

Good Gigs

A fairer future for the UK's gig economy

Bhramie Balaram, Josie Warden and Fabian Wallace-Stephens
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About us

Brhmie Balaram is a Senior Researcher at the RSA.

Josie Warden is a Researcher at the RSA.

Fabian Wallace-Stephens is a Data Research Assistant at the RSA.

All work in the Economy, Enterprise and Manufacturing Team.

The RSA (Royal Society for the encouragement of Arts, Manufactures and Commerce) believes that everyone should have the freedom and power to turn their ideas into reality – we call this the Power to Create. Through our ideas, research and 28,000-strong Fellowship, we seek to realise a society where creative power is distributed, where concentrations of power are confronted, and where creative values are nurtured. The RSA Action and Research Centre combines practical experimentation with rigorous research to achieve these goals.

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Summary

There are now an estimated 1.1 million people in Britain's gig economy, which is nearly as many workers as in the National Health Service (NHS) England.¹ Over the last five years, the trend of using online platforms to source small, sometimes on-demand, jobs has accelerated, and shows little sign of slowing down. In the largest survey undertaken on Britain's gig economy, the RSA found that young people (aged 16-30) are particularly attracted to the idea of gig work – one in four said they would consider some form of it in future. Given this enormous potential for growth of the gig economy, **the RSA set out to envision how platforms can become a catalyst for fair, fulfilling work in the modern labour market.**

How we as a society respond to the impact of gig work on the labour market is an early, and significant, test of how we will manage increasingly radical changes as a result of developments in technology, such as artificial intelligence and automation. The hope is that we can leverage technology for the benefit of workers.

This test has so far proven divisive as two competing views have emerged on how government should oversee new platforms that are beginning to fundamentally change the ways in which people work.

One view is that government should be actively encouraging innovation and supporting platforms to scale. Those who hold this view champion platforms as progressive and liberating, offering workers newfound freedom and flexibility. They argue that if government is too heavy-handed in its approach to platforms, it will diminish the opportunities created and close down a route into the labour market for some groups who may have otherwise struggled to participate.

The other view is that government should ensure that standards are maintained in the labour market, and thus be more vigilant when it comes to the practices of platforms using self-employed workers. There are concerns here about gig work being exploitative and triggering a race to the bottom in terms of pay and conditions. Those who are anxious want platforms to be more fiercely regulated and held to account according to existing rules for incumbents. Some may prefer for platforms like Uber to be banned entirely as they have been in countries like Spain and Sweden.

The tension between these views appears to be that some are optimistic that new platforms will transform our lives for the better while others are doubtful that such innovation will be inherently uplifting, particularly for workers. There is a legitimate question of who stands to gain most from innovation, although if it were stifled workers too would lose out. Proponents of platforms must realise that innovation cannot be enjoyed at the expense of workers, but equally, holding platforms back will not serve anyone's best interests given their merits (ie convenience, flexibility, and resource efficiency).

1. RSA/Ipsos MORI Capibus Survey on the Gig Economy 2016-17; see About the National Health Service at: <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/overview.aspx>

The uncertainty over how gig workers will fare over time, however, is making people feel uneasy about whether they will still have a decent standard of living in the wake of ‘disruption’. With this in mind, an incoming government needs to grapple with the reality of what changes in work will mean for society, recognising that the bedrock of security for most people – nine-to-five employment – is gradually disappearing. Not only does traditional employment guarantee rights and protections in the labour market, but it is also an important source of public revenue, accounting for a greater share of taxes per capita than self-employment.

For those increasingly concerned that platforms are threatening our social and economic security, the starting point has been to challenge whether gig workers should be considered genuinely self-employed. **There is an urgent need for government to clarify the law and deter misclassification of workers. However, classifying workers appropriately under the law is also limited in its potential to transform workers’ experiences of the labour market.** The law will not guarantee that work is fair in other ways that matter; for example, the law cannot guarantee gig workers more power over decisions that affect them or a larger share of the value that they’ve created.

Given that platforms operate in diverse ways and not all exercise the same levels of control, it is unlikely that all gig workers have been misclassified. Thus, only some workers will stand to benefit from the rights and protections conferred by a different employment status. Taking into account the wider trend towards self-employment (which was well underway before gig work became prevalent), it also needs to be considered that more people are valuing a higher degree of flexibility than most employees have. This leads us to believe that **traditional employment cannot be the basis of a secure foundation, but rather this should be built on a broader conception of good work for all, irrespective of employment status.**

The RSA’s view is that government needs to be clearer about how technological innovation – in this case, platforms in the gig economy – can raise the quality and security of work over the long-term. This means that government should continue to support platforms in the UK, but can no longer remain agnostic about the different business models used by platforms. Platforms do have the potential to empower workers through enabling peer-to-peer exchange, but they make different choices about how to operate, including how they treat workers. Through rethinking its approach to regulation, government can positively influence these choices.

At the RSA, we advocate for government to adopt an approach of ‘shared regulation’, which will require government to work in a more collaborative way and appeal to a range of stakeholders to help establish key tenets and principles of good work in the gig economy. Government may take the lead in distinguishing what good work looks like, but businesses and civil society are crucial in making good work a reality. In truth, government needs platforms, civil society, investors, legislators, and workers themselves to ensure that gig work is actually aligned with its vision of good work. Ultimately, collaboration will enable government to shape the gig economy in a more strategic way than has been achieved so far by taking either a heavy-handed or light-touch approach to regulation.

We recommend that government collaborate on a ‘Charter for Good Work in the Gig Economy’, partnering with representative bodies, such as Sharing Economy UK (SEUK), and organisations with an expertise in this area, like ACAS. There could be an open call for contributions to capture a full range of perspectives. Just as the current government has already signalled that we value technological innovation, the new government now needs to demonstrate with this Charter that we value workers as well.

Beyond this, we recommend that the wider infrastructure of the gig economy should be developed, and sustainable business models encouraged, in part through addressing the systemic drivers of market conditions. Conditions in the gig economy are not created in a vacuum, and so more thought should be given to why businesses make the choices that they do and how new models of operating can be inspired by, for example, fostering alternatives to venture capital for financing entrepreneurship. Technological innovation doesn't need to be feared if it is nurtured with more than profits in mind. Together we can transform the market, so that platforms facilitate good – and thus, fair and fulfilling – work that strikes the right balance between autonomy and security.

The RSA's recommendations

Our recommendations aim to:

- Account for the pressing questions about employment status and concerns that misclassification may be eroding public finances as well as workers' protections.
- Begin building a new foundation of social and economic security that isn't premised on traditional employment, but is based on good work for all.
- Address systemic issues in the labour market, such as a lack of support for atypical workers and promising new business models.

To resolve issues of employment status, government should seek to clarify the law for both workers and businesses, as well as deter misclassification by giving workers more power to hold businesses to account under the law.

To provide more clarity, government should:

- Publish an official guide to aid workers and businesses in identifying different employment rights and related tax obligations.
- Specify that employment intermediaries can offer training and development opportunities, and to any category of worker.
- Consult with the public on any proposed changes to tax law, trialing deliberative methods.

To enable greater accountability to workers under the law:

- Strengthen penalties against companies using clauses in contracts that prohibit litigation over employment status. Moreover, give explicit protection to workers who litigate the matter.
- Suspend tribunal fees for workers challenging their employment status.
- Introduce a summary process for workers wishing to challenge employment status at a tribunal.
- Reverse the burden of proof, so that the onus is on companies to prove that their workers are not 'workers' or employees.

In response to the changing labour market, government must steer innovation with workers in mind, setting out its vision for good work in collaboration with business and civil society.

There is also a need to develop the wider infrastructure of the gig economy to better support workers, irrespective of their employment status, and to harness the potential of platforms through fostering a new generation of business models.

Government, businesses, and civil society should pursue the following:

1. **Government should collaborate with platforms, civil society, and workers on a ‘Charter for Good Work in the Gig Economy’** to advance a vision of what good work is in the sector.
2. **Government should invest in a dedicated service for gig workers**, offering general advice and counsel about employment rights, or information and guidance on filing taxes for example.
3. **The UK’s Financial Capability Board should expand its Strategy to include gig workers**, strengthening financial savvy and security in a growing proportion of the workforce.
4. **SEUK, on behalf of platforms, and a civil society organisation should establish ‘Independent Peer Review Hearings’** to ensure that gig workers have a fair appeals process and an opportunity to build community.
5. **SEUK should work with platforms and relevant institutions to enhance training and development opportunities for gig workers**, considering what progression would look like in the sector and creating a strategy to enable it.
6. **Government should seed and support promising technology in the gig economy** by ringfencing a proportion of its new R&D fund and introducing a ‘regulatory sandbox’ for experimentation with blockchain technology, WorkerTech, and other technology that could better the labour market in general.
7. **Government and Co-ops UK should help nurture platform co-ops that explicitly embed a social purpose into their mission**, and government should consider supporting their growth by creating a fund to provide long-term equity investment.
8. **Government should modernise the Competition Act in the UK** in light of Brexit, widening the remit to take into account the protection of workers’ interests alongside consumers’ interests.

Structure of the report

Section 1: The nature of Britain’s gig economy

The opening section of our report details the trend of gig work in Britain. We offer insight into the nature of Britain’s gig economy, based on the largest survey of gig workers to date. The results reveal how diverse the gig economy is and how experiences of gig work can differ, diverging along lines of age and gender. This will help readers understand why the current government has found it so complex to regulate the gig economy; it must negotiate the trade-offs for different workers and who stands to lose out most if government either abstains or intervenes.

We also consider the growth of the gig economy, accounting for whether this is just a fad or is likely to endure in future. We imagine the direction of travel the gig economy could go in depending on how a new government chooses to respond to it.

Section 2: Gig work as ‘good work’

Our second section engages with the concerns being raised about whether gig work can provide the same level of social and economic security that traditional employment has. We provide an overview of the controversy over employment status as well as the implications for tax and welfare. Our view is that mediation is needed to help move this debate on, and thus government should take action to clarify the law and deter misclassification of workers. However, we argue that ultimately traditional employment cannot be the basis of a secure foundation, but rather this should be built on a broader conception of good work for all, irrespective of employment status. The incoming government thus has an important role in providing a steer for what good work is in the gig economy (as the current government recently attempted to set out what good corporate governance is), but it should do this in collaboration with a range of stakeholders, including platforms, civil society, and workers.

Section 3: The potential of peer-to-peer platforms

To strengthen our case for why a new government urgently needs to make its expectations of platforms clear in terms of providing good work, we help readers understand the potential of peer-to-peer platforms to transform the labour market – for better, or for worse. This section focuses on how different platform-based business models have the power to disrupt industry, but could also harness this power to better serve workers as well as consumers. The risk is that if platforms do not actively seek to empower workers, they could exacerbate inequality and further distort markets.

We hope that readers will recognise that the problem isn’t necessarily the gig economy, but how some platforms choose to operate.

Section 4: Transforming the labour market together

In our final section, we argue that more expansive change is needed in the market, so that workers can also reap more of the benefits of innovation; however, this cannot be achieved merely through legal reform or conventional approaches to regulation. We make the case for shared regulation, a collaborative approach to actively shaping the future of the gig economy.

In response to concerns that technology is threatening traditional employment, there is a need to demonstrate that this will not undermine the ability to lead a decent life. Government must bind together with platforms and civil society (such as trade associations and unions) in a mission to ensure that gig work is also good work.

By developing the wider infrastructure of the gig economy we can support gig workers in the immediate-term; however, we also need to address systemic problems of capital, culture, and market distortions to make a substantive impact for all workers over the long-term. As part of this, we encourage seeding and supporting a new wave of sustainable business models in the gig economy. Considering how much the workforce is likely to grow by, we should take the opportunity to shape the gig economy now while it is still in its infancy and malleable to change.

1. The nature of Britain's gig economy

It's likely that some reading this will have recently taken an Uber to get around the city, or ordered a curry through Deliveroo on a night in. There may also be readers who are more familiar with being behind the wheel, or on a bike balancing a takeaway while skilfully manoeuvring through traffic.

Growth of Britain's gig economy has been profound. In a mere five years, companies like Uber and Deliveroo, which enable transportation and delivery at the tap of a button, seem to be fundamentally changing our ways of working. These two companies in particular are in more than 75 towns and cities across the UK, while also expanding globally. Uber can be accessed in more than 500 cities around the world, while Deliveroo's presence is strong across Europe. Both are acclaimed as 'Unicorns', which are start-ups valued at over a billion dollars; Uber's worth has been pegged at as much as \$70n (£55bn).

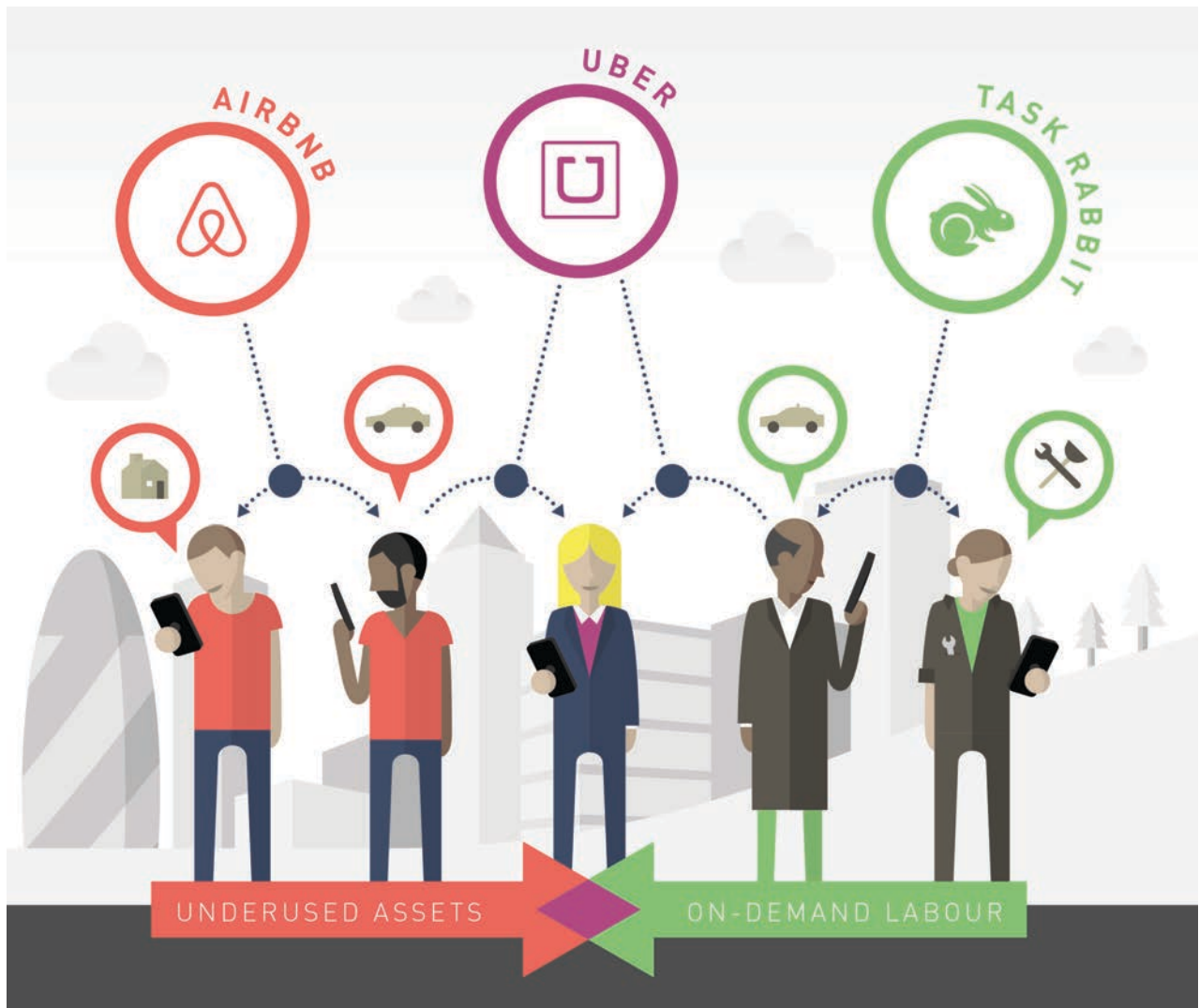
When we refer to the 'gig economy', we are discussing the **trend of using online platforms to find small jobs, sometimes completed immediately after request** (essentially, on-demand). Much like an actor or musician goes from 'gig to gig', workers in the gig economy are sourcing one job at a time, but by logging into an app or clicking through to a website. Each ride an Uber driver accepts is a 'gig' or a single job, as is each booking a Hassle cleaner makes to tidy a flat or every errand run through TaskRabbit.

While online platforms for sourcing gigs (in the form of 'crowdwork') have existed for more than a decade,² the trend has accelerated in the UK since 2012 as an aspect of the 'sharing economy'. In the sharing economy, there are two kinds of platforms – asset-based platforms, and labour-based platforms.³ Asset-based platforms entail sharing an underused asset, such as a home, as hosts do on Airbnb. Labour-based platforms are premised on making the most of one's skills or time, such as through driving for a few hours a week in addition to other commitments, such as another job, caring responsibilities, or creative pursuits.

We include all online platforms for sourcing gigs in our survey and analysis, but are particularly interested in the recent drivers of growth in the gig economy – the labour-based platforms of the sharing economy.

2. Prior to the labour-based platforms of the sharing economy, gig work was typically crowdsourced through freelancing platforms like Upwork where anyone can post assignments. The International Labour Organisation (ILO) distinguishes this from 'on-demand labour' as 'crowdwork'. It notes that crowdwork can be performed from anywhere in the world whereas in the sharing economy the work tends to be carried out locally.

3. As our graphic shows, some labour-based platforms also require an asset, such as Uber which requires drivers to own or lease a car in order to be a driver on the platform. In general, assets can be capital or other goods.



These platforms tend to consider gig workers to be self-employed, or ‘independent contractors’, citing the flexibility they have over choosing their own hours. The gig economy is thus sometimes conflated with the general trend towards self-employment or ‘independent work’. Estimates of these workers in the UK have thus ranged from six million to 14 million⁴; however, even the more cautious estimates appear inflated because of the definitions or methodology used.⁵

Considering that gig work has become increasingly controversial because the workers are classed as self-employed, rather than as employees of the platform, it’s important to clearly distinguish between gig workers and traditional freelancers. Platforms are perceived to be driving a shift from traditional employment to self-employment, and thus threatening what has long been the foundation of social and economic security for most workers. Some argue that platforms are misclassifying workers as self-employed, depriving them of rights and protections while still exercising control akin to employers. There are also concerns about how this affects public finances because the self-employed and the companies that contract them pay a lower rate of tax than employees and the businesses they work for.

