can be included under the banner of modern working practices or the 'gig economy'. 95% of Uber and 94% of Deliveroo drivers are reported to be men, and RSA research finds that 31% of gig economy workers are women.[5] But survey work by the University of Hertfordshire, taking a wider definition that focuses on UK homeworkers who have found work online, suggests that 54% of crowdworkers are women.[6] In many ways the rise of crowd-working parallels existing forms of work that historically, and today in the developing world, are often highly feminised, such as home-based piecework.

9. New forms of self-employment, and increases in self-employment, are part of the picture of modern working practices. TUC research from November 2016 shows that women make up over half of the one million additional self-employed workers since 2008, despite being less than a third of overall self-employed people, and that part-time self-employed women make up 29% of the total compared with 18% part-time self-employed men.[7] Women are increasingly likely to be self-employed, and increasingly likely to be part-time self-employed. The rise is particularly notable amongst women aged 50+, and there is a polarisation in terms of skills: while some are in higher-paid work, many are working in low paid positions such as cleaning and hairdressing roles. These findings add to those in Fawcett's 'Changing Labour Market 2' analysis from 2014, which saw a similar trend.[8] Some of this additional self-employment is likely to be in new forms of flexible or 'gig' working.

10. Some of this increased self-employment amongst women represents a positive step, with women taking advantage of the flexibility self-employment can offer. However, for many it is also likely to represent a failure of employment within larger businesses to provide the flexibility that women, who still do the majority of unpaid care work in our society, require in order to stay and progress in work. For some women, as well as many men, it will also reflect a false self-employed status that they are made to accept by employers in order to avoid providing full employee rights.

11. Zero-hours contracts form another element of non-standard working practices which are on the rise. Fawcett survey data from 2014 found that the majority of the 1 in 8 low-paid women who were on these contracts did not exercise a positive choice to take one up, but were compelled to accept it either as it was the only work available (39.6%) or due to pressure from the company (17.3%) or Job Centre (7.9%). These are an example of flexibility in theory not translating into a

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[3] Anthony Breach and Yaojun Li, 2017, *Gender Pay Gap by Ethnicity in Britain*, Fawcett Society
[4] Equality and Human Rights Commission 2014, Pay and disability: What do we mean by disability? www.equalityhumanrights.com/private-and-public-sectorguidance/employing-people/managing-workers/equal-pay/checklistsequal-pay-practice/18-pay-and-disability
[5] Brhmie Balaram, Josie Warden, and Fabian Wallace-Stephens, 2017, Ibid.
[6] Ursula Huws and Simon Joyce, February 2016, 'Crowd Working Survey', University of Hertfordshire, http://www.feps-europe.eu/assets/a82bcd12-fb97-43a6-9346-24242695a183/crowd-working-surveypdf.pdf
[7] Anjum Klair, November 2016, 'Self-employment – who are the new army of workers?', TUC Touchstone Blog
[8] Fawcett Society, (2014), *The changing labour market 2: women, low pay and gender equality in the emerging recovery*, Fawcett Society

positive step in practice, with 28% saying they receive fewer hours than they want, but equally 45% saying that they fear losing out on shifts if they refuse hours that are offered to them.[9]

12. Changing formal workplaces' practices so that they support women to enter and advance in the labour market, and close the gender pay gap, is key to ensuring that women who take up modern working practices do so because they choose to rather than because they are pushed to. *To that end, Fawcett calls for:*

    - *A new requirement on employers to advertise every job as flexible unless there is a good business reason for it not to be.*
    - *An increase in the national living wage to bring it up to the level of the real living wage.*
    - *A requirement for large companies who have to report their gender pay gaps to have an action plan in place, and penalties for those who do not comply.*
    - *To shift occupational segregation, targets for recruiting girls and women into STEM subjects at school, higher education and into employment, and for girls at GCSE and A level to be defaulted into maths and science subjects, with an opt-out.*
    - *The abolition of tribunal fees which act as a barrier to justice in sex discrimination and pregnancy discrimination cases.*

Turning to the specific questions posed by the review:

Security, pay and rights

To what extent do emerging business practices put pressure on the trade-off between flexible labour and benefits such as higher pay or greater work availability, so that workers lose out on all dimensions?

To what extent does the growth in non-standard forms of employment undermine the reach of policies like the National Living Wage, maternity and paternity rights, pensions auto-enrolment, sick pay?

