

## **A response to the Taylor Review's employment practices questions**

### **Summary of recommendations**

Keith Sisson

[keithsisson@hotmail.co.uk](mailto:keithsisson@hotmail.co.uk)

#### **1 Security, pay and rights**

##### ***General***

- ALL those in employment to have written statement of terms and conditions based on Acas templates including information about who to contact for help and advice and how to make a complaint.
- Employers to exercise due diligence for the workers they outsource reporting annually in Operating and Financial Reviews on steps taken to ensure compliance; cf. provisions of 2015 Modern Slavery Act.
- Procedure for complaints to be brought into line with that for seeking help and information, i.e. a single point of reference to be known as the Fair Work Agency or Fair Work Authority to help publicise.
- Current charges for taking claims to an Employment Tribunal to be abolished or considerably reduced.

##### ***Tackling bogus self-employment***

- It should be unlawful for employers to require workers to adopt self-employed status or to set up a 'personal service company'.
- There should be as level playing field as possible for employed and self-employed workers re NICs and tax so that the decision doesn't turn on financial incentives of these - including employers of self-employed having to pay equivalent of NICs. Same goes for employment rights.
- In addition to reducing employment status uncertainty (see below), there should be measures to support the genuinely self-employed, cf. recommendations of Deane report and Federation of Small Businesses, e.g. flexible saving and income protection insurance; a bespoke default pension;

improved access to mortgages, high speed broadband and provision of shared work spaces and serviced offices.

- Platform companies like Uber and Deliveroo to register as employment agencies.

### ***Agency workers***

- In keeping with the aim of closing the gap in treatment of the different categories, agency workers should qualify for statutory sick pay on a pro rata basis regardless of weekly earnings. The same goes for automatic pension enrolment and maternity/paternity pay.
- The loophole allowed by the so-called 'Swedish derogation' should be closed - it's being used to pay agency workers less than their permanent colleagues for doing the same job as well as deny them annual leave.
- Organisations to report in Operating and Financial Reviews on the number of agency workers given permanent status to in their supply chains - it's in their interests to see agency work as a form of probation.
- All employment agencies to be registered and complete annual due diligence reports.

### ***Casual (zero hours) workers***

- There should be a right to compensation if a shift is cancelled at short notice
- There should be an entitlement to a minimum hours contract after 6 months.
- The UK should follow the example of Australia in giving casual workers an hourly premium of say 15 per cent in lieu of sick pay/annual leave etc.
- Organisations to report in Operating and Financial Reviews on the number of casual (zero hours) workers employed in their supply chains.

## **2 The balance of rights and responsibilities<sup>1</sup>**

- 'Worker' to be a generic term - to describe anyone who performs work under contractual arrangements for material rewards.

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<sup>1</sup> I've switched the order of questions 2 and 3 in the interests of continuity of argument.

- Bring employment law into line with HMRC arrangements with statutory binary divide between 'employed' and 'self-employed'
- Everyone who is 'employed' to be regarded as an employee and be entitled to an employment contract.
- Employment contracts to be based on Acas templates depending on type, i.e. permanent, fixed term, agency, casual (zero hours) and home working.
- The starting point for these contracts to be existing rights revised to achieve level playing field as soon as possible
- Definitions of 'employment' and 'self-employment' to be based on factors emerging from recent case law, e.g.
  - A person is employed if he/she works under the direction and/or control of an organisation and receives payment in return decided by the organisation. There is a mutual expectation that the organisation will make work available and the individual will do it.
  - A person is self-employed if he/she runs their own independent business, is able to negotiate a fee for the work they do, and has control over the way they do it. There is no mutual expectation that any organisation will make work available and the individual will do it.

### 3 Progression and training

- Reduce the threshold for the right to time off for training and development from 250 to 25.
- Introduce a system of training credits, cf. Republic of Singapore.
- Government to influence the DEMAND for training, e.g. using procurement to require contractors to have *Investors in People* status.
- Introduce mandatory VET requirements such as City & Guild qualifications - to give a strong incentive for people to train and retrain.
- Organisations to report in Operating and Financial Reviews on their training policies, practices and spend

#### **4 Representation**

- Reverse the decision to close the Employment & Skills Commission - the UK needs an authoritative and respected social partner organisation to advise, encourage and cajole ministers on policy development covering work organisation, workforce development and the future of work.
- Make provision for employee representation on company boards - to help to reinforce the notion of companies being there for the benefit of society and not just a select group of shareholders.
- Make the right to information and consultation in the 2005 ICE Regulations automatic rather than expecting 10 per cent of employees to 'trigger', giving recognised trade unions the representation rights they currently have in collective redundancies and business transfers.
- The government to 'midwife' and 'pump-prime' representative sector forums in industries with especially large numbers of low paid workers, i.e. retail/wholesale, hotels/restaurants, and health/social work, with remit to raise standards, e.g. by sharing and dissemination of good practice, drawing up of codes of conduct and organisation of common services such as training programmes and holiday and sick pay funds. Organisations to report in Operating and Financial Reviews on their involvement and participation policies, practices and spend.

#### **5 Opportunities for under-represented groups**

Implement the following proposals in Anthony Atkinson's 2015 *Inequality - what can be done?* :

- Proposal 1: Policy-makers to encourage forms of technological innovation that increase the employability of workers and emphasise the human dimension of service provision.
- Proposal 3: Government to adopt an explicit target for preventing and reducing unemployment with offer of guaranteed public employment at the National Living Wage.
- Proposal 13: A participation income to complement existing social protection arrangements.

## **6 New Business Models**

- Use procurement policy to encourage greater variety.
- Implement Anthony Atkinson's Proposal 7 for a 'public Investment Authority ... a sovereign wealth fund with the aim of building up the net worth of the state by holding investments in companies and in property'.
- Implement the proposals of the 2012 *Ownership Commission Report* - in particular encourage formation of local Co-operative and Community Benefit Societies.