4. Manyika, J. et al. (2016) op cit.

5. Some surveys include asset-based platforms, such as Airbnb, whereas we maintain that Airbnb hosts are not gig workers and are unlikely to be entitled to more employment rights. The difference between hosts and gig workers for example is that in the former the primary transaction is based on an asset, whereas the latter is based on labour.

As a starting point for thinking through any legal or political reform that might be needed, the RSA set out to learn more about the nature of Britain's gig economy. In collaboration with Ipsos MORI, we undertook the **largest survey on the gig economy in Britain**. Nearly 8,000 people in the population over the age of 15 were surveyed face-to-face, meaning that they were interviewed in their homes, rather than online. This methodology gives us the truest indication of the gig economy's size in terms of the workforce.⁶

In our survey, we delved into questions about both the jobs and the workforce itself: what kind of work is being done and where, who the gig workers are, and how we can understand their working patterns, earnings, and motivations. To strengthen our insights, we've also included unique data shared with us by a range of platforms in the UK.

The results reveal how diverse the gig economy is and how experiences of gig work can differ, diverging along lines of age and gender. It puts the difficulties of regulation into perspective; since there is no universal experience within the gig economy, government must carefully weigh a number of trade-offs for workers in deciding whether to intervene and, if so, in what way.

We also asked a nationally representative sample of 1,918 respondents whether they would consider taking up gig work in future, giving us an idea of whether this trend is simply a fad or likely to become more significant over time. Contemplating different regulatory approaches, we imagine the direction of travel government could take the gig economy in and what the implications would be.

This section unfolds over three parts, detailing the key findings of our survey on Britain's gig economy.

Part I: The current trend

Not only has the number of gig workers grown, but the sector itself has expanded to encompass different kinds of work in recent years. Work found online has typically been of a highly-skilled nature, taking the form of 'crowdwork' (jobs that are crowdsourced online and can be performed anywhere in the world). Increasingly, however, labour-based platforms of the sharing economy are generating jobs with lower barriers to entry and that tend to be carried out locally, such as work in personal services, driving, and delivery. Alongside this shift in the types of work being carried out, we have seen a change in the characteristics of the workforce.

In this section, we get a sense of what the gig economy looks like today, as well as gig workers' working patterns, earnings, and motivations.

6. When attempting to understand population cohorts, nationally representative face-to-face interviewing offers the most inclusive, robust and representative methodology. For this reason, it is often the best approach when seeking to understand the true prevalence of behaviours, activities and attitudes in the context of the population as a whole.

How large is the workforce?



According to our survey, we can estimate that there are currently 1.1 million gig workers in Great Britain.⁷ Around 3 percent of adults aged 15+ have tried gig work of some form, which equates to as many as 1.6 million adults in Great Britain.⁸

For some, this may be a smaller proportion of Britain's workforce than imagined, especially given higher estimates that have encompassed the general trend of independent work or freelancing, and users of asset-based platforms like HomeAway or LoveHomeSwap.⁹

That said, over a million workers in a relatively new market that is continuing to grow is significant. This amounts to almost as many workers as are in the National Health Service (NHS) England (1.2 million).¹⁰

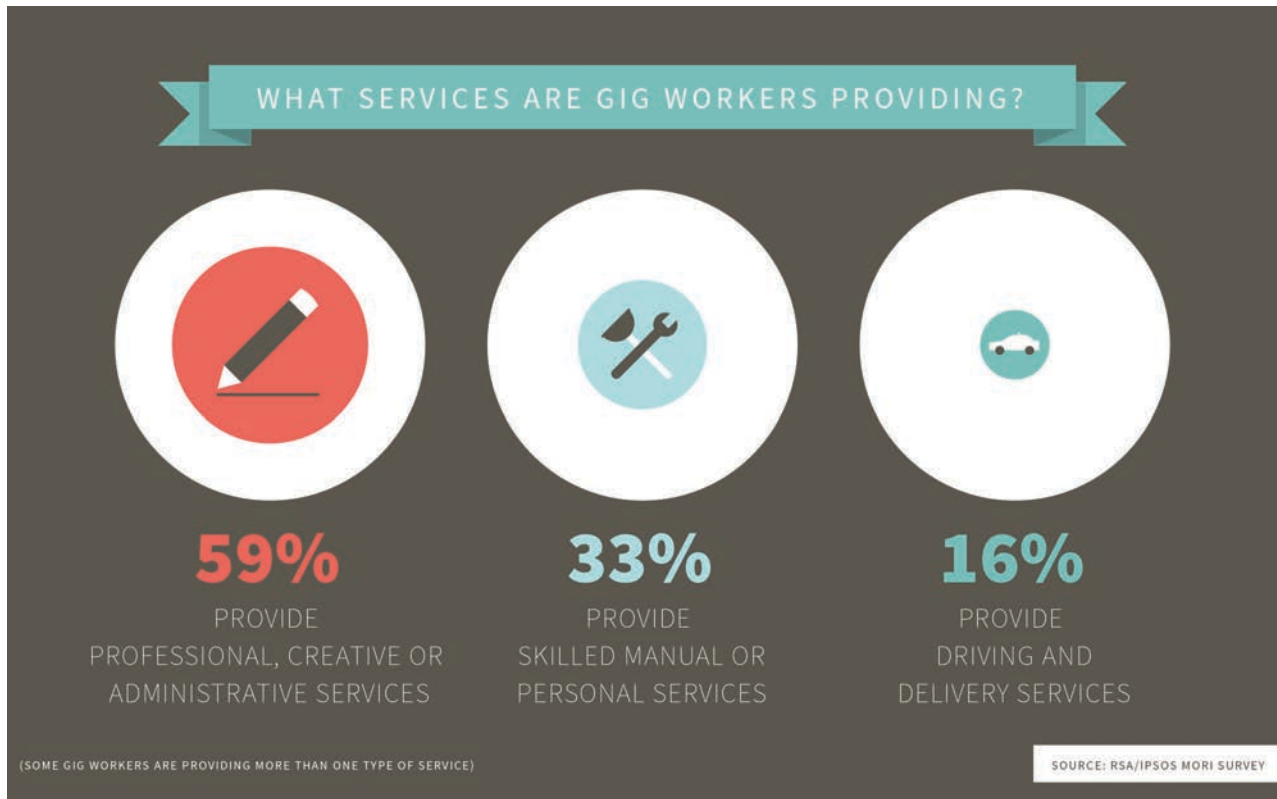
7. Based on 2.17 percent of adults 15+ in Great Britain stating that they currently carry out a listed form of gig work. At a 95 percent confidence interval (+/- 0.33 percent), this gives a range of 959,946 – 1,304,275 with a mid-point of 1,132,111. For bases in the sample, see methodology in the appendix.

8. Based on 3.17 percent of adults 15+ in Great Britain stating that they have carried out a listed form of gig work. At a 95 percent confidence interval (+/- 0.39 percent), this gives a range of 1,450,354 – 1,857,287 with a mid-point of 1,653,820.

9. The use of online surveys can skew our perspective on the size of the gig economy. While online research has evolved over many years to become more representative of the population, as long as we do not have universal take-up of the internet in the UK, online surveys exclude large proportions of older and more vulnerable groups in society. There is thus likely to be over-claim in online-based activities when using an online sample, as those without internet access (and very infrequent web users) will not appear within it. Ultimately, the 'universe' covered by the online sample excludes segments of the population, and those are the segments in which this behaviour and activity (gig working) is likely to be less common and concentrated.

10. See About the National Health Service at: <http://www.nhs.uk/NHSEngland/thenhs/about/Pages/overview.aspx>

What kind of services are being provided?



We grouped gig work into three main categories:

- Professional, creative or administrative services
- Skilled manual or personal services
- Driving and delivery services

Well over half (59 percent) are found in professional, creative, or administrative services. This was to be expected given that before the rise of the ‘sharing economy’, platforms had been established mainly for freelancers, such as copy editors or graphic designers, interested in finding consultancy opportunities. Over time, platforms have also provided opportunities to perform simpler tasks like clickwork or data entry. These types of jobs are sometimes referred to as ‘crowdwork’ because they’ve been crowdsourced online.

Similarly, it was anticipated that there would be a significant number of gig workers providing skilled manual services, such as plumbing, electrical maintenance, or carpentry. Workers in the skilled trades who are self-employed have long been sourcing jobs online through platforms such as MyBuilder and Rated People, both of which were founded circa 2005.

It may surprise some that gig workers providing driving and delivery services were found to be in the minority. This may be because of the high visibility of these workers on our roads in contrast with freelancers working from home, or for example, plumbers or electricians disappearing into other people’s homes to carry out their tasks. Yet, given that driving and delivery platforms were the most recent to be established in the UK, this too should tally with our expectations. This is still a substantial share of gig work given these platforms only emerged within the last five years. A further breakdown of these main categories can be found below. Note that this shows us that some gig workers are providing more than one type of service.

BREAKDOWN OF SERVICES PROVIDED BY GIG WORKERS



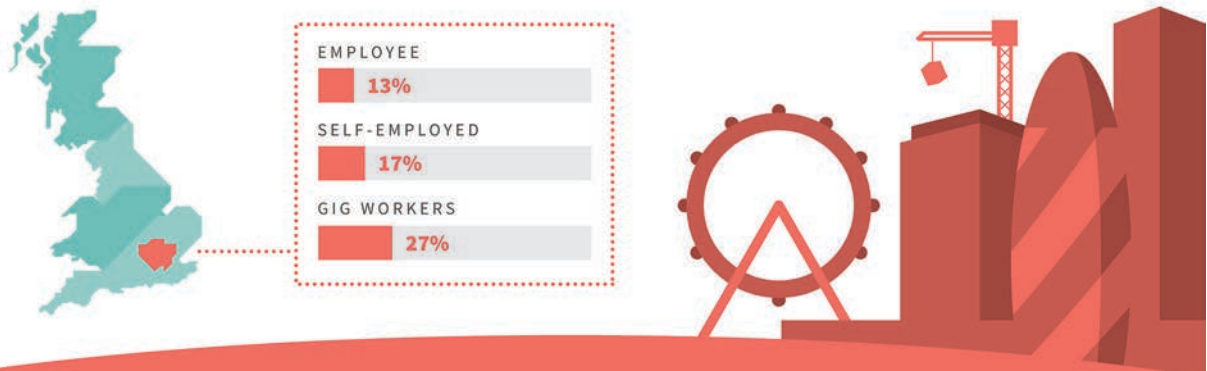
(SOME GIG WORKERS ARE PROVIDING MORE THAN ONE TYPE OF SERVICE)

SOURCE: RSA/IPSOS MORI SURVEY

Where are the gig workers based?

WHERE ARE GIG WORKERS BASED?

Compared to other types of workers, gig workers are **more concentrated in London**.



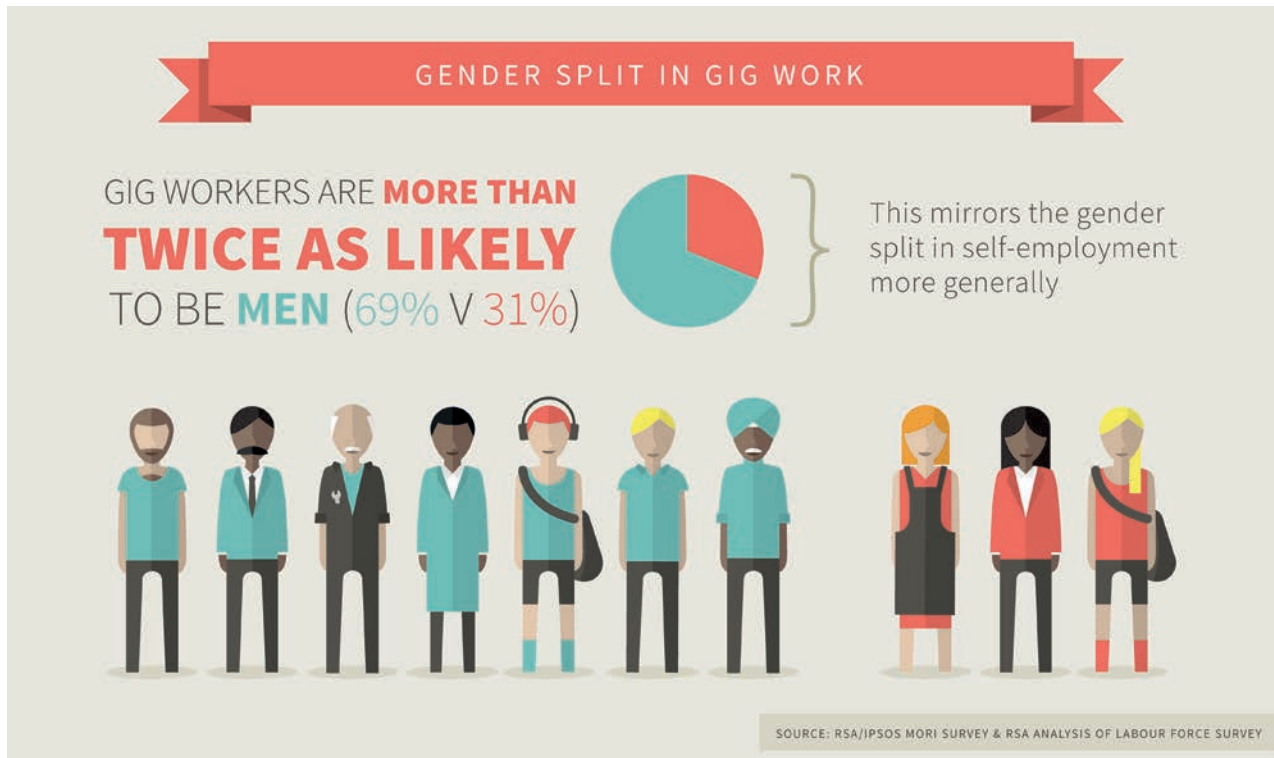
27% OF GIG WORKERS ARE BASED IN LONDON COMPARED TO **17%** OF SELF-EMPLOYED WORKERS AND **13%** EMPLOYEES

SOURCE: RSA/IPSOS MORI SURVEY & RSA ANALYSIS OF LABOUR FORCE SURVEY

Current gig workers are more likely to be based in London than in the rest of Great Britain.¹¹ This may be in part because platforms tend to launch in London given opportunities to scale in the capital. Most rely on establishing strong networks effects early on to grow.

In general, gig workers are more concentrated in London than other types of workers. 27 percent of gig workers are based in London compared to 17 percent of self-employed workers and 13 percent of employees.

What do we know about who the gig workers are?



The gig economy is predominantly male. Gig workers are more than twice as likely to be men (69 percent) than women (31 percent). In general, this mirrors the gender split in self-employment.¹²

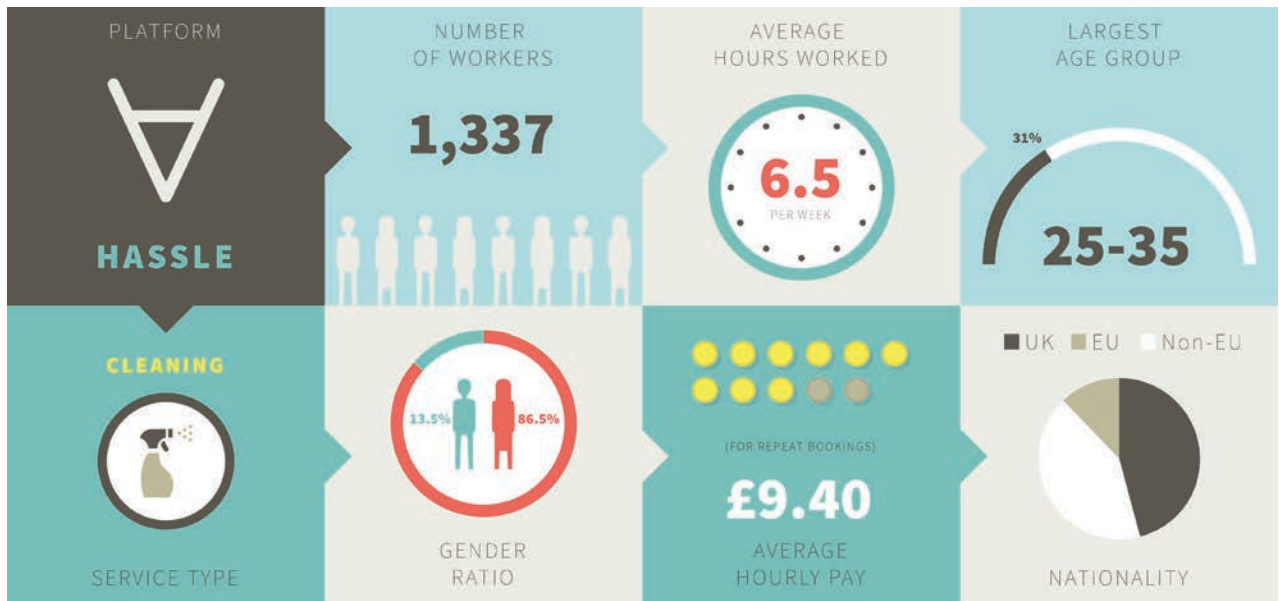
Women seem to be more likely to be found on asset-based platforms, trading in goods like clothing or toys, or renting out major assets like a spare room, and in these domains the gender split is more equal.¹³

There are some segments in the gig economy where women are heavily concentrated, such as in cleaning (as the data from cleaning platform Hassle shows us below), but the number of cleaners, for example, is still a small fraction of the overall trend.

11. 'Current gig workers' refers to survey participants who told us that they carry out gig work at least as often as once a year. It excludes those who used to do gig work and do not carry it out any more, and those who do not know how often they carry out gig work. Throughout this section, when we refer to gig workers our focus is on current gig workers, unless otherwise specified.

