

Uber ruling opinion: gig workers need rights, but don't hurt genuinely self-employed



The [recent ruling in the Uber employment tribunal](#) is great news for the UK's low-paid gig economy workers, but it also sends out a stark message that public policy needs to adapt without damaging other forms of self-employment.

The crucial difference is that workers in those other forms of self-employment - such as contractors, freelancers, interims and consultants – aren't low paid, are not vulnerable and don't want protection.

New measures are required to protect vulnerable workers pushed into false self-employment. But, please don't provide HMRC with new weapons to extract more tax from the genuinely self-employed.

How the gig economy has facilitated false self-employment

The gig economy is a relatively new phenomenon. Whilst it initially took the form of a technology-driven utopia enabling self-sufficient workers to go about their business on a flexible basis, it has quickly come to resemble a platform for large companies to exploit low-paid workers.

It has given rise to a new wave of false self-employment, and the ones paying the price are the very workers who can't afford to. Gig economy workers are missing out on basic worker rights whilst agency workers on zero hour contracts aren't even guaranteed income.

Government must acknowledge the various types of self-employed

Government action is needed, and so we all welcome the Business, Energy and Industrial Strategy Committee's [inquiry into the future world of work](#), which will look at how policy can redress the balance.

But at the same time we must remember that low-paid gig economy workers aren't the sole representatives of the self-employed workforce. Reading this, the likelihood is that you're a contractor. [And according to our survey](#), the likelihood is that you're also amongst the:

- 85% who don't want or need paid holiday leave
- 94% who don't want restrictions on the amount of hours they work
- 82% who don't want paid sick leave
- 88% who don't want maternity/paternity rights

The truth is there are multiple different types of self-employed workers. The McKinsey Global Institute (MGI) recently conducted some [ground breaking research on self-employment](#), opting to break independent workers into four groups:

- **Free agents:** Those who derive primary income from self-employment and actively choose to work this way
- **Casual earners:** Those who actively choose to supplement other income through self-employment
- **Reluctants:** Those who source primary income from self-employment but would prefer traditional jobs
- **Financially strapped:** Those who supplement income through self-employment to make ends meet

Public policy on employment law and taxation is ‘stuck in the dark ages’

The problem is that, whilst thinktanks such as MGI are recognising this emerging trend in the global workforce and providing the insight we desperately need, existing employment law and tax legislation is still stuck in the industrial age. It is in desperate need of reform to ensure that every member of the self-employed workforce is treated fairly.

The fact that several mainstream media outlets reported that the ruling deemed the Uber drivers in question to be employees and hailed the outcome as a huge leap forward in terms of worker protection goes to show how far we have yet to go.

So whilst it's encouraging that the Government is looking for ways to supplement the low-paid self-employed with rights and benefits, we need to make sure all self-employed workers aren't banded together to the detriment of those who don't want such provisions. We need definitions of self-employment that go beyond the self-employed and the self-employed 'worker'.

The contracting sector does not need any more red tape and regulations

However, despite the admirable aims of protecting the vulnerable, the last thing the contract sector needs is more red tape. The Government might now be pursuing ways to help out the new breed of self-employed, but for far longer it has demonised the contingent workforce with excessive legislation.

Even in spite of measures such as the dividend tax hikes introduced last year – and despite plenty of evidence proving that incorporation is necessary for many contractors to trade with clients – HMRC and policymakers still think that contractors incorporate as a means of reducing their tax liability. But this is not the case.

And, in a way, funding workers' rights this poses a new threat to the contract sector. In order to provide more for the lower-paid self-employed, the Government will have to take from somewhere else.

Don't give HMRC new weapons to unfairly tax contractors

Whatever measures are introduced, the Government needs to make sure it doesn't provide HMRC with a weapon to extract more tax from the genuinely self-employed. The uneven application of its tax avoidance clampdown is proof that it prefers the easy pickings that contractors have come to represent.

There's no doubt that HMRC underestimates its tax take from the contract sector, which we demonstrated in a survey completed following the announcement of the [public sector IR35 reforms](#).

The taxman reckons it will generate an extra £400m each year as a result of the changes. However, our findings show that, if its estimated 20,000 public sector contractors were moved into fixed term employment contracts paying a market salary, its tax take would actually reduce by £115m as a result of the reduced overall worker income.

So, yes, introduce more workers' rights and benefits for exploited gig economy workers, but don't give HMRC new tools to extract more tax from freelancers and hamper the flexible economy.

Published: Wednesday, November 2, 2016

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