

Summary of recommendations from the review of modern working practices

Recommendation	Response
<p>1 The government should replace their minimalistic approach to legislation with a clearer outline of the tests for employment status, setting out the key principles in primary legislation, and using secondary legislation and guidance to provide more detail</p>	<p>Take forward further work on the case for legislative change and potential options for reform</p>
<p>2 The government should retain the current three-tier approach to employment status as it remains relevant in the modern labour market, but rename as 'dependent contractors' the category of people who are eligible for worker rights but are not employees</p>	<p>Test relevance of current approach and nomenclature</p>
<p>3 In developing the test for the new 'dependent contractor' status, control should be of greater importance, with less emphasis placed on the requirement to perform work personally</p>	<p>Consult on the detailed tests to determine a worker (or dependent contractor)</p>
<p>4 In redefining the 'dependent contractor' status, government should adapt the piece rates legislation to ensure those working in the gig economy are still able to enjoy maximum flexibility whilst also being able to earn the NMW</p>	<p>Examine how working time should apply to the gig economy</p>
<p>5 In developing the new 'dependent contractor' test, renewed effort should be made to align the employment status framework with the tax status framework to ensure that differences between the two systems are reduced to an absolute minimum</p>	<p>Take forward further work on the case for legislative change and potential options for reform</p>
<p>6 The government should build on and improve clarity, certainty and understanding of all working people by extending the right to a written statement to 'dependent contractors' as well as employees</p>	<p>Agree to extend to 'workers' and consult on what information to include</p>
<p>7 The government should build on legislative changes to further improve clarity and understanding by providing individuals and employers with access to an online tool that determines employment status in the majority of cases</p>	<p>Accept and will be taken forward once status changes are agreed</p>
<p>8 The government should ask the LPC to consider the design and impacts of the introduction of a higher NMW rate for hours that are not guaranteed as part of the contract</p>	<p>Agree to ask LPC to consider the impacts of this option and of alternatives</p>

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<p>9 The government should extend, from one week to one month, the consideration of the relevant break in service for the calculation of the qualifying period for continuous service and clarify the situations where cessations of work could be justified</p>	<p>Agree to extend the consideration of the relevant break in service, and consult on changes to clarify the situations where cessation of work could be justified</p>
<p>10 The government should do more to promote awareness of holiday pay entitlements, increasing the pay reference period to 52 weeks to take account of seasonal variations and give dependent contractors the opportunity to receive rolled-up holiday pay</p>	<p>Accept and consult on the details of increasing the pay reference period to 52 weeks. Not taking forward proposal on rolled-up holiday pay.</p>
<p>11 The government should amend the legislation to improve the transparency of information which must be provided to agency workers both in terms of rates of pay and those responsible for paying them</p>	<p>Accept and consult on how this will work</p>
<p>12 The government should introduce a right to request a direct contract of employment for agency workers who have been placed with the same hirer for 12 months, and an obligation on the hirer to consider the request in a reasonable manner</p>	<p>Accept and consult to apply this to a wider group of workers</p>
<p>13 The government should act to create a right to request a contract that guarantees hours for those on zero hour contracts who have been in post for 12 months which better reflects the hours worked</p>	<p>Accept and consult to apply this to a wider group of workers</p>
<p>14 The government should examine the effectiveness of the Information and Consultation Regulations in improving employee engagement in the workplace. In particular it should extend the Regulation to include employees and workers and reduce the threshold for implementation from 10% to 2% of the workforce making the request</p>	<p>Consult on extending the regulation and reducing the threshold</p>
<p>15 The government should work with Investors in People, Acas, Trade Unions and others with extensive expertise in this area to promote further the development of better employee engagement and workforce relations, especially in sectors with significant levels of low-paid or casual employment</p>	<p>Accept</p>