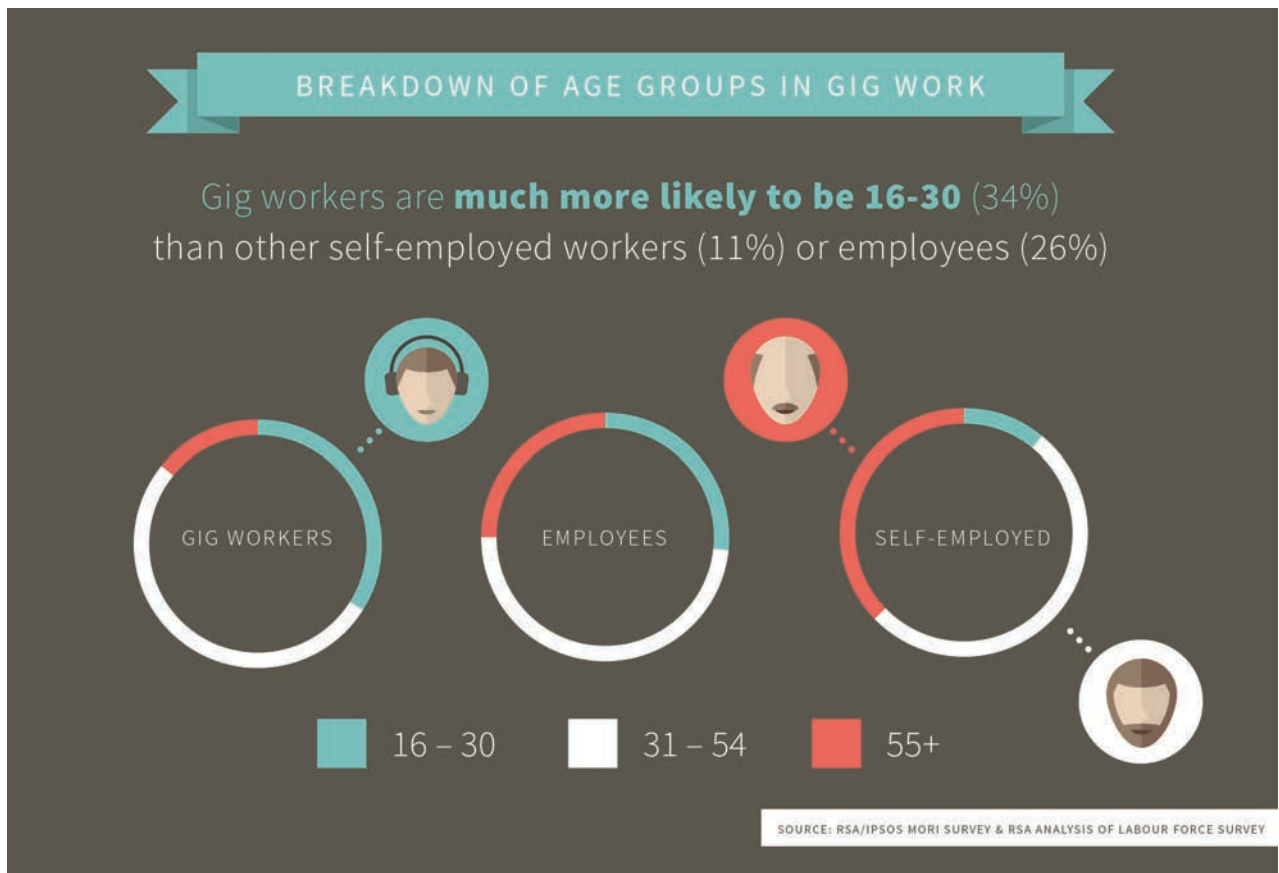
12. RSA analysis of Labour Force Survey (July – September 2016).

13. NESTA, UK Collaborative Economy Public Participation Survey, May 2014.



HASSLE, JANUARY 2017. FOR MORE ON PAY, SEE APPENDIX.

Women may be gravitating towards services in the gig economy that they tend to provide more generally in the labour market. Gig workers mainly fall in the middle band of age groups; over half (52 percent) are between the ages of 31 to 54. However, workers in this age band also comprise a larger proportion of the UK’s workforce. In general, the workforce is young – 86 percent are below the age of 55. Again, this may be because older people are more likely to exploit their assets than their labour when using online platforms.¹⁴

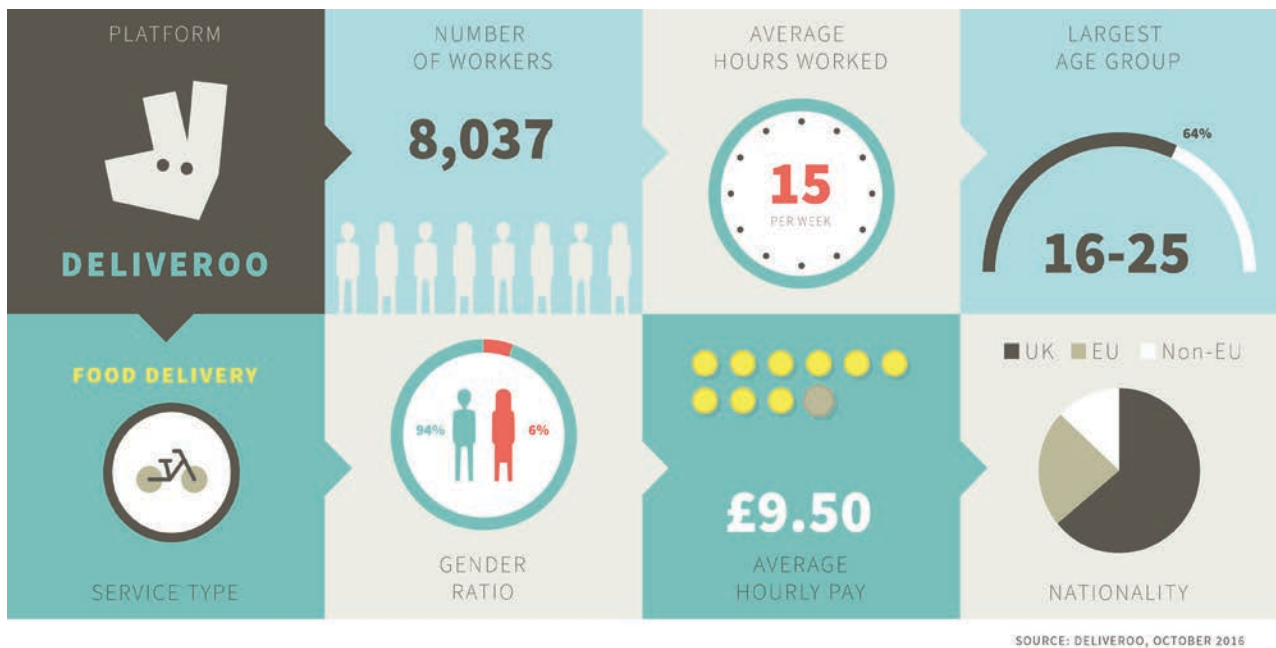


14. Ibid.



When contrasted with the rest of the labour market, the gig economy is especially young. Gig workers are more likely to be between the ages of 16-30 (34 percent) than employees (26 percent) or other self-employed workers (11 percent). It would appear that gig work might be an entry point into self-employment for young people.

For example, data from Deliveroo, a food delivery platform, shows that over 60 percent of couriers are 25 and under in age. From the data, it would appear that most of Deliveroo’s couriers are young men between the ages of 16 to 25.



Gig workers tend to be highly skilled – as many as 44 percent have university degrees. This might reflect that there are platforms in the gig economy that require high levels of skills, such as Upwork or Talmix, but we should be mindful that there may also be issues of under-employment (ie workers performing tasks that they are overqualified for). For example, there may be recent graduates in gig work while trying to find a job in their field.



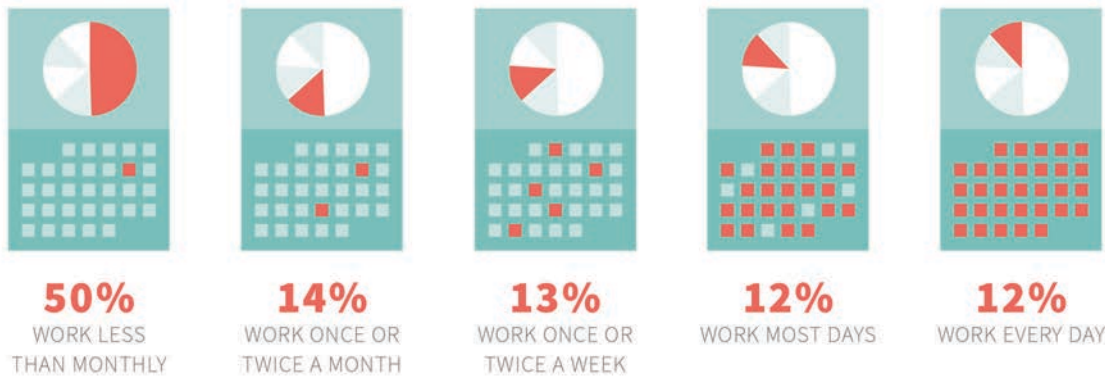
GIG WORKERS ARE
HIGHLY SKILLED,
44%
HAVE DEGREES

SOURCE: RSA/IPSOS MORI SURVEY

How frequent are the gigs?

The majority of gig workers work infrequently; as many as half do not work every month. Of the remainder, 14 percent work at least once or twice a month, 13 percent work once or twice a week, and 24 percent work regularly in a week. Of those working regularly, half work most days, and the other half reportedly work daily or just about.

HOW FREQUENT ARE THE GIGS?



OF ALL GIG WORKERS...

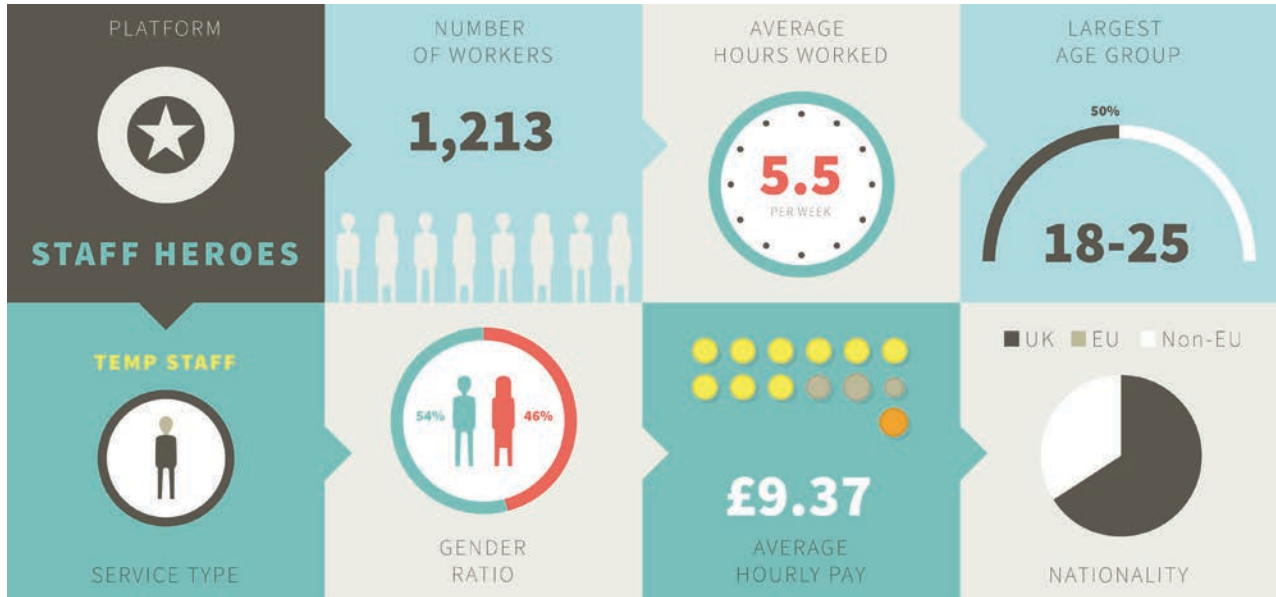


*THIS INCLUDES THOSE WHO WORK LESS FREQUENTLY THAN ONCE A WEEK

SOURCE: RSA/IPSOS MORI SURVEY

Of all gig workers, the vast majority – 80 percent – work 16 hours or less, 12 percent work between 16 – 34 hours, and 8 percent work full-time, clocking in 35 or more hours per week. This equates to about 88,700 full-time gig workers.¹⁵

The working patterns of gig workers could reflect the distribution among different kinds of services (above), the age of gig workers, or the extent to which they’re supplementing their income. For example, on platforms that primarily appeal to young people, like Deliveroo, for food delivery, or Staff Heroes, for temporary staffing, the average hours worked tend to be fewer than 16. The average hours worked per week for Staff Heroes specifically is 5.5 hours as the data shows.



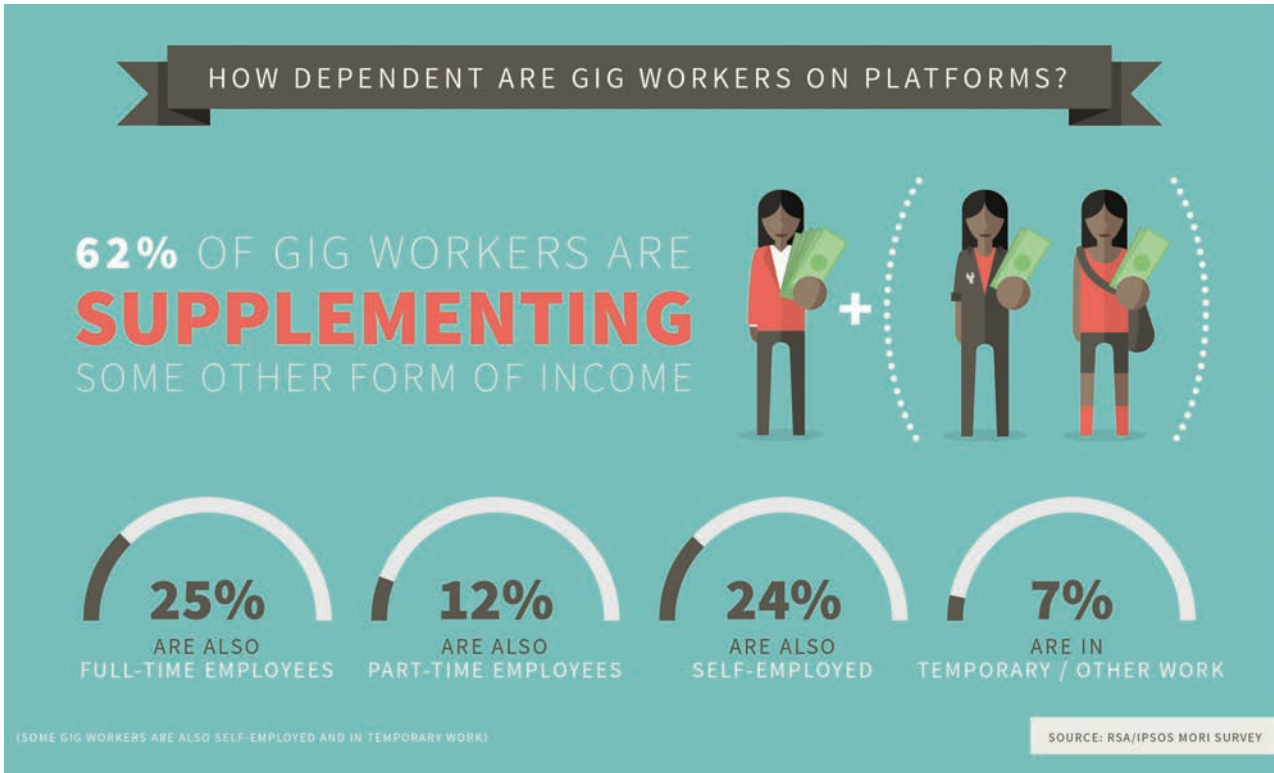
SOURCE: STAFF HEROES, OCTOBER 2016

According to Staff Heroes, this average also reflects the large number of workers who use the platform to earn a secondary source of income and thus accept only one shift per week. ‘Heroes’ who only worked 0 – 5 hours per week account for 67 percent of their workers.

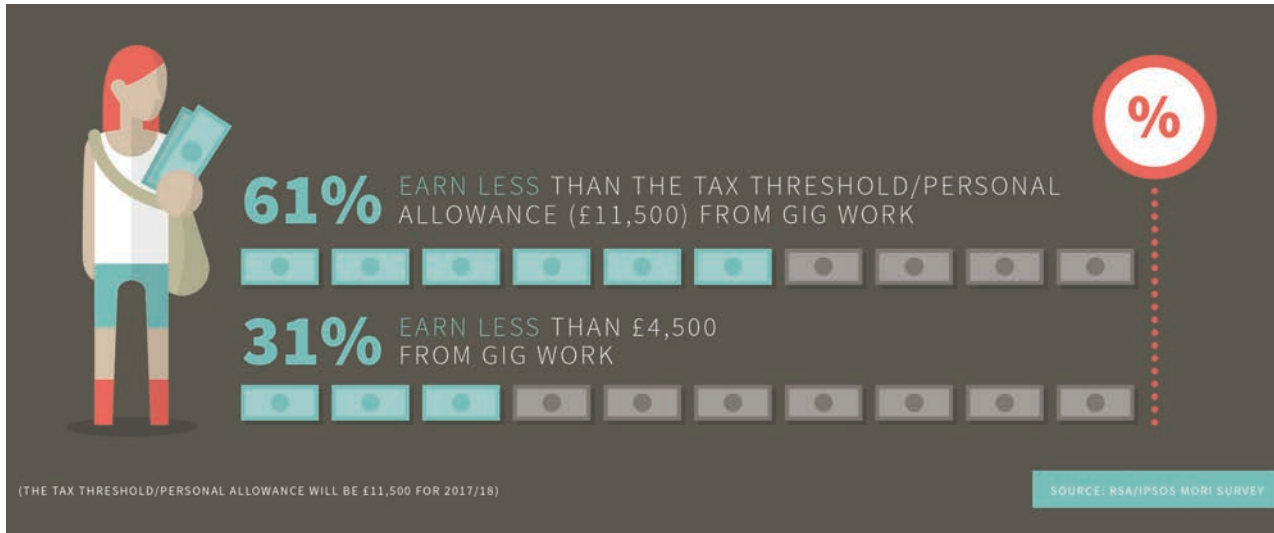
How dependent are gig workers on platforms?

The majority (62 percent) of gig workers are using platforms to supplement their existing income. Of these gig workers, 37 percent are employed – 25 percent work full-time and 12 percent work part-time. Of the remaining 31 percent, 24 percent are in some form of self-employment and 7 percent are on a temporary contractor or in work of other means. There is some overlap between categories, as there are some gig workers who are also self-employed as well as in temporary work. However, this also confirms that nearly 40 percent of gig workers are solely using platforms to source work.

15. Based on 0.17 percent of adults 15+ in Great Britain stating that they currently carry out a listed form of gig work. At a 95 percent confidence interval (+/- 0.09), this gives a range of 41,737 – 135,645 with a mid-point of 88,691.



Earnings seem to correspond with the findings that most gig workers are supplementing their income. 61 percent earn less than the taxable threshold/personal allowance of £11,500. Of all gig workers, roughly a third earn less than £4,500 from gig work. This is just the earnings from gig work and once other sources of income are taken into account, their total income might be considerably higher.



What are the motivations for undertaking gig work?



When gig workers were surveyed about their motivations, they were asked two questions. One was an unprompted question about why they were in gig work, meaning that the interviewer coded their answer to a hidden list. The gig workers could cite as many reasons as they wanted to, and their reasons were then grouped by Ipsos MORI.

Of the top three unprompted responses, the first two in the chart above could be understood as ‘**pull factors**’ – essentially, reasons that pulled, or attracted, workers into the gig economy.

