

# **Review of Modern Employment Practices**

**Written evidence submitted by:**

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## About the author

1. Ursula Huws is Professor of Labour and Globalisation at Hertfordshire Business School, University of Hertfordshire, and editor of the journal *Work Organisation, Labour and Globalisation*. She has been carrying out research into the economic and social impacts of technological change, the restructuring of employment and the changing international division of labour for decades.
2. Her current research focus, within the context of a larger body of research on the future of work, is on the gig economy and its implications for welfare reform and labour policy. She is directing a research project, funded by the Foundation for European Progressive Studies (FEPS) and trade union body UNI-Europa, into the scale and nature of 'crowd working' in the gig economy across Europe, which has so far involved surveys in eight European countries, linked to follow-on qualitative research. Over the last year she has advised several national governments, EU agencies and European Parliament committees on the policy implications of the growth of the gig economy.

## Scope of this submission

3. This written summary is a follow up to the oral evidence that Professor Huws gave at the Review of Modern Employment hearing held in Cardiff on April 12, 2017.
4. It presents findings from ongoing research at the University of Hertfordshire, funded by FEPS and UNI-Europa, that provides insight into the scale and nature of work within the gig economy in the UK and across Europe.
5. This submission addresses three of the six themes the Review is seeking to explore: security, pay and rights; the balance of rights & responsibilities; new business models.

## Key findings from the *Crowd work in Europe* study – full report available [here](#).

6. This study represents the first attempt in Europe to survey the general prevalence of 'crowd work' - work managed through online platforms within the gig economy – and to identify the characteristics of a random sample of crowd workers.
7. FEPS and UNI-Europa commissioned Hertfordshire Business School to develop an experimental pilot survey covering the entire online adult population. This was carried out first in the UK and then repeated in Sweden, the Netherlands, Austria and Germany. The survey made it possible to investigate how people are using online platforms to generate an income, including paid crowd work. The survey was carried out by adding questions to existing online omnibus general population surveys in the respective countries, with a sample stratified by gender, age, region and working status. More than 10,000 people were surveyed across the five countries. The results were weighted to be representative of the general population.
8. Online surveys have now been carried out in the UK, Sweden, Netherlands, Germany, Austria, Italy and Switzerland, with France about to go into the field. In order to calibrate the results of the online surveys, an offline face-to-face survey has

also been carried out in the UK, and a telephone survey in Switzerland. Having established the general prevalence and characteristics of crowd work, these surveys have been followed up with in-depth telephone interviews with individual crowd workers, which is ongoing. The project is also investigating and evaluating alternative approaches to the organisation of work via large international online platforms.

9. A report on the results from eight countries will be published in November 2017. However interim results are available from the first five countries. The proportion of people who had ever carried out paid work via online platforms was equivalent to 9% of people in the UK and Netherlands, 10% in Sweden, 12% in Germany and 19% in Austria. The study found an estimated five million people in the UK have sold their labour via online platforms.
10. The majority of these do so only occasionally ('supplementary gig workers'), as a top-up to other forms of income. Across the first five European countries to be surveyed, the proportion reporting doing paid work via online platforms at least once a week was between 5% and 9%, with 6% to 13% doing so at least once a month.
11. However while crowd work is generally a small supplement to total income, 2.5% of respondents across the five countries – equivalent to one in 40 people – report that paid work managed through online platforms constituted the majority of their monthly income. The study found 1.3m people in the UK derive more than half their income from this kind of gig work.
12. In the UK, people who earn more than half their income from work managed by online platforms are:
  - On average younger than the general working-age population
  - More likely to earn less than £15,000 a year than either supplementary gig workers or non-gig workers.
  - More likely to use several different platforms and perform a wider range of tasks than supplementary gig workers.
  - More likely to be the main earners in their households
  - More likely to describe themselves as employees (56%, compared with 50% of occasional gig workers and 44% of non gig workers)
  - But also more likely to describe themselves as self-employed (16%, compared with 13% of occasional gig workers and 7% of non gig workers)
13. These survey results have been supplemented by in-depth interviews with gig workers in several categories:
  - online work
  - short tasks in other people's homes (e.g cleaning, decorating, assembling flat-pack furniture, running errands)
  - driving
  - delivery work
14. While there are variations between different types of work and different platforms, there are a number of common features:
  - Unpaid time spent waiting for work, searching or bidding for it
  - Importance of customer ratings, which cannot be challenged – 'the customer is always right'
  - Non-transparent and impersonal communication with platforms
  - Complaints of arbitrary decisions (sometimes including unexplained suspensions) from platforms