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<p>16 The government should introduce new duties on employers to report (and to bring to the attention of the workforce) certain information on the workforce structure</p> <p>The government should require companies beyond a certain size to:</p> <ul style="list-style-type: none"> ▶ Make public their model of employment and use of agency services beyond a certain threshold ▶ Report on how many requests they have received (and number agreed to) from zero hours contracts workers for fixed hours after a certain period ▶ Report on how many requests they have received (and number agreed) from agency workers for permanent positions with a hirer after a certain period ▶ 	<p>Monitor the impact of corporate governance reforms, supported by a refreshed Corporate Governance Code and take further action if these reforms do not change behaviour. This could include a 'People Statement' and we welcome views on how effective this might be</p>
<p>17 The new Director of Labour Market Enforcement should consider whether the remit of the Employment Agency Standards Inspectorate ought to be extended to cover policing umbrella companies and other intermediaries in the supply chain</p>	<p>Extend the remit of Employment Agency Standards Inspectorate as recommended, subject to the conclusions of the Labour Market Enforcement Director</p>
<p>18 The government should repeal the legislation that allows agency workers to opt out of equal pay entitlements. In addition, the government should consider extending the remit of the Employment Agency Standards Inspectorate to include compliance with the Agency Workers Regulations</p>	<p>Consultation on both Swedish Derogation contracts and the role of the Employment Agency Standards Inspectorate, seeking to determine the level of abuse</p>
<p>19 HMRC should take responsibility for enforcing the basic set of core pay rights that apply to all workers - NMW, sick pay and holiday pay for the lowest paid workers</p>	<p>Accept that the state should take responsibility for enforcing these rights for vulnerable workers and consult on how this will work</p>
<p>20 The government should ensure individuals are able to get an authoritative determination of their employment status without paying any fee and at an expedited preliminary hearing</p>	<p>There are currently no fees in the ETs following a recent Supreme Court judgment. If fees are reintroduced we will consult on this</p>
<p>21 The burden of proof in employment tribunal hearings, where status is in dispute, should be reversed so that the employer has to prove that the individual is not entitled to the relevant employment rights, not the other way round, subject to certain safeguards to discourage vexatious claims</p>	<p>Return to this recommendation after an online tool has been developed</p>

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<p>22 The government should make the enforcement process simpler for employees and workers by taking enforcement action against employers/engagers who do not pay ET awards, without the employee/worker having to fill in extra forms or pay an extra fee and having to initiate additional court proceedings</p>	<p>Accept enforcement process could be simpler. Reform to the enforcement process is planned and we will consult on how to ensure this reform works for employment tribunals</p>
<p>23 The government should establish a naming and shaming scheme for those employers who do not pay employment tribunal awards within a reasonable time. This can perhaps be an element of the reporting which we have suggested in relation to the composition of the workforce including the proportion of atypical workers in the workforce</p>	<p>Accept and consult on how to implement a naming and shaming scheme</p>
<p>24 The government should create an obligation on employment tribunals to consider the use of aggravated breach penalties and cost orders if employer has already lost an employment status case on broadly comparable facts - punishing those employers who believe they can ignore the law</p>	<p>Accept the need for strong punishment for those who ignore the law. Consultation on how to extend the use of sanctions. New proposal put forward to increase level of penalty for aggravated breach</p>
<p>25 The government should allow tribunals to award uplifts in compensation if there are subsequent breaches against workers with the same, or materially the same, working arrangements</p>	<p>Accept the need for strong punishment for those who ignore the law. Consultation on how to extend the use of sanctions</p>
<p>26 The review believes the principles underlying the proposed NI reforms in the 2017 Spring Budget are correct. The level of NI contributions paid by employees and self-employed people should be moved closer to parity while we should also address those remaining areas of entitlement - parental leave in particular - where self-employed people lose out</p>	<p>Agree that the small differences in contributory benefits no longer justify the scale of differences in rates of NI contributions, but we have no plans to revisit this issue</p>
<p>27 The government should continue to develop advice and support for people embarking on a self-employed career to ensure they have the greatest chance of succeeding. This includes ensuring that self-employment is considered by work coaches at Job Centre Plus as an option, where this would be appropriate, as well as ensuring careers advice includes information on becoming your own boss</p>	<p>Accept</p>