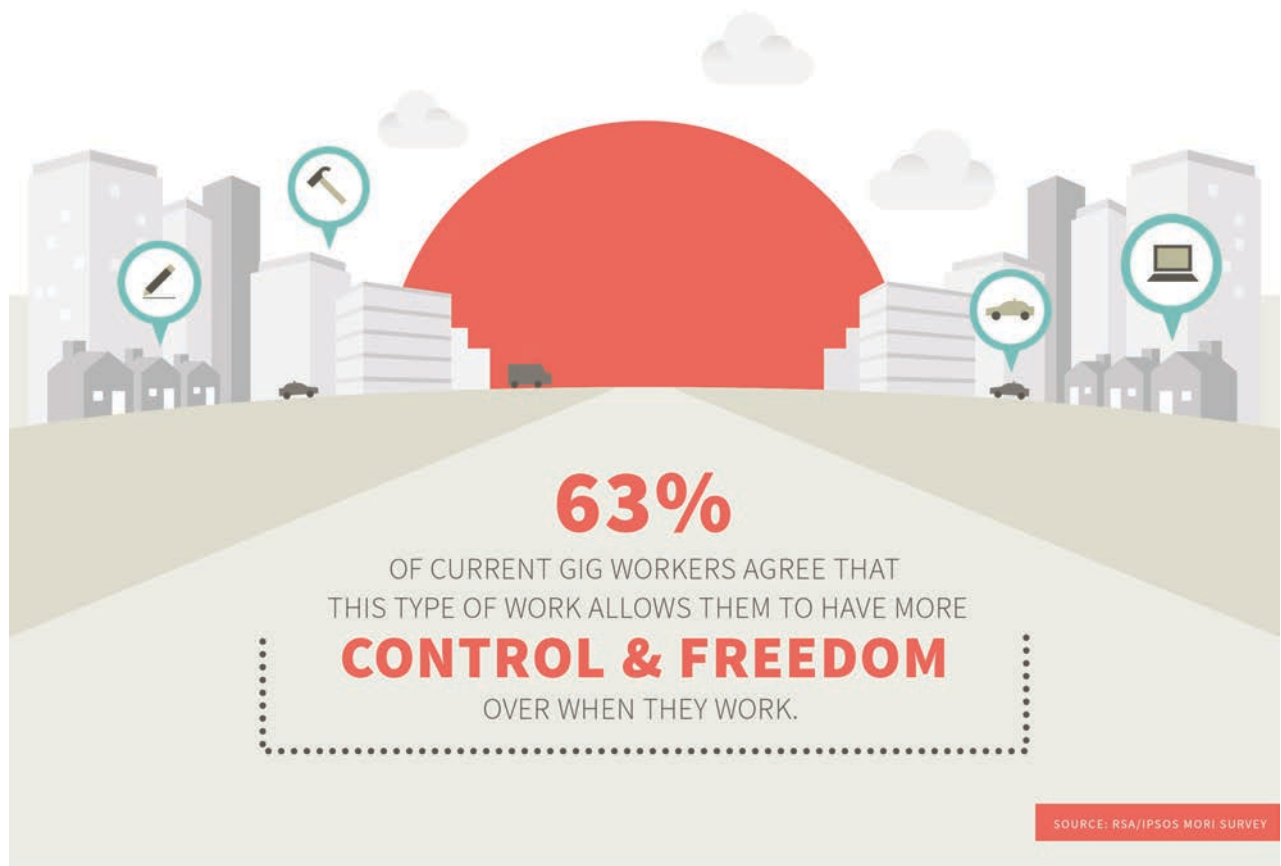
- Over half (53 percent) reflected that they were drawn to gig work because they viewed the work positively, citing **good conditions, such as greater flexibility (ie the ability to fit gig work around other commitments) or decent pay.**
- Roughly a third specified that they had been **looking to make extra money.**

The third top response appears to be a ‘**push factor**’ – a reason that pushed, or forced, workers into the gig economy.

- About a quarter of gig workers reported **not being able to find sufficient work elsewhere or through other means**, suggesting difficulties with the labour market.

Our second question on motivations asked gig workers how likely they were to agree or disagree that gig work provided more freedom and control – a reason often cited by the media or platforms on behalf of gig workers.

Nearly two-thirds (63 percent) of gig workers agreed that the work provided more freedom and control. However, we should be cautious about what this reflects about platforms. It does not necessarily mean that platforms are exemplary in terms of providing workers freedom and control, but that gig work does provide a degree of flexibility, and this is especially likely in relation to other forms of work in the labour market.



Part II: Insight into different experiences

There is no universal experience in the gig economy. In particular, the experiences of gig workers diverge along the lines of age and gender, reflecting where people are in their working lives, their degree of dependence on platforms, and their motivations.

In this section, we highlight the experiences of young people and women in the gig economy, providing more context and insight about their different journeys.

How do young people fare in the gig economy?



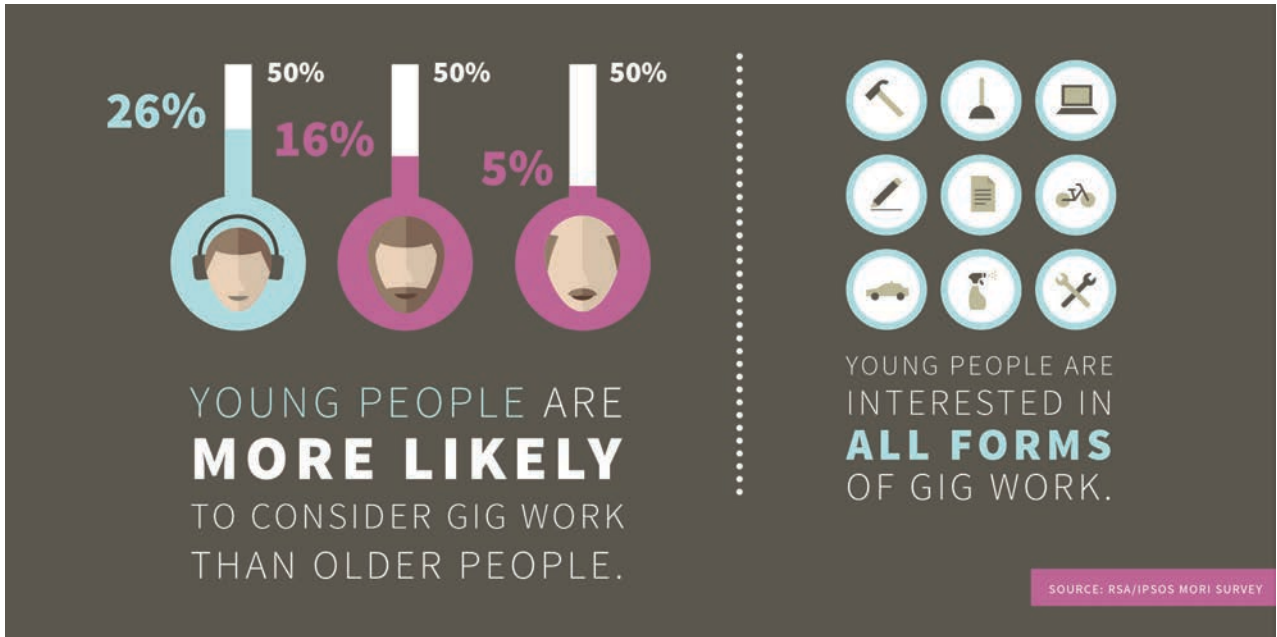
Over half a million (roughly 578,000) young people in Britain have tried some form of gig work.¹⁶ While most people in the gig economy are between 31-54 years in age, the appeal of gig work is growing among young people between 16-30 years old. When asked about whether they would consider gig work in future, young people were by far the most positive. Based on the response, the number of young people in the gig economy could grow to around 3.7 million.¹⁷

In recent years, new platforms have emerged in the gig economy that have low barriers to entry, especially relative to more established platforms for professional services or skilled trades. These platforms specialise in low-skilled work, such as delivery or running errands, presenting opportunities that are more easily accessible to young people as they build up their skills and experience. In our survey, we found that young people (32 percent) were more than twice as likely as workers in the median age group (14 percent) to say that they had worked in the gig economy because they could not find work elsewhere, suggesting that gig work plays an important role in helping young people break into the labour market.

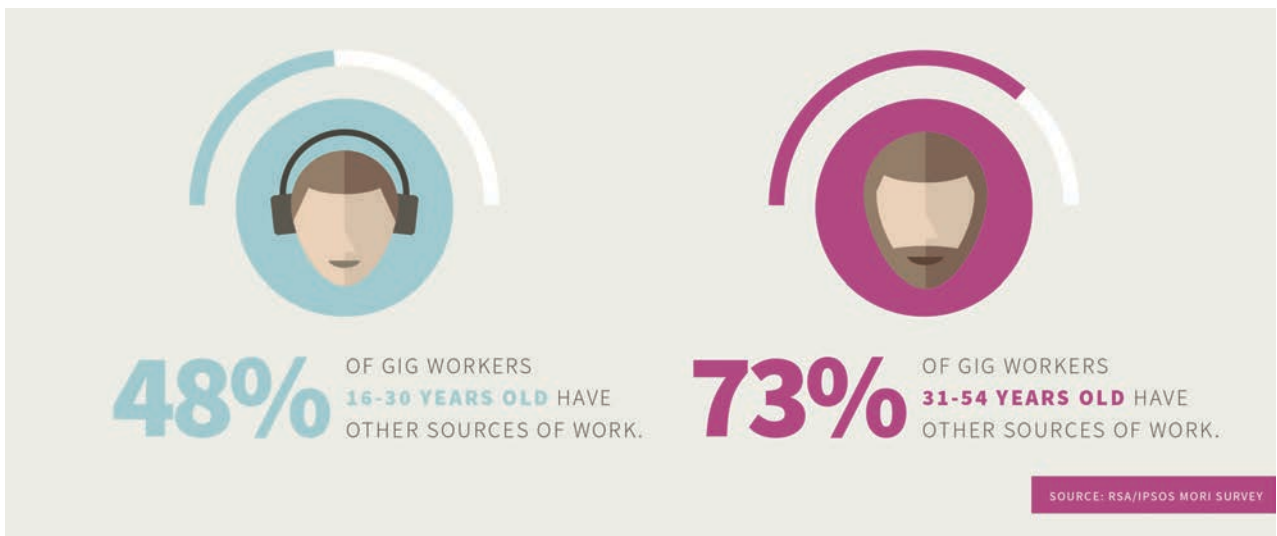
Young people (65 percent) were also the most likely to agree that gig work affords them more freedom and control. This may be because of their relative experience in the labour market, for example, working under a zero-hour contract. The flexibility of a zero-hour contract tends to be more of an advantage for employers than workers, as employers ultimately have control over when workers come and go.

16. Based on 4.38 percent of adults 15+ in Great Britain stating that they have carried out a listed form of gig work. At a 95 percent confidence interval (+/- 0.94 percent), this gives a range of 453,736 - 741,278 with a mid-point of 577,722.

17. Based on 28.01 percent of adults 15+ in Great Britain stating that they would consider carrying out a listed form of gig work. At a 95 percent confidence interval (+/- 4.23 percent), this gives a range of 3,136,582 - 4,252,456 with a mid-point of 3,694,519.



Young people are much more open to different possibilities in the gig economy, expressing interest in all forms of gig work, whereas people in the median age bracket are more inclined towards highly-skilled work in particular.



Just under half of young people in the gig economy appear to be topping up their existing income, whereas the other half are using platforms for their only source of work. This is in stark contrast to workers in the median age bracket, who in the main are using gig work to supplement other streams of income. However, in aggregate young people work fewer hours than 31-54 year olds in the gig economy, so it is likely that they are using gig work as a bridge to other forms of work, for example, while job hunting following graduation.

15% DO GIG WORK BECAUSE THEY CAN FIT IT AROUND THEIR STUDIES

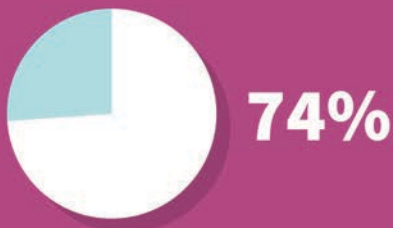


SOURCE: RSA/IPSOS MORI SURVEY

Of young people who are using platforms to find work, 15 percent say that they've specifically turned to gig work because it is flexible enough to fit around their academic commitments while in school. In contrast with zero-hour contracts, they have much more, if not complete, control over when they work, making gig work more ideal in terms of planning around deadlines and exams.

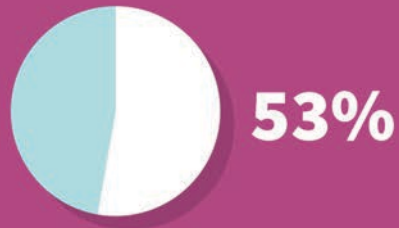
YOUNG GIG WORKERS TEND TO EARN LESS THAN TAXABLE THRESHOLD

16-30-year-olds earning less than **taxable threshold**



74%

31-54-year-olds earning less than **taxable threshold**



53%

38% OF YOUNG GIG WORKERS EARNED LESS THAN **£4,500** PER YEAR

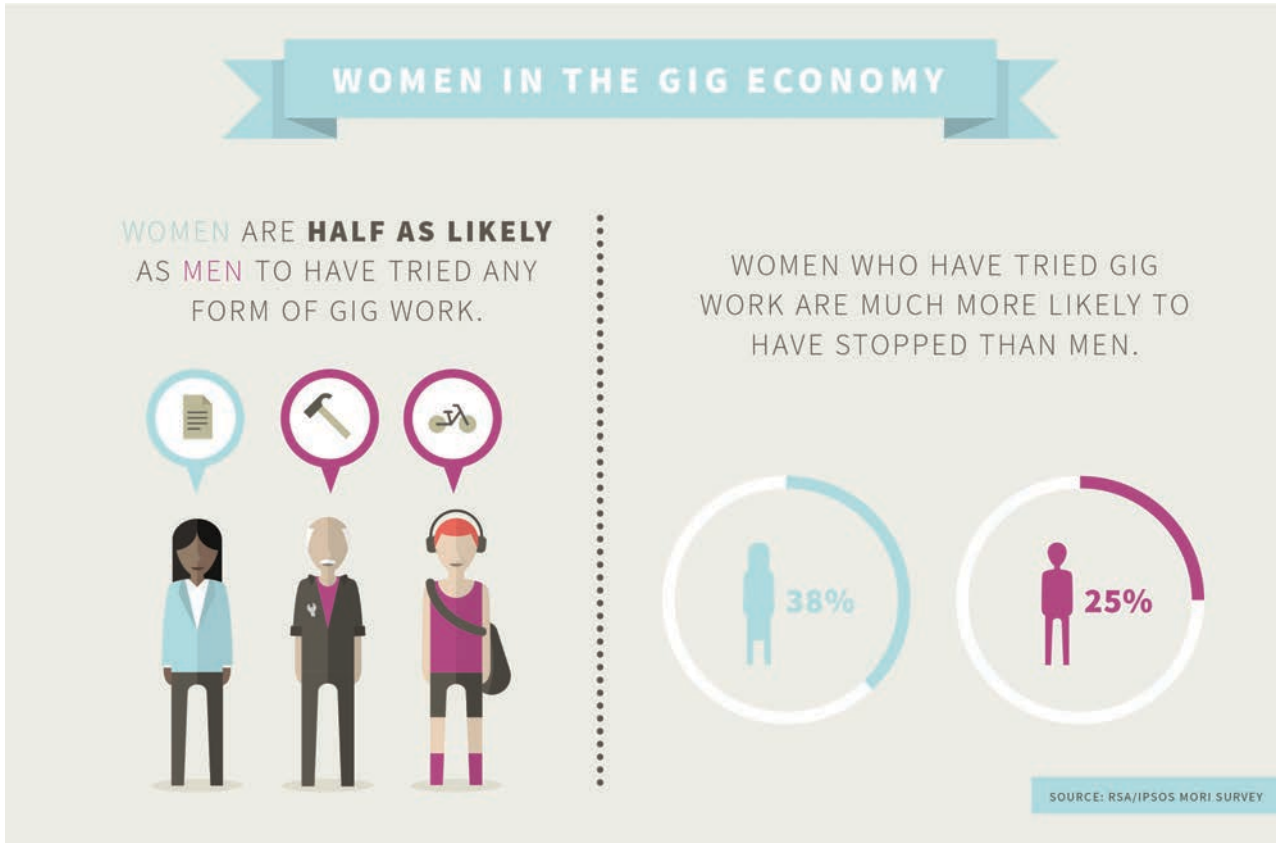
■ TAXABLE ■ NON-TAXABLE

(THE TAX THRESHOLD/PERSONAL ALLOWANCE WILL BE £11,500 FOR 2017/18)

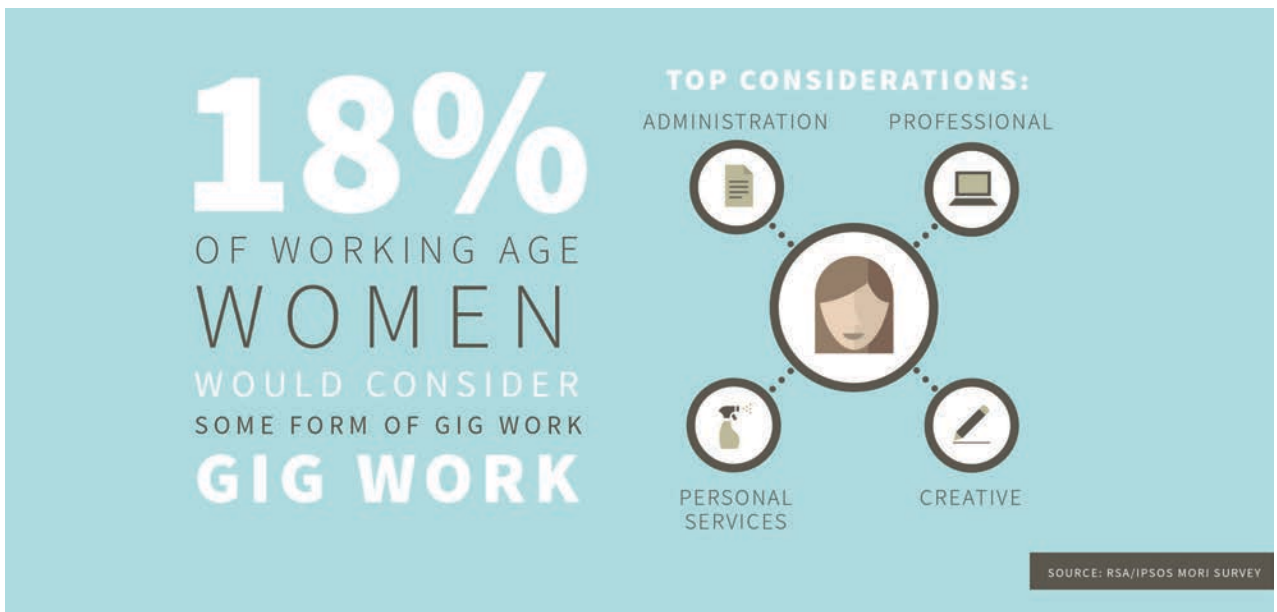
SOURCE: RSA/IPSOS MORI SURVEY

Given the type of work that young people are more likely to be found in, and the fact that they work fewer hours, it should be expected that most young people are making less than the taxable threshold. Nearly 40 percent are making far less than this threshold, earning less than £4,500 per year, which seems to suggest that they are taking up opportunities on a much more casual basis, either sporadically or temporarily. Given how little they make, it is likely that even young people who are using platforms as their only means of finding work are not dependent on gig work to make a living.