- Inability to refuse dangerous tasks without incurring penalties
  - Inability to refuse demands from customers that deviate from how tasks were originally described without incurring penalties
  - A range of risks to physical health and safety
  - Psycho-social stress linked to precariousness and inability to plan ahead
  - Lack of voice
15. These factors, combined in some cases with other features (such as having to wear uniforms or sport a company logo) suggest that workers in the gig economy do not have genuine autonomy but must be regarded as subordinate workers.
16. The study found 57 per cent of people who work for online platforms at least once a week view themselves as employees, despite being classified as self-employed contractors, which denies them entitlements like holiday and sick pay.
17. These workers would fail to pass normal tests for genuine freelance status. Their rate is fixed by the online platform, the precise nature of the work is specified, and they have limited rights to refuse work or challenge negative customer feedback or arbitrary suspensions. It suggests a relationship of dependency, not flexibility and freedom.
18. Professor Huws is in ongoing dialogue with a range of European Agencies (including Eurostat, The European Occupational Safety and Health Agency and the European Foundation for the Improvement of Living and Working Conditions) about the future research and policy implications of the development of crowd work, in addition to national government bodies in several of the participating countries.

### **Defining legal status of online platforms**

19. There is a pressing need to establish the legal status of online platforms (if only to avoid unfair competition with existing employment agencies and temporary work businesses) to establish which obligations and responsibilities apply.
20. For example, should online platforms be regarded as falling within the scope of ILO Convention No 181 – the Private Employment Agencies Convention? Article 1 of this Convention states: ‘... the term private employment agency means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services: (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom; (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks’; (c) other services relating to jobseeking...”
21. ILO Convention 181 requires adopting countries to ensure a range of measures to protect workers and jobseekers including freedom of association, collective bargaining, minimum wages, access to training, occupational safety and health, compensation in case of occupational accidents or diseases and working time. They must also have procedures for dealing with complaints.
22. The Convention addresses the possibility that workers may be recruited in one country to work in another, both in relation to migrant workers and to the possibility of

fraudulent practices in cross-border transactions. There are also restrictions on the processing of personal data (which should 'ensure respect for workers' privacy in accordance with national law and practice') and on the fees that workers may be charged.

### **Classifying workers: distinction between subordinate workers and freelance workers**

23. There is a pressing need to draw a clear definitional distinction between subordinate workers and workers who are genuinely freelance, in the sense of:
- Negotiating the nature and design of the task individually with clients
  - Determining the rate of pay
  - Retaining ownership of intellectual property in any creative work produced (except by explicit agreement on a case-by-case basis)
  - Being free to subcontract the work or employ an assistant to help do it
  - Working directly for multiple clients

### **Protecting rights of workers for online platforms**

24. There should be a presumption that workers for online platforms are subordinate workers unless otherwise demonstrated (reversal of the onus of proof).
25. Clear information should be provided both to platforms and to their workers about their rights to:
- a. Minimum wage
  - b. Paid holidays
  - c. Health and safety protection (including rights to refuse dangerous work)
  - d. Trade union membership

### **Online platforms that benefit local communities and economies**

26. The growth of online platforms presents new opportunities, for example providing people with direct access to new labour markets that would not have been previously possible.
27. But society has to come up with new innovative models to ensure local economies and workers do not lose out. The possibility of creating not-for-profit online platforms that benefit local communities should be explored, keeping the value locally as opposed to intermediary companies, often based overseas, taking a cut from each labour transaction. Some examples currently being investigated including municipal platforms run through public-private partnerships, municipal crowd-funding schemes, co-operatives and co-working spaces.