13. **Maternity and parental leave rights:** The rise of non-standard work is concerning in relation to women's rights at work, including maternity rights. Recent research from the EHRC highlights that pregnancy discrimination across the labour market remains a common occurrence. They estimate that up to 54,000 women are forced to leave their jobs early each year as a result of being sacked, made redundant or poor treatment following pregnancy or giving birth.[10]

14. Self-employed women have significantly less maternity support than employed women. Women in standard employment already get a raw deal: the UK ranks 22nd out of 24 European countries which offer maternity leave in terms of the provision of a decently-paid period,[11] with only six weeks paid at 90% of earnings. But women who are self-employed and receive Maternity Allowance receive only the statutory minimum (or 90% of earnings if that is *less* than the minimum) for the duration of the 39 weeks' leave.

15. For many self-employed women this low rate of pay, on top of the need to maintain business relationships, is likely to lead to additional pressure to return to work earlier than they would want. However, Maternity Allowance allows only ten keep-in-touch days, after which point women are forced to choose between: significant economic consequences such as losing customers; returning to work and giving up their Maternity Allowance; and making a false claim. This offers too little flexibility and does not reflect the reality of self-employment. An additional

[9] Fawcett Society, *Changing Labour Market 2*, Ibid.
[10] EHRC (2015) *Is Britain Fairer; The state of equality and human rights in 2015*
[11] TUC analysis, March 2017

absurdity in the current system is that women employees on Statutory Maternity Pay can take on as much self-employment during their period of Maternity Leave as they wish, but self-employed women are limited to ten days. There is a clear need for self-employed women to be better supported, especially early in their pregnancy. *Fawcett calls for Maternity Allowance for self-employed women to enable a more flexible return to work, and for a review of how best to financially support self-employed women in a similar way to the 90% replacement rate that employed women receive for the first six weeks.*

16. Pregnant or breastfeeding women who are self-employed are not currently protected against discrimination under the Equality Act 2010, and the Equality and Human Rights Commission (EHRC) therefore does not include them in its reviews of pregnancy and maternity discrimination. There is, as a result, no current measure of the degree to which they are discriminated against in their working relationships. *Fawcett calls for a cross-governmental approach to including self-employment in analysis of sex discrimination and pregnancy and maternity discrimination.*

17. Fawcett wants to see an end to the constraints that current parental leave structures place on the choices open to mothers and fathers when it comes to caring for their children, which is an impediment to gender equality, men and women's work-life balance, and the welfare of children. Our research has found support for this: 71% of parents believe that men who take time off work to look after a baby should be entitled to the same pay and amount of leave as women.[12] To enable this, based on international best practice, *we have called for Shared Parental Leave be replaced with a system of non-transferable leave paid at equal replacement rates for fathers, also known as a "father's quota" or "daddy months.*

18. Self-employed men, however, receive no statutory paternity leave or pay – not even the basic two weeks - so the parental leave system as currently configured does not support them to share childcare duties at all. As well as affecting those fathers, this is likely to put additional pressure on women from lower income households who may experience a future lack of engagement by fathers in the care of their children. *The review should consider the introduction of a statutory Paternity Allowance as a minimum, but should look beyond this to how fathers and second partners in the gig economy can be supported to equally share care.*

19. **Pension rights:** A lifetime of the gender pay gap translates in a pensions gap, which is exacerbated by a lack of information and gendered spending pressures. Female pensioners in the UK have smaller pension pots than men, with a current gap of 40% - one of the highest pensions gap in the European region.[13] This is significantly larger than the gender pay gap figure: while both women and men overall are not saving adequately for retirement, women are significantly less likely than men are to build up sufficient private pension savings in their own right.[14] Black women pensioners are poorer than white female pensioners are and Asian female pensioners are poorer than either group.[15] Fawcett's qualitative research has found a concerning information gap around the impact of pension under-investment, and that women often have to

[12] From a wider sample of 8,165 members of the public, including non-parents.
[13] Burkevica, I., Humbert, A. L., Oetke, N., Paats, M. (2015), Gender gap in pensions in the EU: Research note to the Latvian Presidency, European Institute of Gender Equality, http://eige.europa.eu/sites/default/files/documents/MH0415087ENN_Web.pdf
[14] Steventon A and Sanchez C (2008), The Under-pensioned: disabled people and people from ethnic minorities, Pensions Policy Institute for the Equality and Human Rights Commission http://www.pensionspolicyinstitute.org: uk/publications/reports/the-under-pensioned-disabled-people-and-people-from-ethnic-minorities
[15] Ginn, J. (2011), Moving the SPA Goalposts for Women: The broader context, Kings College London

prioritise paying off debts or paying for childcare or other family-related costs before paying into a pension.[16]