How do women fare in the gig economy?



Women are not as active as men in the gig economy. As we mentioned earlier, women are more likely to be found on asset-based platforms, engaging in activities such as homesharing.¹⁸ They are half as likely as men to have tried any form of gig work, and of those who have they were much more likely to stop than men were. Nearly 40 percent of those who did report trying gig work had given it up.



18. Nesta (2014) op cit.

However, in all probability, women may develop a stronger presence in the gig economy over time. While only around 350,000 women are in the gig economy,¹⁹ we may see that rise to nearly 3.6 million given that 18 percent revealed they would consider gig work in future.²⁰

Women were much more specific about the type of gig work they would do. Whereas young people as a cohort were warm to all forms of gig work, women on the whole narrowed their span of consideration. The top services they said they would be willing to provide were administrative, professional or creative in nature, although personal services also warranted high interest.



Women also do not earn much in the gig economy, essentially on par with young people in terms of earnings from gig work. Nearly 75 percent of women (or roughly three in four) earned less than the taxable threshold. However, unlike young people, women are highly likely to have other forms of work; as many as 66 percent of female gig workers (or two out of three) are in other work. It is also uncommon for women to be working weekly – of those who work weekly, only 16 percent (or one in seven) are women. Again, this suggests that women have a much more casual relationship with the gig economy at present.

It's possible that women may be under-represented because newer platforms tend to offer work that women are typically not drawn to in the wider labour market; for example, women are not very well represented in the taxi industry, so it should come as little surprise that not many work for Uber. However, given that women are more likely to be in professional, creative or administrative services in the economy as a whole, we would expect platforms aimed at freelancers or 'crowd-workers' to be attracting more women.

19. Based on 1.33 percent of adults 15+ in Great Britain stating that they are currently carrying out a listed form of gig work. At a 95 percent confidence interval (+/- 0.36 percent), this gives a range of 258,689 – 450,706 with a mid-point of 354,698.

20. Based on 13.43 percent of adults 15+ in Great Britain stating that they would consider carrying out a listed form of gig work. At a 95 percent confidence interval (+/- 2.11 percent), this gives a range of 3,018,931 – 4,144,363 with a mid-point of 3,581,647.

MEN IN THE GIG ECONOMY

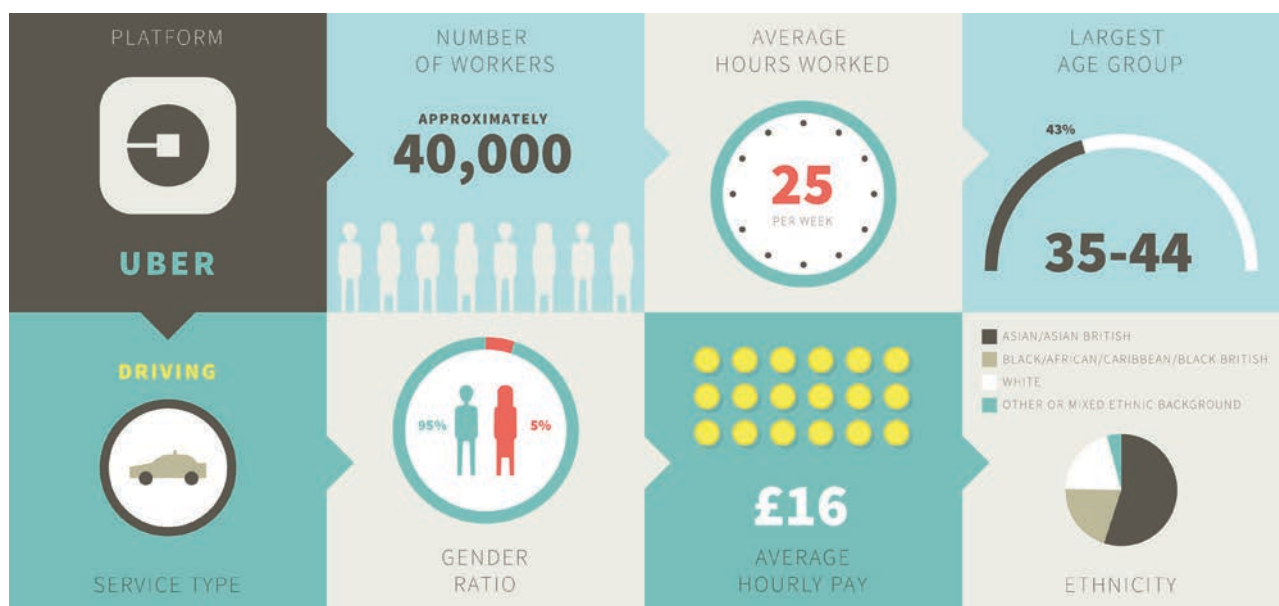
74% OF WEEKLY WORKERS ARE MEN



OF GIG WORKERS WHO RELY ON PLATFORMS FOR WORK, 74% ARE MEN

SOURCE: RSA/IPSOS MORI SURVEY

Growth of the gig economy has so far been down to men. Of those who are more likely to be reliant on platforms for their only source of work as well as working weekly, men comprise the majority at 74 percent in both cases. Uber, one of the most popular on-demand labour platforms in the gig economy, is primarily used by men as the data below reveals. Around 95 percent of Uber drivers are men, and on average many are working about 25 hours per week, which is higher than the average for most gig workers.



SOURCE: UBER & UBER/ORB SURVEY, OCTOBER 2016

Part III: Future prospects

In an exercise of foresight, we consider the growth of the gig economy and whether the trend is likely to prevail.

Is the gig economy just a fad?

Given that the trend towards gig work is fairly new, some might assume that it will be fleeting. However, our findings reveal that this trend is likely to endure, especially when we consider this against the backdrop of the rise in self-employment.

CONTEXTUALISING GIG WORK: WIDER LABOUR MARKET TRENDS



Since 2008, total employment has risen by just over 2m in the UK.

Self-employment has risen by 0.91 m, accounting for **44%** of growth in employment since 2008.

Part-time self-employment has seen particularly strong growth, growing by **50%** since 2008.



SOURCE: RSA ANALYSIS OF LABOUR FORCE SURVEY

To understand the significance of the trend towards gig work, it is helpful to consider overall trends in self-employment in the UK, bearing in mind that the two shouldn't be conflated because gig work is only one specific form of self-employment.

Generally, we have seen an increase in the total number of self-employed. In the UK, 4.5 million (14 percent of workers) are now self-employed. Since 2008, the number of jobs has increased by just over two million, of which nearly a million (44 percent) are accounted for by self-employment. Of those in self-employment, 29 percent are specifically in part-time self-employment, which has grown by as much as 50 percent since 2008. The results of our survey indicate that patterns of gig work are most similar to patterns of part-time self-employment, both of which are on the rise.²¹

While self-employment and gig work are not directly comparable given the diversity within self-employment (ie micro-entrepreneurs, freelancers), there does seem to be a parallel here in terms of valuing more freedom in work. Previous RSA research has found that the majority of self-employed people are content because they have more freedom to do the things that they want,²² and our survey with Ipsos MORI similarly found that over half of gig workers were positive about the greater degree of control and flexibility possible. However, some may have entered the gig economy because of fewer opportunities in traditional employment; full-time employment accounts for a relatively smaller share (31 percent) of the growth in employment.

HOW MANY PEOPLE ARE CONSIDERING GIG WORK?

18% OF THE WORKING AGE POPULATION
WOULD CONSIDER SOME FORM OF GIG WORK



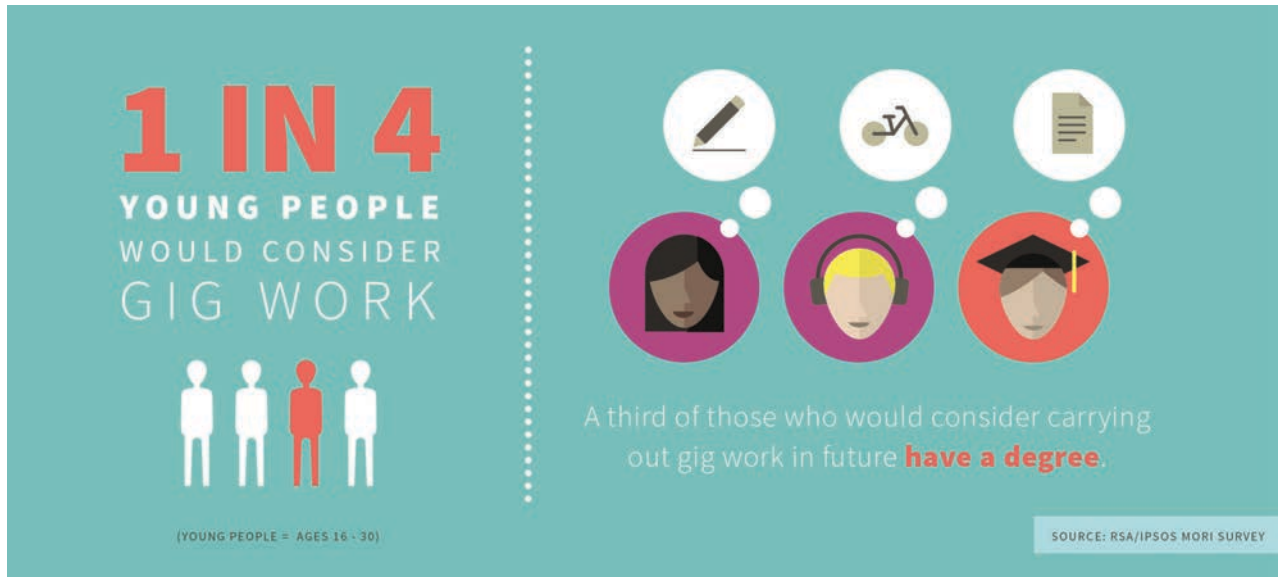
THAT'S ROUGHLY **7.9M** PEOPLE

SOURCE: RSA/IPSONS MORI SURVEY

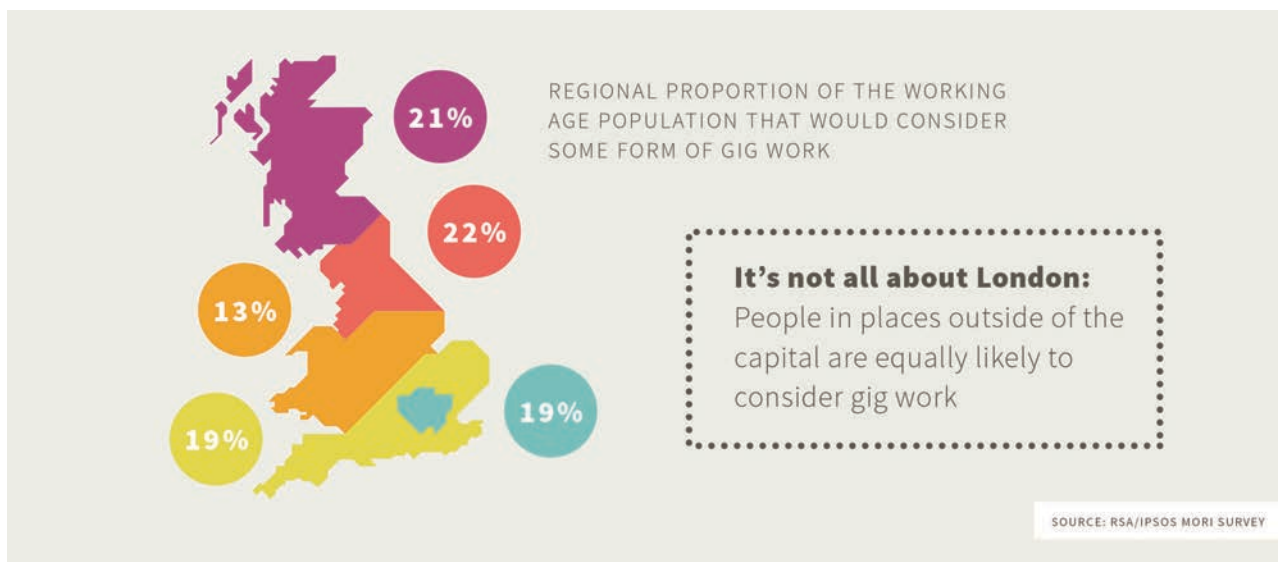
21. Data from the Office for National Statistics (ONS) may also suggest that freelancing is a fraction of the over-all self-employed category and that deriving a second income from self-employment is done by a small minority of workers, and this would be in line with our findings given how many people are currently in gig work as a proportion of the overall working age population. Even that number (1.1 million in gig work) is further divided between those who are freelancing (ie through crowdworking platforms like Upwork or Fivrr), and those who are supplementing other sources of income.

22. Dellot, B. (2015) *Boosting the living standards of the self-employed*. London: RSA, [online] Available at: <https://www.thersa.org/discover/publications-and-articles/reports/boosting-the-living-standards-of-the-self-employed/>

The gig economy's capacity to grow is immense, especially if as many people who are considering gig work in future actually turn to it for their next job. 18 percent of the working age population, or roughly 7.9 million people, would consider some form of gig work. Of those, 26 percent of young people (between the ages of 16 – 30), or one in four, expressed interest in some form of gig work in future.



Of those who would consider gig work, a third (33 percent) are degree educated. We may see this number rise over time as platforms become more prevalent in highly-skilled fields. For example, in the past year, PwC, a professional services firm, launched Talent Exchange, a portal for sourcing consultancy gigs with the company. In general, freelancing platforms for the highly-skilled tend to have some of the bigger user-bases – Talmix, another high-end consultancy platform has over 25,000 workers, and PeoplePerHour reports 150,000 active on its platform.²³



23. See Our Consultants at Talmix at: <https://www.talmix.com/our-consultants>; Frary, M. (2017) 'Gig economy is creating a new type of worker'. *Milkround*, [online] Available at: <https://www.advice.milkround.com/gig-economy-creating-new-type-worker>

While gig work may currently be concentrated in London, this may change over time. Given how rapidly newer platforms have expanded across the country, it should not be assumed that the gig economy is the domain of capitals and other big cities. Our survey shows us that more people are likely to consider some form of gig work in the north of England (22 percent) and in Scotland (21 percent) than they are in London (19 percent). Although the gig economy is young, it is already showing signs of being embedded across Britain's labour market.

What direction could the gig economy go in?

In essence, the workforce of the gig economy could become considerably larger – there are millions of prospective gig workers – and government needs to think through what the implications of such growth would be for society and how to best manage it.

While platforms operate in diverse ways, and thus vary in their impact, there can be a tendency to take a binary approach to regulation. Governments have either tacitly supported platforms or created a hostile environment to limit their operations.

There is concern that if the incoming UK government perseveres in the position that all platforms are good for the economy, it will support these innovative new businesses at the expense of workers. Without any intervention to encourage more platforms to raise the quality and security of gig work, these workers may get locked in with few opportunities to progress and limited protections, especially relative to employees. There is a risk that gig workers may stagnate in low-paid jobs and struggle to make ends meet over time. Gig work could exacerbate a sense of precariousness in the labour market rather than offer a life line to more security.

However, if the new government were to follow precedents set in other European countries like Spain and Sweden where platforms are deterred or banned altogether it would also be damaging. Gig workers could lose out on a form of flexible work and opportunities to boost their earnings. Our survey shows that one in four are in gig work because they could not find sufficient work by other means; over half cited better conditions in terms of flexible working and pay, and nearly two-thirds have been using gig work to supplement their income. In intervening heavily to manage risks, the government may wind up limiting prospects while the wider failures of the market to offer good work go unacknowledged.

The challenge for any new government is steering innovation in the interests of workers as well as businesses and consumers. In the next section, we set out government's role in mediating the debate over employment status as well as in ensuring that gig work is also good work.

2. Gig work as ‘good work’

Increasingly, there is thought being given to what is required to live a decent life. This is why Universal Basic Income (UBI) is a matter of debate for example. At a time of stark inequality and growing fears about the impact of technology, such as artificial intelligence and automation, **we’re returning to questions about what is needed to enjoy a basic, yet decent, standard of living.**

It is within this context that we can better understand the controversy over employment status in the gig economy. **The surge in gig work signifies a shift in the way that people are working, which could ultimately undermine the foundation of social and economic security that underpins society and enables a decent life. The bedrock of security for most people is traditional, nine-to-five employment, which provides them with basic rights and protections, such as paid holidays and sick leave, and the ability to challenge unfair dismissal.**

The state also depends on people being employed by at least one company, collecting taxes accordingly; employees pay a higher rate of National Insurance Contributions (NICs) and companies also pay NICs on behalf of each employee. While it may appear that the state rewards outliers through tax incentives for the self-employed, they are banking on entrepreneurs eventually creating many more traditional, full-time jobs for employees. The considerable rise in self-employment is now eroding our tax base, which is how we finance statutory benefits for employees, such as paid parental leave, and offer universal support for everyone in terms of healthcare and social welfare.

For those concerned that platforms are threatening our foundation of security, the starting point has been to challenge whether gig workers should be considered genuinely self-employed. They argue that platforms are exercising a greater degree of control over gig workers than experienced by other self-employed people, such as entrepreneurs or freelancers. On this basis, gig workers may be entitled to more rights and protections akin to those in more traditional working arrangements. **There is an urgent need for an incoming government to clarify the law, and to deter misclassification of gig workers.**

However, classifying gig workers appropriately under the law is just one way in which we can ensure that they enjoy a basic standard of living. While important, it is also limited in its potential to transform workers’ experiences of the labour market. The law will not guarantee that the work is fair in other ways that matter; for example, the law cannot guarantee gig workers more power over decisions that affect them or a greater share of the value that they’ve created.