Good Work

	Recommendation	Response
28	The government should work with partners to create a Catalyst to stimulate the development of a range of WorkerTech models and platforms in the UK. This would allow new and emerging solutions to develop and grow, in a 'sandbox environment' with a view to better supporting self-employed people	Accept
29	The government should actively support technology that helps ensure self-employed people have the opportunity to come together and discuss the issues that are affecting them, working with employers to make sure this is positively encouraged	Accept
30	We encourage the government to think creatively on ways to improve pension provision amongst the self-employed, making the most of opportunities presented by digital platforms and the move to more cashless transactions	Accept
31	The government should continue to work with providers to ensure that self-employed people have access to online tools that support compliance with the principles of MTD even if they do not meet the minimum statutory threshold	Agree
32	The government should consider accrediting a range of platforms designed to support the move towards more cashless transactions with a view to increasing transparency of payments, supporting individuals to pay the right tax	Agree
33	HMRC should link up with others across government to examine whether the underlying principles of conditionality could be applied more broadly in this space, supporting both self-employed people and consumers in their choices	Agree
34	<p>As the new apprenticeship system beds in, government should examine how the apprenticeship levy could be made to work better for those working atypically, including through agencies. The Institute for Apprenticeships should work with sectors with high levels of lower-paying and atypical work to ensure that they are making best use of the current apprenticeship framework</p> <p>Following the delivery of the three million apprenticeships that it is committed to, government should consider making the funding generated by the levy available for high-quality, off-the-job training other than Apprenticeships. The Institute for Apprenticeships should also be tasked with reporting on and addressing disparities in the take-up of apprenticeships for different groups</p>	We agree to consider next steps following delivery of current targets

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<p>35 Learning from the failings of Individual Learning Accounts the government should explore a new approach to learning accounts, perhaps with an initial focus on those with a long working record, but who need to retrain and those in receipt of Universal Credit. The new £40 million Lifelong Learning Fund is a starting point for this and should be developed by bringing together employers, civic society and the education sector</p>	<p>Agree in principle, work being taken forward in other work programmes</p>
<p>36 The government should use its convening power to bring together employers and the education sector to develop a consistent strategic approach to employability and lifelong learning. This should cover formal vocational training, 'on the job' learning and development, lifelong learning and informal learning outside work. It could be linked to the longer-term development of life-time digital individual learning accounts. As part of this, the government should seek to develop a unified framework of employability skills and encourage stakeholders to use this framework</p>	<p>Agree in principle and will develop a unified framework of employability skills</p>
<p>37 The government should strongly encourage gig platforms to enable individuals to be able to carry their verified approval ratings with them when they move from the platform and to share them with third parties</p>	<p>Accept in principle; will monitor changes and assess what further action needs to be taken</p>
<p>38 In developing a national careers strategy, the government should pay particular attention to how those in low paid and atypical work are supported to progress. It should take a well-rounded approach including examining the role of high-quality work experience and encounters at different education stages</p>	<p>Agree</p>
<p>39 The government should ensure that exploitative unpaid internships, which damage social mobility in the UK, are stamped out. The government should do this by improving both the interpretation of the law and enforcement action taken by HMRC in this area</p>	<p>Accept</p>
<p>40 As part of the statutory evaluation of the Right to Request Flexible Working in 2019, government should consider how further to promote genuine flexibility in the workplace. For example, it should consider whether temporary changes to contracts might be allowed, to accommodate flexibility needed for a particular caring requirement. The government should work closely with organisations like Timewise and Working Families to encourage flexible working and initiatives like 'happy to talk flexible working' to a wider range of employers</p>	<p>Accept</p>