20. The exclusion of self-employed workers and workers in the gig economy from auto-enrolment therefore needs to be looked at through a gendered lens. With increasingly large numbers of women working self-employed, and a rise in gig working, women's participation in these roles could result in a widening of the pensions gap. *Consideration of how the gig economy relates to pensions needs to include a gendered lens. In particular, comprehensible information sharing is required at maternity, which is a crunch point for women's pension inequality.*

21. **Sexual assault and lone working**: While numbers of women working as drivers for rideshare apps such as Uber or Lyft are reportedly low, they face gendered risks. A number of women rideshare drivers have described experiencing sexual harassment or assault from passengers, and feeling pressure due to the star rating not to report it or respond negatively. The operators of these apps need to be stringent in ensuring that they respond comprehensively to any such reports, and that they are clear that women workers will be believed and supported.

Progression and training

How can we facilitate and encourage professional development within the modern economy to the benefit of both employers and employees?

22. Our response to this issue focuses on a particular sector where women make up the majority of workers – adult social care. The adult social care workforce is 82% female, with this gender imbalance accentuated at the bottom of the pay scale in non-management and non-technical roles, such as nursing where only 4-12% of roles are held by men.[17]

23. Social care work often entails insecure, non-standard employment. Skills for Care found in 2015 that '23% of jobs in adult social care are estimated to be operating on a zero-hour contract, though this figure does not include the large number of workers that may be designated 'self-employed' but are working through generalist agencies that are not seen as 'care' agencies.'[18] On top of this, irregular working patterns, with the prevalence of 15 minute appointments that often mean meeting care needs relies on donated labour, and which are often monitored using electronic timers, mean that social care work resembles gig work in terms of its downsides.

24. To address this issue, Fawcett recommends that the review consider how we:

- *Professionalise the social care workforce, raising standards and pay.*
- *Establish a national policy on recruitment and training of domiciliary and residential care workers, with a new qualification which will bridge the gap between care workers and nurses to deal with increasing complex care needs*

The balance of rights and responsibilities

Do current definitions of employment status need to be updated to reflect new forms of working created by emerging business models, such as on-demand platforms?

25. The lack of rights at work that many people in the gig economy experience are likely to particularly impact on women, and hold back gender equality, in the ways described above. For that reason we would advocate for clarity on when workers in the gig economy are actually

[16] Polly Trenow et. al., (2016) *Closing the Pension Gap: Understanding Women's Attitudes to Pension Saving*, Fawcett Society

[17] Commission on Care, (2016), *Towards a New Deal for Care and Carers: Report of the PSA Commission on Care, 2016*, Political Studies Association

[18] Skills for Care (2015) *The state of the adult social care sector and workforce in England.*

functionally employees, and support the exploration of new definitions of employment statuses if they convey additional working rights to women who would otherwise be without them.

Representation

Opportunities for under-represented groups

26. *How can we harness modern employment to create opportunities for groups currently under-represented in the labour market (the elderly, those with disabilities or care responsibilities)?*

27. The Fawcett Society is concerned about women's equality at every life stage but we know that older women are more likely to live in poverty, be carers, experience greater workplace discrimination and a wider gender pay gap than their younger counterparts. Fawcett survey work in 2014 found that women aged 55 and over were particularly hit by the cost of living crisis.[19]

28. The overlap of women having children later on in life and continuing to work longer means that many women find themselves part of the 'sandwich generation' where they are likely to be caring for grandchildren as well as their own elderly parents. Women are more likely than men to have given up work and be 'economically inactive' in order to provide this type of care.[20]

29. The flexibility of gig working or crowdworking could offer a route to economic independence that works for women who face these pressures, but again it also reflects the failure of standard employment to provide flexible support for them.

30. As described above, BAME women and disabled women face intersecting discrimination in the mainstream labour market. International evidence from the ODI suggests that in developing countries, on-demand domestic work apps like 'Domestly' are structured in a way that enables discrimination on the basis of gender, ethnicity, age, and other factors under the aegis of consumer choice.[21] There is certainly potential for this to occur in the UK as well - but currently gig economy companies are likely to be excluded from pay gap reporting mechanisms that are being introduced into the mainstream labour market. *Fawcett recommends that the review consider the role of regulation in requiring businesses to open up their data on the incomes made by their users, in the same way that Government is now requiring businesses to open up their books.*

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[19] Fawcett Society, *Changing Labour Market 2*, Ibid.

[20] Ben Galim D and Silim A, IPPR, The sandwich generation: Older women balancing work and care, 2013 http://www.ippr.org/publications/the-sandwich-generation-older-women-balancing-work-and-care

[21] Abigail Hunt and Fortunate Machingura, (2016), *A Good Gig? The rise of on-demand domestic work*, ODI