Moreover, given that platforms operate in diverse ways and not all exercise the same level of control, it is unlikely that all gig workers have been misclassified. Thus, only some workers will stand to benefit from the rights and protections conferred by a different employment status. Taking into account the wider trend towards self-employment (which was well underway before gig work became

prevalent), we also need to consider that more people are valuing a higher degree of flexibility than most employees have. This leads us to believe that **traditional employment cannot be the basis of a secure foundation, but rather this should be built on a broader conception of good work for all, irrespective of employment status.**

Another important role for government then becomes steering us in the direction of good work. **Government must set out its vision of what good work looks like, so that technology is leveraged to provide workers with a better standard of living.** Good work – which is not synonymous with traditional employment – is another way in which we can maintain a decent life even in the face of radical changes.

In this next section, we delve into the detail of the debate over employment status in the UK's gig economy. This is also a matter of public interest given implications for tax and social security. Government's role is set out in terms of clarifying the law, deterring misclassification of workers, and reimagining how good work can become a new foundation for many in society.

Part I: Understanding and defining employment relationships in the gig economy

Who is really in control?

Gig economy companies do not regard themselves as employers, but rather as intermediaries. In their view, they operate platform-based business models that match supply and demand through making connections between users. Anyone offering a service on the platform is generally free to do so according to their own schedule. These companies thus classify gig workers as self-employed, or as 'independent contractors', as opposed to employees. This is the source of most tension in the gig economy, and the employment status of gig workers in particular remains a grey area.

However, while the technology may be new, the tension here is not. There has long been debate about how to define employment relationships in the UK. **At the crux of this debate is a question about how much control companies exercise over their workers.**

Some commentators have suggested that when assessing the level of control that platforms exercise, we should focus on how much power workers are given over technology. By way of illustration, the entrepreneur Tim O'Reilly presents two scenarios and asks us which one would be more ideal from the perspective of a worker.²⁴ In the first, only management is in control of data, using it to keep costs down and profits up. This might mean that they preside over a large pool of part-time employees or, more specifically, workers on zero-hour contracts that they keep on call for short shifts and use scheduling software, such as Percolata, to allocate hours. Percolata uses algorithms to build profiles of retail employees based on an analysis of their performance to date, combines this with weather, online traffic, and other signals to forecast customer footfall, and then produces a schedule with the optimal mix of workers to maximise sales for every 15 minute slot of the day.²⁵

In the second scenario, workers are independent contractors who can also make decisions based on data, using tools that help them understand and predict demand for their services. They are compensated in accordance with demand, and can choose how little or much they work to meet their individual income goals.

24. O'Reilly, T. (2015) 'Workers in a World of Continuous Partial Employment'. *Medium*, 31 August, [online] Available at: <https://medium.com/the-wtf-economy/workers-in-a-world-of-continuous-partial-employment-4d7b53f18f96#.lm6uszi9g>

25. O'Connor, S. (2016) 'When your boss is an algorithm'. *Financial Times*, 8 September, [online] Available at: <https://www.ft.com/content/88fdc58e-754f-11e6-b60a-de4532d5ea35>

The first scenario is representative of low-wage employers such as retailers like Gap or Uniqlo, whereas the second is intended to portray the likes of Uber.²⁶ By contrasting these scenarios, O'Reilly is arguing that the distinction between employees and independent contractors does not matter as much as whether or not low-paid, on-demand workers have agency over the technology that is used to manage their labour.

Of course, we are now aware that a platform like Uber also uses 'algorithmic management', programming different incentives to influence how their drivers work when they are logged in.²⁷ However, it might be countered that the level of agency over technology that could satisfy a gig worker would be the ability to simply turn the app on when they want to work, or off when they no longer do. Ultimately, their employed counterparts do not have a choice over when to work.

Our survey results on the motivations of gig workers seem to support this in theory. When asked about why they were in gig work, more than half cited good conditions, including greater flexibility. 63 percent agreed gig work offered more freedom and control. This does not necessarily mean that platforms are exemplary in the freedom and control that they allow workers, but it does reflect a preference. The response is likely to be understood as a measure of how workers feel about gig work *relative* to other options in the labour market.

Yet, there is still a considerable minority of gig workers who do not agree that they now have more freedom and control.

As we observed in our last report on the sharing economy, it may not be enough for some workers that these platforms concede more power over technology. A full-time gig worker has fewer rights as an independent contractor than a full-time employee, for example.

Moreover, these workers may also find that such a concession does not make up for the other ways in which platforms still exercise control over them. The level of control exercised varies by platform; for instance, some may permit workers to set their own rates and accept jobs at their discretion, while others do not.

In a bid for more employment rights, gig workers are increasingly challenging their legal status in the courts. In the next section, we explore the arguments for reclassifying gig workers in the UK.

A 'third way' for workers

Gig workers have been disputing their employment status as far back as 2013 in the US, whereas the first challenge to come to light in the UK was in 2016.

The earliest case concerning employment status in the gig economy was a class action lawsuit filed against Uber on behalf of roughly 385,000 drivers in California and Massachusetts.²⁸ The suit alleged that the drivers were being misclassified as independent contractors rather than as employees, and as such deserved compensation for expenses, such as gas and vehicle maintenance, as well as reimbursement for tips.²⁹ The lawsuit was settled out of court last year for \$100m (£80m), of which \$84m was guaranteed to go to drivers; however, the amount of the settlement was

26. The Gap is specifically cited by Tim O'Reilly; Uniqlo is a customer of Percolata, although we do not have information on how they use Percolata.

27. Rosenblat, A. and Stark, L. (2016) 'Algorithmic Labour and Information Asymmetries: A Case Study of Uber Drivers'. *International Journal of Communication*, 10 (27).

28. Brown, K.V. (2016) 'Here's what's going on with all of those Uber lawsuits'. *Fusion*, 16 June, [online] Available at: <http://fusion.net/story/315350/uber-class-action-lawsuit-settlement/>

29. Levin, S. (2016) 'Uber lawsuits timeline: company ordered to pay out \$161.9m since 2009'. *The Guardian*, 13 April, [online] Available at: <https://www.theguardian.com/technology/2016/apr/13/uber-lawsuits-619-million-ride-hailing-app>

overruled by the judge presiding over the case because it was far below the cost of potential damages (calculated at more than \$850m, or £678m).³⁰ It will be up to the parties to renegotiate or go to trial.

Uber faces more than 170 lawsuits in the US alone, but it is not the only platform to be sued.³¹ Similar action has been faced by rival ridesharing company, Lyft; delivery services Postmates, DoorDash, and Grub Hub, and cleaning platforms, Handy and Homejoy, to name but a few. All lawsuits in the US have so far been settled out of court rather than resolving the dispute over employment status.

Prior to Lyft reaching a settlement, it was suggested by the judge, Vince Chhabria, that California's test for classifying workers was "outmoded" and "not very helpful in addressing this 21st century problem [of how gig work should be classified]".³² He likened the case to a jury being "handed a square peg and asked to choose between two round holes". There appears to be strong conviction that a 'third way' between independent contractor and employee is needed in the law, and its absence in the US may be why both parties have been inclined to settle in all cases so far.

However, the same cannot be said for the UK. **We do not need a 'third way' because it already exists here.** In fact, it's possible for a 'fourth' or a 'fifth' way to apply in the gig economy – the UK recognises many more legal statuses under employment law than the US. In addition to self-employed and employee, there are the categories of a 'worker', 'agency worker', and 'employee shareholder'.³³

It is this little known third way – the 'worker' category – that gig workers in the UK have been pursuing recently.

Working out who is a 'worker'

'Workers' in the UK can essentially be understood as self-employed, but are extended some protections afforded to employees in recognition that they are not in business for themselves. They are sometimes known as 'limb (b) workers' (a reference to the legislation) or 'workers in the extended sense'.

The 'worker' category emerged in the mid-1990s in response to EU legislation, as well as a shift in the labour market from permanent full-time employment with a single employer to more casual and flexible working relationships, sometimes with multiple employers.³⁴ The category extended the scope of some key labour protections, so that 'workers' are covered by minimum wage legislation and working-time regulation. However, they are excluded from other statutory protections (for example, protection against unfair dismissal and redundancy) because they are not considered employees.

In a leading case before the Supreme Court in 2014, the judge, Lady Hale, clarified the meaning of a 'worker':

30. Alba, D. (2016) 'Judge rejects Uber's 100 million settlement with drivers'. *Wired*, 18 August, [online] Available at: <https://www.wired.com/2016/08/uber-settlement-rejected/>

31. Levin, S. (2016), *op cit*.

32. Patrick Cotter et al., vs. Lyft, Inc., (11 March, 2015) United States District Court Northern District of California.

33. To distinguish the legal category of worker from the more general usage of the term, we will refer to it as 'worker' throughout.

34. The EU test for worker considers whether someone has a contract for work in return for a wage, or an indirect quid pro quo (ie a communal cooperative), and also stands as the more vulnerable party to the contract. The leading EU cases setting these out are *Lawrie-Blum v Land Baden Württemberg* (1986) Case 66/85, [1986] ECR 2121; *Steymann v Staatssecretaris van Justitie* (1988) Case 196/87, [1988] ECR 6159; *Pfeiffer v Deutsches Rotes Kreuz eV* (2005) C-397/01, [2005] IRLR 137. In addition to this, the UK adheres to the EU Working Time Directive 2003/88/EC; Pregnant Workers Directive 92/85/EEC; Parental Leave Directive 96/34/EC and 97/75/EC.

“...Our law draws a clear distinction between [employees]... and those who are self-employed... within the latter class, the law now draws a distinction between different kinds of self-employed people. One kind are people who carry on a profession or business undertaking on their own account and enter into contracts with clients or customers to provide work or services for them... the other kind are self-employed people who provide their services as part of a profession or business undertaking carried on by someone else.”³⁵

Yet, ‘workers’ are relatively uncommon, perhaps because the category is defined by patching together various legislation – there is no single source that sets out the rights of a ‘worker’ and the circumstances in which they may accrue.³⁶

The existence of such a category is also not widely known. The nuance of the recent employment tribunal that ruled in favour of Uber drivers was lost on much of the mainstream media, which falsely reported that the drivers were now employees.³⁷ The drivers had actually won the right to be classed as ‘workers’ in a test case against Uber.

The challenge was brought by James Farrar and Yaseen Aslam on the grounds that the control Uber exercised over them warranted protection as ‘workers’, which would entitle them to holiday pay, rest breaks and the minimum wage. The judges noted that in designating ‘worker’ status, it was relevant to take into consideration:

“...the degree of control exercised by the putative employer, the exclusivity of the engagement and its typical duration, the method of payment, what equipment the putative worker supplies, the level of risk undertaken, etc.”

The drivers were not claiming to be employees, but given the nature of their relationship with Uber they had reason to believe that they might qualify for some employment protections.

“The basic effect of limb (b) is, so to speak, to lower the pass-mark, so that cases which failed to reach the mark necessary to qualify for the protection as employees might nevertheless do so as workers.”

It was a landmark decision, and validates concerns that there is a problem with misclassification in the gig economy. However, we are still far from resolving issues of employment status.

From the outset, we should be cautious about assuming that anyone providing a service in the gig economy is a ‘worker’ rather than self-employed. Platforms operate in diverse ways, and not all exercise the same level of control as Uber has (or the extent of control that would merit classing users as ‘workers’). Grub Club, for example, connects skilled and amateur chefs with customers who are up for

35. Clyde & Co LLP and another (Respondents) v Bates van Winkelhof (Appellant), (21 May, 2014) *The Supreme Court*, [online] Available at: https://www.supremecourt.uk/decided-cases/docs/UKSC_2012_0229_Judgment.pdf

36. Bull, N. (2016) 5 things that could be learnt from the Uber judgment in the UK. *RSA* [blog], 31 October, [online] Available at: <https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2016/10/five-things-that-could-be-learnt-from-the-uber-judgement-in-the-uk>

37. This may in part be because ‘worker’ is a confusing term that can be interpreted as a more general reference to employees. McGoogan, C. and Yeomans, J. (2016) ‘Uber loses landmark tribunal decision over drivers’ working rights’. *The Telegraph*, 28 October, [online] Available at: <http://www.telegraph.co.uk/technology/2016/10/28/uber-awaits-major-tribunal-decision-over-drivers-working-rights/>; Osborne, J. (2016) ‘Uber loses right to classify UK drivers as self-employed’. *The Guardian*, 28 October, [online] Available at: <https://www.theguardian.com/technology/2016/oct/28/uber-uk-tribunal-self-employed-status>

sharing dinner with strangers; although the platform charges commission, it allows chefs to host at their convenience and set their own prices. It is entirely plausible for platforms to devise business models premised on using self-employed labour, a point also made by the judges of the employment tribunal case against Uber.³⁸

Moreover, criteria for assigning ‘worker’ status is not clear-cut, especially for the layman. It is right that the status of a gig worker is decided on a case-by-case basis depending on how the platform operates, but at present only courts seem to be in a position to assess this.³⁹ Guidelines have not been established for determining ‘worker’ status, meaning that even platforms considering reclassifying their workers would not find it easy to make the change.

Given the lack of clarity, some platforms have claimed that they have been hesitant to offer training and development opportunities, concerned that this might be interpreted as a form of control. This is troubling since gig workers should technically be able to access training under existing law, and platforms profess that they want to do more to support workers if possible. Training and development is mutually beneficial for platforms and gig workers (for some, it could be the key to progression across, or out of, the gig economy).

If we’re able to muddle our way through working out who qualifies as a ‘worker’ and what they’re entitled to, we’re left with the question of whether this third way in the UK is sufficient as is, or if ‘workers’ require more protection in a changed labour market. For example, perhaps ‘workers’ ought to be owed the right to unfair dismissal if deactivation on a platform hinges on new rating and review systems for managing their performance.

Beyond that, it’s necessary to bear in mind that the employment status of gig workers has wider implications for tax collection, as well as for access to social security under Universal Credit. Even if more platforms class users as ‘workers’, this will not make much of a difference to the Treasury since ‘workers’ are considered self-employed for tax purposes. In addition to protecting gig workers, changes must be advocated for to protect our tax base from being eroded by the gig economy.

Part II: Understanding the interactions between employment law, tax and welfare

Protecting public interest

Companies shoulder a share of the safety net through the taxes they pay. Most of us are aware that companies pay corporation tax, but other taxes are also levied, such as business rates for any property occupied and NICs on behalf of employees. Online platforms tend to have a competitive advantage because they don’t spend much on bricks and mortar (at the most, they rent an office, but they don’t require shops on a high street). Most platforms in the gig economy are also spared from paying Employer NICs because they class their workers as ‘self-employed’.

38. 97: None of our reasoning should be taken as doubting that the Respondents could have devised a business model not involving them employing drivers. We find that the model which they chose fails to achieve that aim; *Aslam, Farrar and Others v Uber* 2202550/2015 and Others, paragraph 97 [online] Available at: <https://www.judiciary.gov.uk/wp-content/uploads/2016/10/aslam-and-farrar-v-uber-reasons-20161028.pdf>

39. Following *Pimlico Plumbers Ltd. & Charlie Mullins v Gary Smith*, Lord Justice Underhill, the judge presiding over the appeal, noted: “Although employment lawyers will inevitably be interested in this case - the question of when a relationship is genuinely casual being a very live one at present - they should be careful about trying to draw any very general conclusions from it.”

According to the Institute for Fiscal Studies (IFS), NICs are forecast to raise £126.5bn in 2016/17, the vast majority of which will be Class 1 contributions, paid by both employees and employers.⁴⁰ NICs are the second largest source of revenue for the government, behind income tax and ahead of VAT.

If Uber, for example, had to pay Employer NICs, tax lawyer Jolyon Maugham reckons that the platform would accrue costs of around £13m per month (or roughly £156m annually).⁴¹

Some worry that the high costs of hiring an employee perversely incentivise companies to contract self-employed labour instead, and in some instances, to misclassify their workers.⁴² This may be a valid point, but to continue with the example of Uber, even if the company was to submit to the ruling that its drivers are ‘workers’, they would not be liable for paying Employer NICs because ‘workers’ are classed as self-employed under tax law.⁴³ Increasingly, suggestions for how to rebalance tax burdens have been made, so that companies like Uber and their workers are paying a fairer share. The RSA has previously proposed different options for reforming the tax system, including:

- **Soft levelling** – The self-employed begin paying the same personal NICs rate as employees (ie 12 percent rather than 9 percent), but Employer NICs remain unchanged.
- **Payroll tax plus** – Employer NICs are reconstructed as a ‘payroll tax plus’, with companies paying a levy for all workers they employ or contract, including the self-employed, whether independent contractors or ‘workers’.⁴⁴

It’s likely that to address the tax problem in the gig economy, a combination of these options is needed. ‘Soft levelling’ would equalise the rate of personal NICs paid by employees and the self-employed, while ‘payroll tax plus’ would levy all companies – even intermediaries – with a form of tax for any type of labour employed or contracted. There may be other options, however; another option described by the RSA was to convert Employer NICs into a ‘transaction tax’ to be paid by the consumer – whether a household or a business – using the services of any kind of worker.

40. Pope, T. and Waters, T. (2016) *A Survey of the UK Tax System*. London: Institute for Fiscal Studies, [online] Available at: <https://www.ifs.org.uk/bns/bn09.pdf>

41. Maugham, J. (2016) ‘That’s One Uber VAT Problem’. *Waiting for Godot*, 12 December, [online] Available at: <https://waitingfortax.com/2016/12/20/thats-one-uber-vat-problem/>

42. Bell, T. (2016) ‘A big day in court for the gig economy – but just one of many until Parliament decides. We need new technologies but old certainties too’. *Resolution Foundation*, 28 October, [online] Available at: <http://www.resolutionfoundation.org/media/blog/a-big-day-in-court-for-the-gig-economy-but-just-one-of-many-until-parliament-decides-we-need-new-technologies-but-old-certainties-too/>

43. While firms that use ‘workers’ do not automatically pay Employer NICs, criteria for ‘worker’ status is in many ways similar to criteria used by HMRC in disputes with people claiming to be self-employed. It can complicate matters of taxation if HMRC considers a gig worker to be more akin to an employee even if they are classified as a self-employed ‘worker’ under the law.

44. Dellot, B. and Wallace-Stephens, F. (2017) *The Entrepreneurial Audit*. London: RSA, [online] Available at: <https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2017/02/the-entrepreneurial-audit>

In general, the debate about tax in the UK seems to be heading in the direction of simplifying the tax system so that there are fewer distinctions made between the self-employed and employees.⁴⁵ While there may have been differences between employees and the self-employed in terms of entitlement to benefits, government has been closing this gap in recent years. In particular, with the introduction of the single-tier state pension, the disparity between the two has largely been addressed.⁴⁶ Reforming taxes for the self-employed is also likely to affect how companies incur tax on behalf of their workers.

However, any changes to the tax system will require engaging the public in a meaningful consultation early on. We know this to be true given the aftermath of 2017's spring budget. Chancellor Philip Hammond announced that NICs paid by the self-employed would be raised (to near parity) over two years, but had to back down on the reform following widespread backlash. The policy had merit, but its execution was poor, particularly because a package of enhanced support (ie maternity and paternity pay) for the self-employed was not revealed in tandem.