Good Work

Recommendation	Response
<p>41 The government should review, and in any event, consolidate in one place guidance on the legislation which protects those who are pregnant or on maternity leave to bring clarity to both employers and employees. In parallel with the range of non-legislative options set out above, the government should consider further options for legislative interventions. If improvements around leadership, information and advice do not drive the culture change we are seeking, the government will need to move quickly to more directive measures to prevent pregnancy and maternity discrimination</p>	<p>Accept</p>
<p>42 We recommend that the relevant government Departments - BEIS, MHCLG, DWP and DH explore ways of supporting and incentivising local authorities, particularly City Regions and combined authorities to develop integrated approaches to improving health and wellbeing at work</p>	<p>Agree</p>
<p>43 The government should reform Statutory Sick Pay so that it is explicitly a basic employment right, comparable to the National Minimum Wage, for which all workers are eligible regardless of income from day 1. It should be payable by the employer and should be accrued on length of service, in a similar way to paid holiday currently. The government should ensure that there is good awareness of the right amongst workers and businesses</p>	<p>Work being taken forward as part of <i>Improving Lives: the Future of Work, Health and Disability</i></p>
<p>44 Those individuals with the relevant qualifying period are already entitled to have their job protected for a period of time when they are away for work for perfectly reasonable reasons, for instance, having a child. A similar approach should be adopted for sick leave with individuals having the right to return to the same job after a period of prolonged ill health. This right to return should be conditional on engagement with the Fit for Work service when an assessment has been recommended</p>	<p>Work being taken forward as part of <i>Improving Lives: the Future of Work, Health and Disability</i></p>
<p>45 The government should seek to develop a better understanding of what progression at work is and the public policy levers which influence it. Building on the trials to date, government should work with external providers to determine what really works in supporting individuals to obtain better quality - and not just more - work. This should not be limited to increasing earnings to a level of self-sufficiency in Universal Credit and should take particular account of the effect of increases in the National Living Wage. It should reflect the opportunities offered by atypical and gig working</p>	<p>Accept - work ongoing as part of our assessment on what constitutes 'good work' and trialling in-work support for UC claimants</p>

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46	The government must place equal importance on the quality of work as it does on the quantity by making the Secretary of State for Business, Energy and Industrial Strategy responsible for the quality of work in the British economy	Accept
47	The government should identify a set of metrics against which it will measure success, reporting annually on the quality of work on offer in the UK	Accept
48	The Department for Business, Energy and Industrial Strategy should take the lead for government in identifying emerging issues and be the custodian for ensuring market conditions allow for the creation of quality work	Accept
49	The emphasis in the Industrial Strategy and sector deals on technology and innovation should be linked to the importance of human factors in driving productivity and enabling more rewarding working lives	Accept
50	The LPC should have its remit widened so that it can both make recommendations to the government on what needs to change (including NMW rates) to improve quality of work in the UK as well as work with employers, employees and stakeholders to promote quality work across all regions and sectors	The LPC has reservations about extending its role in this way. The Industrial Strategy Council will be tasked with advising on measuring and assessing quality of work. BEIS will take forward proactive work with sectors to promote quality work, drawing on the advice of the LPC, Acas, the Director of Labour Market Enforcement and others
51	The LPC should work with experts, from the new Director of Labour Market Enforcement to the Chartered Institute of Personnel and Development, as well as business groups and trade unions and make recommendations to government if changes to the legal framework are needed to ensure fair and decent work is delivered	As above
52	The LPC should work with employers and worker representatives to ensure sector-specific codes of practice and guidance are developed that support the provision of quality work	As above
53	The LPC should promote what works in sectors and encourage greater collaboration to improve quality work in low-paying areas	As above

Summary of the recommendations from the work and pensions and business, energy and industrial strategy committees

	Recommendation	Response
1	We recommend the government legislates to introduce greater clarity on definitions of employment status. This legislation should emphasise the importance of control and supervision of workers by a company, rather than a narrow focus on substitution, in distinguishing between workers and the genuine self-employed	The government will take forward further work on how best to clarify definitions of employment status
2	We recommend the government legislate to implement a worker by default model, as set out in Part 2 of our draft Bill. This would apply to companies who have a self-employed workforce above a certain size defined in secondary legislation	The government believes clarifying status and rights along with actions to make redress easier and faster should help address the concerns underlying this recommendation
3	We recommend that the government work with the Low Pay Commission to pilot, for workers who work non-contracted hours, a pay premium on the National Minimum Wage and National Living Wage. The Low Pay Commission should be responsible for identifying suitable companies to be included in this pilot, based on workforce size and turnover. Proposed legislation to enable this is set out in Part 3 of our draft Bill	Agree to ask LPC to consider impacts of a higher NMW rate for hours that are not guaranteed as part of the contract
4	We recommend that the government extend the time allowance for a break in service while still accruing employment rights for continuous service from one week to one month. We have set out proposals in Part 5 in our draft Bill	Agree to extend the consideration of the relevant break in service, and consult on changes to clarify the situations where cessation of work could be justified
5	We recommend that the government creates an obligation on employment tribunals to consider the increased use of higher, punitive fines and costs orders if an employer has already lost a similar case. We further recommend that the government takes steps to enable greater use of class actions in disputes over wages, status and working time. Our proposals are set out in Part 4 of our draft Bill	The government will launch a consultation on better use of existing mechanisms and is putting forward a new proposal to increase the level of penalty for aggravated breach
6	We recommend the government rules out introducing any legislation that would undermine the National Minimum Wage/ National Living Wage	The government has no plans to legislate to undermine the minimum wage

Recommendation	Response
<p>7 We recommend that the government extends the duty of employers to provide a clearly written statement of employment conditions to cover workers, as well as employees. We further recommend that this right apply from day one of a new job, with the statement to be provided within seven days. This change should be made by secondary legislation under s23 (4)-(5) of the Employment Relations Act 1999</p>	<p>The government agrees to legislate to extend to 'workers' a statement of employment conditions and will consult on what information to include</p>
<p>8 We recommend that the ICE regulations are extended to workers as well as employees. We also recommend the threshold for implementation of the regulations be reduced from 10% to 2% of the workforce. This would require amending secondary legislation under s42 of the Employment Relations Act 2004</p>	<p>The government will consult on extending the regulation and reducing the threshold</p>
<p>9 We recommend the government amends the Agency Worker Regulations 2010 to remove the opt-out for equal pay. We further recommend that the Employment Agency Standards Inspectorate be given the powers and resources it needs to enforce the remainder of those regulations</p>	<p>The government will consult on the best way to address the problems found in the use of Swedish Derogation contracts and the remit of the Employment Agency Standards Inspectorate</p>
<p>10 We recommend that the government brings forward stronger and more deterrent penalties, including punitive fines, for repeat or serious breaches of employment legislation, and expand 'naming and shaming' to all non-accidental breaches of employment rights by businesses and supply chains</p>	<p>The government will extend naming and shaming to unpaid tribunal awards and is putting forward a new proposal to increase the level of penalty for aggravated breach</p>
<p>11 We recommend that the government provides the Director of Labour Market Enforcement and the main enforcement agencies with the resources necessary to undertake both reactive and proactive roles, including deep-dives into industrial sectors and geographic areas, and supply-chain wide enforcement actions. Where extra resources are needed, they should be funded through higher fines on noncompliant organisations. We also recommend that the government sets out, in response to this report, how it intends the powers and resources of the Director of Labour Market Enforcement will develop over the next five years</p>	<p>The Director and his staff are jointly funded by BEIS and the Home Office. The government recognises that appropriate resources must be allocated. The government has increased significantly the resources for labour market state enforcement in recent years. We expect the Director of Labour Market Enforcement to reflect on and guide the level of future resources in his annual reports</p>