The government may have had more traction for reform if it had addressed the matter of appropriately taxing those who use self-employed labour instead of the self-employed themselves. As our survey shows, most gig workers (61 percent) are making less than the taxable threshold of £11,500, and nearly a third (31 percent) earn less than £4,500 from gig work. On a related note, this is why introducing a withholding tax (a tax automatically deducted at the time of transaction) as explored by the Office of Tax Simplification (OTS) would be similarly problematic, given that most of the money would need to be returned to gig workers after their tax returns were filed (and it would be unnecessarily punishing, restricting their immediate cash flow).⁴⁷ Government is likely to see a higher return from the gig economy if they focus on those who rely on independent contractors. However, in future, government must take the public on a journey when pursuing policies that are likely to be unpopular, but are for the greater good.

A comprehensive approach to reforming the system

It should not be assumed that reconfiguring the tax system will also resolve the issue of employment rights (the theory being that companies will no longer see an advantage in classing gig workers as self-employed, as opposed to employees, if the tax incentive is lost). Given Uber's resistance to classing drivers as 'workers', let alone employees, this would be a mistake. Uber is appealing the ruling not because of tax implications, but because it doesn't agree that it needs to extend protections for workers in terms of health and safety provisions, or cover the costs of holiday pay, paid rest breaks, or the guaranteed minimum wage.

45. Adam, S., Miller, H., and Pope, T. (2017) *Tax, legal reform and the gig economy*. London: Institute for Fiscal Studies, [online] Available at: https://www.ifs.org.uk/uploads/publications/comms/R124_Green%20Budget_7.%20Tax%2C%20legal%20form%20and%20gig%20economy.pdf; Tomlinson, D. and Corlett, A. (2017) *The nature of self-employment in 21st Century Britain and policy implications*. London: Resolution Foundation, [online] Available at: <http://www.resolutionfoundation.org/app/uploads/2017/02/Self-employment-presentation.pdf>

46. Johnson, P. 'Burgeoning self-employed gives chancellor a taxing problem'. *The Times*, 7 February, [online] Available at: <https://www.thetimes.co.uk/article/burgeoning-self-employed-sector-gives-chancellor-a-taxing-problem-j5oc55fqz>

47. (2015) *Employment Status Report*. London: Office of Tax Simplification, [online] Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537432/OTS_Employment_Status_report_March_2016_u.pdf

To square the circle here, addressing the two main challenges of the gig economy (protecting workers and public funds) will require effecting change in harmony. The ambition here should be to find ways to better support gig workers (under the law, but also irrespective of their employment status) *and* pursue an agenda of rebalancing responsibilities for tax.

However, we should be clear that while there is a need to think about the system more coherently, this does not necessarily mean that greater alignment is needed between employment law, tax, and welfare. There may be temptation here to introduce a third category in tax law, for example, to correspond with the ‘worker’ category in employment law and, likewise, to create a lesser form of Employer NICs for companies contracting ‘workers’. However, the risk is that this also creates perverse incentives to misclassify employees as ‘workers’. There is precedent for concern given the problems with enforcing IR35, a law designed to root out ‘disguised employees’ by challenging individuals who incorporate themselves as a ‘Personal Service Company’ merely to exploit tax advantages.

Rather, thinking about the system more coherently means making an effort to understand the interactions, or the knock-on effects, within it. This would, for instance, mean reflecting on why further simplifying the tax system by equalising, rather than further differentiating, treatment, might be a more effective response to the trend towards gig work over the long-term.

Or, similarly it would mean ensuring that we have fully thought through how all legal statuses under employment law are accounted for in the tax and social security systems. For example, it is not clear at present whether ‘workers’ will be considered self-employed under Universal Credit (UC), the new system of welfare that is being rolled out in the UK. A ‘Minimum Income Floor’ (MIF) is being introduced under UC to deter under-reporting of income, which will mean that a claimant’s income is assumed to be a certain amount each month and that any fluctuations below this will not be made up for with more social security contributions. The MIF was designed with entrepreneurs in mind, or essentially, people in business for themselves rather than ‘workers’ who are integrated into another’s business. Clarifying their path under UC would make a big difference to ‘workers’, and might also impact on public spend.⁴⁸

In the following chart, we map out the different legal statuses applicable in the UK’s gig economy and related employment rights, taxes, pension contributions, and treatment for social security purposes under Universal Credit. The point of this exercise is to illustrate how complex our system is, and to help readers begin to understand how all of the different components intersect and might interact. (Click on the hyperlinked graphic below to see the image more clearly.)

48. Again, ‘workers’ are not necessarily in need of a distinct path under UC, but at the very least it should be clarified whether they will be treated as self-employed or as employees.

LEGAL EMPLOYMENT STATUSES
(APPLICABLE IN THE UK'S GIG ECONOMY)

SELF-EMPLOYED

Also known as independent contractor, freelancer, or micro-entrepreneur.

A person is self-employed if they are in business for themselves and enter into contracts with clients or customers to provide work or services for them.



Example of platform classifying gig workers as 'self-employed':
TaxiRabbit

WORKER

Also known as 'limb (b) worker' and can be understood as a 'dependent contractor'.

A 'worker' is registered as self-employed, but provides a service as part of someone else's business. They generally must carry out the work personally, rather than being able to send someone in their place. Their contract is not with their own client or customer, but with another party (ie a platform).



Example of platform with gig workers that have been reclassified as 'workers':
Uber

(AGENCY) WORKER

Generally, an agency worker has a contract with an agency, but works temporarily for a 'hirer' - a person or company with employees.

After 12 weeks, they are entitled to the same rights as employees of the hiring company, but it is the agency that is responsible for their pay and administering statutory employment rights.



Example of platform with gig workers that have been reclassified as 'workers':
Staff Heroes

EMPLOYEE

There is no universal definition of an employee in the UK, but an employee is understood to be a person who is contracted directly by a company. The employee will work to the terms within an employment contract (ie agreed pay, annual leave, and working hours), and will carry out the work personally.



There are no examples of platforms classifying gig workers as employees in the UK, but in the US an example is:
Managed by Q

RIGHTS UNDER EMPLOYMENT LAW

Employment law doesn't cover self-employed people in most cases because they are in business for themselves (ie their own boss).

However, if a person is self-employed:

- They still have protection for their health and safety and, in some cases, protection against discrimination.
- Their rights and responsibilities are set out by the terms of the contract they have with their client.

- At least the National Minimum Wage
- Protection against unlawful deductions from wages
- Statutory minimum level of paid holiday
- Statutory minimum length of rest breaks
- Not obliged to work more than 48 hours on average per week, or to opt out of this right, if they choose
- Protection against unlawful discrimination
- Protection for 'whistleblowing' (reporting wrongdoing in the workplace)
- Equal treatment if working part-time

From Day 1, an agency worker has the same rights as those in the 'worker' category. Additionally, agency workers have the same rights as colleagues employed by the hiring organisation to access shared facilities and services (such as the canteen or work transport).

From 12 weeks, an agency worker has the same rights as colleagues employed by the hiring organisation. However, the clock resets each time they start at a new place of work.

All of the rights that 'workers' have and:

- Statutory Sick Pay
- Statutory Maternity, Paternity, Adoption, and Shared Parental Leave and Pay
- Statutory Redundancy Pay
- Minimum notice periods if their employment will be ending (ie if an employer is dismissing them)
- Protection against unfair dismissal
- The right to request flexible working
- Time off for emergencies

Some of these rights require a minimum length of continuous employment before an employee qualifies for them. An employment contract may state how long this qualification period is.

Employee 'Shareholder' status was introduced in 2012, permitting the exchange of rights for company shares worth at least £2k. It will soon be abolished.

TAX OBLIGATIONS

For tax purposes, there is no distinction between the self-employed (ie independent contractor) and a 'worker'.

The self-employed are obliged to register with HMRC as such, and to submit annual tax returns to pay income tax and National Insurance Contributions (NICs).

The self-employed pay NICs at a flat rate (Class 2) and at a rate of up to 9 percent depending on income (Class 4).

For tax purposes, there is generally no distinction between agency workers, employee shareholders, and employees.

Employers pay National Insurance Contributions (NICs) on behalf of their employees at a rate of 13.8 percent. This is done through the payroll system (PAYE).

Employees also pay income tax and NICs (at a rate of up to 12 percent depending on income) through PAYE.

PENSION CONTRIBUTIONS

Not automatically enrolled into a pension scheme at any point.

May be entitled to state pension if paying National Insurance Contributions.

Those with 'worker' status may be entitled to auto-enrolment depending on their age and income. All 'workers' should be given the option of joining a workplace pension scheme. Depending upon the income of the 'worker' they may also be entitled to employer contributions to the pension.

Automatically enrolled into the employer's workplace pension scheme.

SOCIAL SECURITY UNDER UNIVERSAL CREDIT (UC)

Where a person's earnings are established as coming primarily from a 'trade, profession or vocation' they will be classed as 'self-employed earnings' for UC purposes.

The self-employed (ie independent contractor) must then be recognised as 'gainfully self-employed' in an interview at a JobCentre Plus. Gainful self-employment is generally based on the idea that a person is in business for themselves and so, for example, should be able to produce a business plan.

There is an obligation to report earnings on a monthly basis once UC payments start to be received.

The Minimum Income Floor (MIF) applies after 12 months of self-employment, meaning that payments will be made based on an assumption that the claimant is earning a certain amount from self-employment (even if that's not the case ie because of unexpected fluctuations in income).

It is not clear whether a 'worker' will be considered as a self-employed 'independent contractor' or as an employee under Universal Credit.

An agency worker or an employee may be eligible for UC payments, depending on their income and personal circumstances.

There is no limit to the number of hours an agency worker or an employee can work to be eligible for UC. Instead, claimants working less than 35 hours per week (may vary, for those with caring responsibilities for example) are expected to increase their hours of work to continue qualifying for top-ups to their wages while in work. As claimants increase their earnings, UC payments will go down by 65p for every £1 earned.

For some recipients, a work allowance may be applicable, which is an amount of money an agency worker or an employee is allowed to earn before their UC payment begins to taper off.

Deterring misclassification of gig workers

Providing greater clarity of the law for platforms and workers

A number of reviews and inquiries have recently been undertaken by the current government and specific departments, as well as the Opposition, to address the challenges of modern employment, including how to respond to issues of legal status in the gig economy.⁴⁹ A possible outcome of these reviews might be a total overhaul of employment law, or even the tax system. At the very least, issues such as the treatment of ‘workers’ under Universal Credit are likely to be settled.

As a starting point, however, both platforms and workers need more clarity about what sort of rights and protections come under the different categories. Assuming an incoming government allow the completion and publication of the review on modern employment, chaired by Matthew Taylor, it should release an official guide to aid both businesses and workers in navigating employment and tax law.

We recommend that the new government:

- **Publish an official guide to aid workers and businesses in identifying different employment rights and related tax obligations.**

This could serve as a simple online resource for businesses considering classifying their workers in a different way. It would also enable workers to identify their rights to hold businesses to account, as well as their tax obligations.

Platforms are uncertain about whether extending workers certain benefits, such as training and development opportunities, would alter their employment status.

The government should thus make the following clear at the earliest opportunity:

- **Specify that employment intermediaries can offer training and development opportunities, and to any category of worker.**

Some platforms, such as Uber, do offer training (courses in English language proficiency, for example) and others have noted they would like to do more, but that they are concerned that this might be interpreted as a form of control, akin to that of an employer rather than an intermediary.

There is currently no indication that employment intermediaries cannot offer training, and to any status of worker, but in the absence of clear provision gig workers are missing out on opportunities to further develop skills which could lead to progression.

Given that training and development is beneficial for companies and workers alike, it needs to be made explicit that employment intermediaries, such as agencies and online platforms, can offer workers this support regardless of their employment status.

⁴⁹ Taylor Review on Modern Employment; Business, Energy, and Industrial Strategy (BEIS) Committee Inquiry into ‘The future world of work and the rights of workers’; Work and Pensions Committee Inquiry into Self-Employment and the Gig Economy; and the Labour Party’s ‘Future of Work Commission’.

There may be other changes that an incoming government wishes to make to the specific employment categories or to the tax system following the Taylor Review. This government may not have been able to change NICs for the self-employed because of its manifesto pledge, but all parties may omit such a pledge in their upcoming manifestos. Once in place, the new government should indicate the direction of travel for a sustainable tax policy in the UK. It's unlikely that an incoming government will abandon the agenda of equalisation between the employed and self-employed, but it will need to be clear how it will pursue this and what its priorities are.

We strongly recommend that when it comes to changes in tax, government should:

- **Use deliberative methods to consult with the public on any proposed changes to tax law.**

After the current chancellor's difficulty in reforming NICs for the self-employed, it is clear that public buy-in is needed to make substantive change to taxes. Deliberative methods might be useful for communicating the complexity of the matter and engaging the public in a different, and more meaningful, way. For example, the RSA is currently testing deliberative methods through our Citizens' Economic Council – a programme of research and engagement advancing economic democracy.

Renegotiating the balance of power over employment status

There are discrete changes that could be made to the law that would nudge us towards a fairer system, especially for workers, without requiring a complete redesign. **In a system where businesses are essentially gatekeepers, able to unlock more employment rights by classing workers in particular ways, workers could be more empowered to question how they are classed.** This would hopefully both deter companies from misclassifying workers in the first place, and support workers in realising their rights if they suspect they have been misclassified.

Businesses, too, may be in favour of these changes because the recent spate of misclassifications has meant that even those who are legitimately classifying workers as self-employed are also coming under fire.

We recommend the following reforms to the legal system:

- **Strengthen penalties against companies using clauses in contracts that prohibit litigation over employment status. Moreover, give explicit protection to workers who litigate the matter.**

Some contracts in the gig economy have been issued with clauses prohibiting workers from taking legal action concerning their employment status.⁵⁰ Ultimately, judgments about employer status are made based on the nature of the relationship rather than what is stipulated in the contract. These clauses are thus unenforceable, but they may discourage workers from making a valid claim, particularly because some also specify

50. Osborne, H. (2016) 'Deliveroo workers' contracts ban access to employment tribunals'. *The Guardian*, 25 July, [online] Available at: <https://www.theguardian.com/law/2016/jul/25/deliveroo-workers-contracts-ban-access-to-employment-tribunals>

that the worker will incur the company's legal costs if a claim is raised. While these clauses were also made void under Section 203 of the Employment Rights Act 1996, which stipulates that workers cannot be prevented from bringing a claim to an employment tribunal, companies should be actively discouraged from violating the law through a penalty, such as a fine.

Similarly those same workers could be given explicit protection when a claim is made for worker/employee status that they should not be unfairly treated.

- **Suspend tribunal fees for workers challenging their employment status.**

The employment tribunal system was created in 1964, but the first fees for individuals making a claim were introduced in July 2013.⁵¹ Since then, individual claimants have had to pay fees of up to £1,200 to issue their claim and to have it heard. Some allowances are made for claimants who have little in capital and are on a low income, but qualifying for these allowances is difficult. As a result, there has been a sharp decline in the number of claims made – within the first year of fees, claims dropped by 80 percent.⁵²

For any worker wishing to challenge their employment status, the fees should not be a barrier. Misclassification is a live and critical issue, and workers should not bear the brunt of costs to clarify the law. These test cases are ultimately of public benefit, and thus warrant waiving fees for workers.

To reclaim costs, courts could require employers found in breach of the law (ie misclassifying workers) to pay an additional fine to subsidise the cost of the system. The fine could be determined on a sliding scale, based on the size of the company and its revenue.

There is a case to be made for abolishing tribunal fees in general. Fees were introduced to deter vexatious claims and to subsidise the cost of running the tribunal system. However, Abi Adams and Jeremias Prassl have found that there was scant evidence to suggest that the system was overrun by unmeritorious claims in the first place, and that the introduction of fees has had little, if any, impact in deterring the small proportion of vexatious claims which exist.⁵³

51. (2015) 'Impact of employment tribunal fees: Key issues for the UK Parliament', [online] Available at: <https://www.parliament.uk/business/publications/research/key-issues-parliament-2015/work/employment-tribunal-fees/>

52. Adams, A. and Prassl, J. (2017) 'Vexatious claims: Challenging the case for employment tribunal fees.' *Modern Law Review* (forthcoming).

53. Ibid.

- **Introduce a summary process for workers wishing to challenge employment status at a tribunal.**

There has long been a practice in civil courts of allowing parties to ask for a summary judgment when appropriate (ie when the case is clear-cut). Tribunal rules could be modified to allow for a summary process, or essentially a fast-track option, to give workers more immediate clarity over their status. This could be facilitated with a simpler claim form that makes it easier to understand whether a claimant is likely entitled to ‘worker’ or ‘employee’ rights.

Reverse the burden of proof, so that the onus is on companies to prove that their workers are not ‘workers’ or employees.

In a legal dispute, one party is initially presumed to be correct and gets the benefit of the doubt; the other must bear what is known as the ‘burden of proof’. In cases before an employment tribunal, the claimant (usually, a worker, but sometimes a trade union or HMRC for instance) bears the burden of proof. In a case challenging employment status (which can only be brought to the court based on other claims, such as entitlement to holiday pay), claimants must prove that they are, for example, ‘workers’ under the law rather than self-employed. If the burden of proof was reversed, it would be assumed that the claimant was a ‘worker’ and it would be up to the company to prove otherwise. This may relieve some of the pressure that workers feel in bringing their case forward.

These recommendations could restore a sense of equilibrium in the system between businesses and workers while the broader question of employment status is grappled with in the gig economy.

Part III: Getting beyond the system with ‘good work’

It is important that gig workers are classified appropriately under the law and further misclassifications deterred. But we must also get beyond the system in thinking through how to support gig workers. The law has its limits, and we should recognise these so we can begin advocating for more than can be granted by the legal system. For example, the law cannot guarantee that a worker has meaningful prospects, nor does it enable workers to participate in making company decisions that affect them.

If gig work is to be fairer and more fulfilling, there is a need to consider what we value as good work just as the current government has begun to set out what they value as a good business. A more explicit link should be made between how workers fare in the gig economy and the government’s agenda to reform corporate governance, assuming this will also be a priority for the new government. Ultimately, this agenda is about urging companies to manage their businesses with more than just shareholders in mind, and to take into account the interests of workers and their communities as well, for example.

It is up to government to progress our conception of good work so that self-employed gig workers do not feel like they are less likely than ‘workers’ or employees to lead a decent life. We understand that what good looks like may vary by sector or the type of service provided, but we can also establish what good looks like for those who are finding work through online platforms specifically. For example,

we can think about how platforms might build in progression routes or facilitate a form of ‘employee voice’ with the support of other institutions, such as trade unions.

The Scottish government has created a Fair Work Framework, which sets out what it means by fair work, why it is important, who can play a part in making Scotland a world leading nation in fair work, and how this might be achieved.⁵⁴ Similarly, the UK government could facilitate greater consideration of what good work in the gig economy should look like. As with the Fair Work Framework, there is a no need to be prescriptive; a principles-based approach could be taken, although there must also be thought given to how the principles might translate in reality.

For example, in principle, good work could:

- provide people with a sense of purpose and meaning
- enable freedom and control (ie more autonomy over working hours, when tasks are completed)
- give workers more of an effective voice
- offer opportunities to develop and allow scope for progression
- make the most of people’s skills, knowledge, and abilities
- promote work/life balance
- fairly compensate workers

At the RSA, we will be giving more thought to what good work might look like in both principle and practice in a forthcoming report. The intention is to **move the dial forward in terms of thinking about what work, as well as what technology, is for, in more than just macroeconomic terms.** The country may benefit from greater productivity and efficiency, but how does the worker benefit? Another way to think of this is: in what ways can platforms show workers that they value them?

In the next section, we explore the potential of peer-to-peer platforms in particular to become catalysts of good work.

⁵⁴. Fair Work Convention (2016) *Fair Work Framework 2016*. Glasgow: Fair Work Convention, [online] Available at: <http://www.fairworkconvention.scot/framework/FairWorkConventionFrameworkFull.pdf>

3. The potential of peer-to-peer platforms

While the gig economy has come under scrutiny for labour practices, **online platforms have the potential to empower workers through peer-to-peer exchange.**

In this section, we explain how online platforms work, delving into how different platform-based business models have the power to disrupt industry. We make the point that this power can be harnessed to better serve workers as well as consumers. Without consciously wielding this power in workers' interests, platforms could exacerbate inequality and further distort markets.

We would argue that **the problem is not the gig economy – the problem is how some online platforms choose to operate.** Platforms must make choices about how to achieve an optimal balance of supply and demand, how quickly to expand, and how to manage their relationship with workers. These choices can be very different, as we demonstrate through examples of platforms leveraging technology to empower workers.

Platforms as 'disruptors'

Online platforms are essentially brokers between buyers and sellers. They aren't products or services in and of themselves, but facilitate their exchange through creating a network that is accessed via an app or a website. Beyond this basic premise, the business models of online platforms vary considerably.

Platforms are diverse, forming the basis of social media such as Facebook, Instagram and Twitter; enabling the streaming of music and media like Spotify, Netflix and YouTube; and expanding our minds through online education with Coursera and Udemy. Platforms like Craigslist and Gumtree encourage us to recycle our goods for extra cash; Kickstarter and Indiegogo offer a way for the crowd to fund new ideas and projects; and Apple's App Store and Etsy serve as hubs for creative content, such as apps and crafts. As we focus on in this report, there is also the new generation of commercial sharing platforms like BlaBlaCar and LoveHomeSwap to take into account, and this is far from an exhaustive list.

It may seem as if these platforms simply enable a range of transactions, but they are strategies for disrupting industry in different ways. In essence, these platforms are challenging concentrated power in a number of industries, either through disaggregation or the democratisation of markets.

Disaggregation in industry

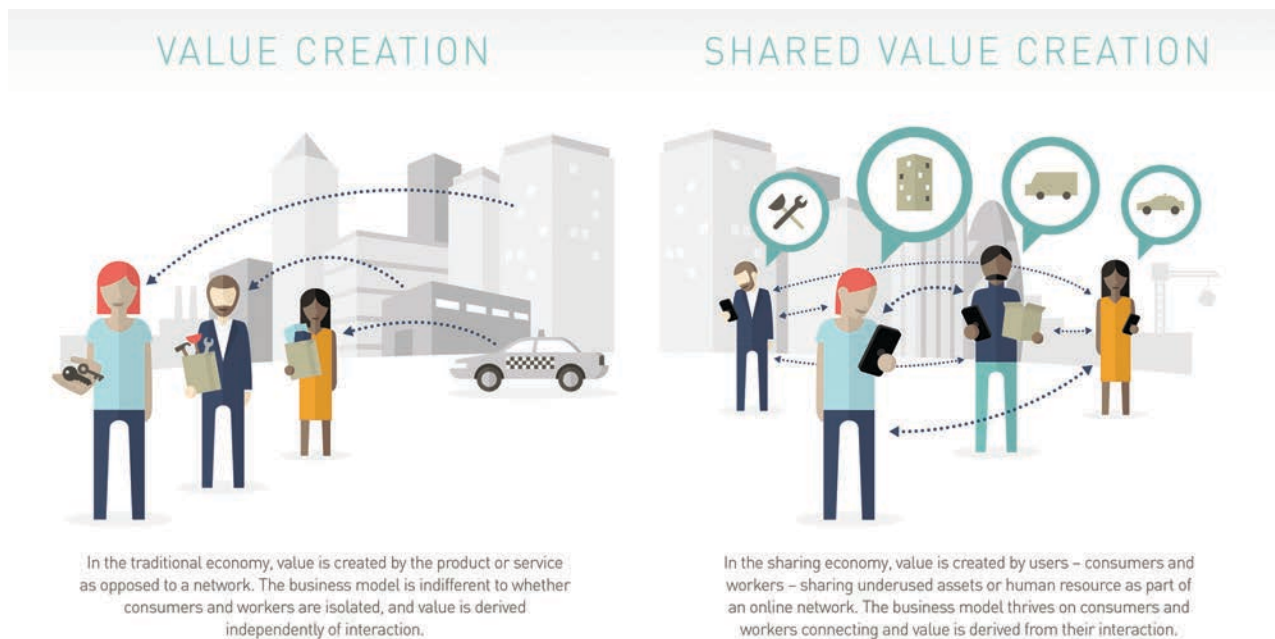
Disaggregation refers to platforms unbundling products or services that industries have traditionally sold as a package, so that individual components can be obtained. For example, platforms such as Apple's iTunes and Spotify have been instrumental in disaggregating the music industry, enabling consumers to buy or listen to any song without acquiring entire albums. Similarly, Netflix, a streaming platform for films and television, offers viewers an opportunity to watch shows of interest without paying cable companies for a full network of channels.

Often if disaggregation is possible, power has been too concentrated within the industry. For example, when disaggregation was first emerging as a trend, it was observed that record companies had "feasted on buyers by forcing them to purchase things they didn't want... a whole album to secure one favourite song".⁵⁵

Democratisation of markets

Not all platforms disaggregate industry, but through enabling peer-to-peer exchange they can democratise markets by supporting more producers to participate. In this case, producers are the ones creating value through offering up their own content, goods, or services whether that's a Twitter user alerting followers to a breaking news story, a designer with an app featured in Apple's App Store, or an Uber driver making an airport pick-up.

Online platforms do not create value themselves; they are dependent on their users doing so. The RSA calls this shift in the way that value is created 'shared value creation'.⁵⁶ We note that it is a key difference between the traditional economy and what is known as the 'sharing economy'.



55. Shafer, J. (2006) 'Chronicle of the Newspaper Death Foretold'. *Slate*, 30 November, [online] Available at: http://www.slate.com/articles/news_and_politics/press_box/2006/11/chronicle_of_the_newspaper_death_foretold.html

56. Balam, B. (2016) *Fair Share: Reclaiming power in the sharing economy*. London: RSA, [online] Available at: <https://www.thersa.org/discover/publications-and-articles/reports/fair-share-reclaiming-power-in-the-sharing-economy>

Ultimately, this is shifting power in the market. Industries that were concentrated and controlled by big business are now being dispersed by individuals. However, **there are concerns about who is capturing the value being created, and thus wielding power in the market.** Although platforms enable peer-to-peer exchange, they are also mediating, regulating, and potentially controlling key features of transactions. Platforms differ in their extent of mediation, or control, and this again comes down to choices that they make; for example, in terms of deciding their rate of commission, the ways in which they stimulate demand, or the degree to which they integrate workers as part of the business. Disruption becomes problematic when platforms begin to re-concentrate power.

The general trend towards a ‘winner-takes-all’ market

For platforms to be a viable business, they depend on the ‘network effect’. For every new user a platform adds, its usefulness improves for the existing network, and thus increases the value of the business overall. However, once a platform like Facebook is able to achieve significant scale, the size of the network effectively locks in its users and seals the company’s influence in the market.

We see this even when platforms disaggregate industry. Unbundling content may appear to tip the balance of power in favour of consumers as they pocket savings and make gains in choice. However, the goal isn’t necessarily to provide more value to the consumer; a company’s goal is to realise the greatest possible returns as a commercial business.⁵⁷ Platforms may deliver a cheaper product through unbundling, but they are banking on becoming profitable by winning over a significant share of the market. Apple’s iTunes, for example, has been cited as a huge force for market lock-in given the billions of songs it holds in its proprietary format.⁵⁸

In the sharing economy, the RSA refers to this phenomenon as ‘crowdsourcing monopoly power’ because platforms depend on amassing a crowd for success; their value is derived from their network of users rather than producing a more easily replicable product or service. This may result in what we call ‘networked monopolies’. Although other platforms or companies could technically compete, it becomes difficult to offer users the same level of utility without being able to match the size of the network effect.

It is incredibly rare for monopolies to exist in the form defined by the term’s original meaning. Instead, our term networked monopoly is used to connote power in influencing the price, output and investment of an industry, as well as in limiting the entry of new competitors.

Unlike Facebook or Apple’s iTunes, the networked monopolies of the sharing economy comprise two different kinds of users – consumers, but also workers of the platform as in the case of many gig and on-demand platforms. Platforms in the gig economy thus have a different relationship (and arguably, obligation) to their users than other internet platforms because their interdependency is based on labour.

Yet, it isn’t a given that platforms will become networked monopolies simply because of the network effect. The RSA previously observed that for platforms to maintain their positions in the market they must empower the very users they depend on, usually to help fight against tighter regulations. Networked monopolies thus come down to choices that platforms make to intervene in the market and

57. O’Reilly, T. (2006) ‘The Economics of Disaggregation’. *Radar*, 2 December, [online] Available at: <http://radar.oreilly.com/2006/12/the-economics-of-disaggregation.html>

58. Ibid.

reinforce network effects. Uber, for example, heavily subsidises rides, so passengers have been paying as little as an estimated 41 percent of the actual cost of their trips.⁵⁹

By and large, the choices that companies make are skewed in favour of consumers over workers because cheap prices are often a determinant of market share. It may appear that the market is free and that competition is healthy because we as consumers have widespread choice and at little cost, but in a growing number of industries just a few companies are able to sustain the price wars. It is primarily through tempting us to buy more that these companies are able to expand their profit margins; a higher volume of sales can offset subsidies in price that generally come at the expense of workers.⁶⁰ This describes a business model developed by platforms like Amazon, but that has long been prevailing in traditional industry as well.

Market concentration in the UK (and in the US for that matter) is arguably too high. Companies are dominating the share of production, and thus sales, in a number of industries, including retail in groceries and energy provision. The ‘Big Four’ (Asda, Morrisons, Sainsbury’s and Tesco) have over 70 percent of the market share in keeping our fridges and pantries stocked.⁶¹ Meanwhile, the ‘Big Six’ (British Gas, EDF Energy, npower, E.ON UK, Scottish Power, and SSE) supply energy to nearly 90 percent of homes and businesses in the UK.⁶² There are similar oligopolies in the private hire industry, as well as in hospitality and tourism. Online platforms have stunned us so far by successfully challenging longstanding incumbents, but their model is often designed to corner the market. Ultimately, the choices they make reflect this and the wider trend of companies creating and competing in a winner-takes-all market.

At present, however, it’s difficult to know whether networked monopolies will endure because the sustainability of businesses in the gig economy has yet to be proven.⁶³ Most have yet to turn a profit.⁶⁴

For instance, even if Uber’s long game is to automate its rides by rolling out self-driving cars that would mean radically transforming its business model. Although roughly half of an Uber ride’s cost goes towards paying the driver,⁶⁵ the company benefits from an asset-light model; it’s not clear how its costs would change if it transitioned to owning and maintaining expensive vehicles. More importantly, it might use innovative technology, but it would be considered a traditional business – renting out products rather than facilitating peer-to-peer exchange as part of a network. Automation may mean that Uber actually becomes more vulnerable as a business. **A platform’s competitive edge comes from its network, not from selling a product that can be easily reproduced (in this case, by other well-established car**

59. Smith, Y. and Horan, H. (2016) ‘Can Uber Ever Deliver? Part One – Understanding Uber’s Bleak Operating Economics’. *Naked Capitalism*, 30 November, [online] Available at: <http://www.nakedcapitalism.com/2016/11/can-uber-ever-deliver-part-one-understanding-ubers-bleak-operating-economics.html>

60. Bloom, P. and Kotler, P. (1975) ‘Strategies for High Market-Share Companies’. *Harvard Business Review*, 53(6) [online] Available at: <https://hbr.org/1975/11/strategies-for-high-market-share-companies>

61. (2017) ‘Market share of grocery stores in Great Britain from January 2015 to December 2016’. *Statista*, [online] Available at: <https://www.statista.com/statistics/280208/grocery-market-share-in-the-united-kingdom-uk/>

62. Gandolfi, M. (2016) *Retail Energy Markets 2016*. London: Ofgem, [online] Available at: https://www.ofgem.gov.uk/system/files/docs/2016/08/retail_energy_markets_in_2016.pdf

63. Even if these companies are not sustained, they will have had lasting impact given their disruption of the market and the extent to which they’ve already transformed people’s working lives.

64. Temperton, J. (2016) ‘Uber’s 2016 losses to top £3bn according to leaked financials’. *Wired*, 20 December, [online] Available at: <http://www.wired.co.uk/article/uber-finances-losses-driverless-cars>

65. Kelvey, J. (2015) ‘Why Uber has to Start Using Self-Driving Cars’. *Nautilus*, 18 October, [online] Available at: http://nautil.us/blog/why-uber-has-to-start-using-self_driving-cars

manufacturers). It makes sound business sense to treat gig workers well, as they are the underlying force of a strong network.

Starting up in the gig economy is a risky gamble, made riskier by playing fast and loose with workers' rights. By encouraging and enabling platforms to make different choices we can improve the welfare of gig workers, as well as the odds of business sustainability. As some of the examples of newer platforms in the gig economy show us, peer-to-peer businesses have great potential to genuinely empower workers in the marketplace.

Transformational choices in the gig economy

Below, we've collated some examples of companies committed to empowering gig workers through choosing a different way of operating. We might think of these choices as 'transformational' because there is a concerted effort being made to show that through empowering workers they are valued and that platforms can serve their interests as well, which requires a shift in the entrepreneurial mindset.

1. Loconomics: An example of a platform co-op

In the US, the movement for 'platform cooperativism' is well underway. Platform cooperativism is a model of shared ownership, presented as an alternative way of organising workers in the gig economy. Under this model, users and workers co-govern platforms, setting the terms and conditions together.

In the spirit of the commons, Loconomics was founded as a worker-owned version of TaskRabbit. Collectivism is embedded in its structure: every worker has an equal vote in the election of the board and in other major decisions that affect their interests; workers share in profits through dividends based on their participation (ie time spent working), and in lieu of charging commission, workers pay a small monthly fee to cover the costs of marketing and operations (the fee goes towards capped salaries for those who help keep the app running behind the scenes).

While the movement is much further ahead in the US, the UK is also beginning to experiment with platform co-ops. GMB, a union in the UK, is currently developing a co-operative ridesharing app to be piloted in Leeds. The idea underpinning platform co-ops is that gig workers should be capturing more of the value that they've created themselves, and that they too should be making the choices governing their labour.

2. Juno/Gett: An example of a co-operative and commercial hybrid

Juno is a ridesharing platform that has been rolled out in New York to compete with the likes of Uber and Lyft, attracting rivals' gig workers by positioning itself as 'better for drivers'. Like Loconomics, workers see a greater return of the profits through the vehicle of equity ownership. Juno's founders have set aside a pool of restricted stock for its drivers that is claimed to be equal to their own shares; thus, the more fares a driver picks up, the more of Juno's shares she can earn.⁶⁶ Juno is

66. Martin, C. (2016) 'Granting Shares for Fares: An Uber Rival's Play for Drivers'. *The New York Times*, 1 October, [online] Available at: <https://www.nytimes.com/2016/10/02/technology/granting-shares-for-fares-an-uber-rivals-play-for-drivers.html>; Kolhatkar, S. (2016) 'Juno Takes on Uber'. *The New Yorker*, 10 October, [online] Available at: <http://www.newyorker.com/magazine/2016/10/10/juno-takes-on-uber>. Half of the two billion founding shares of the company were set aside for drivers, although they will only be of value if Juno is acquired by a larger company or has an I.P.O. To qualify, a driver has to drive for at least 120 hours a month—approximately 30 hours a week—for 24 months out of 30. Juno has offered to count toward this goal the hours that its drivers were working for Uber and other companies.

also offering drivers other forms of support, such as a 24-hour helpline to call, a phone and paid data.⁶⁷ Consideration for drivers has been designed into the app, which allows for tips and the option to block problematic passengers.

Where Juno differs from Loconomics is on corporate governance. Drivers are distanced from the decision-making, which may reflect differences in how the two companies were funded. Loconomics does not need to be accountable to shareholders because it was initially financed out of pocket by co-founder Joshua Danielson; Juno, on the other hand, is venture-backed like most platforms in the gig economy, and thus needs to take its shareholders' interests into consideration.⁶⁸

Although the hybrid model has its limitations when it comes to involving drivers in day-to-day operations, it still has the potential to reorient businesses in the gig economy. For example, Uber's head of North American operations, Rachel Holt, disclosed in an interview that Uber has been looking into giving stock options to its drivers and that they are watching Juno to learn whether such an offer will work.⁶⁹ It was recently announced that Juno has been acquired by Gett, another ridesharing service in the gig economy. Gett has said it is committed to continuing "long term value sharing" with its drivers along the lines of Juno's offer, although the details have not been worked out yet.

3. La'zooz: An example of a blockchain-based platform

Blockchain is often known as the technology underpinning bitcoin, the first digital cryptocurrency, but it is increasingly being applied in other ways.⁷⁰ It enables genuine peer-to-peer exchange by decentralising, or disintermediating, platforms; in other words, it eliminates the middleman, which happens to be the company behind a platform. Through a 'trusted ledger', blockchain-based platforms create a public record of transactions and facilitate direct payments between workers and their customers. No commission is taken as the platform is collaboratively managed.

In the RSA's report on the sharing economy in 2016, we discussed the emergence of La'Zooz, a blockchain-based platform that was attempting to take on Uber. Since our report, La'Zooz has refocused its ambitions, identifying a path forward in 'realtime ridesharing'. Rather than relying on dedicated drivers, La'Zooz is appealing to commuters and other drivers passing by to pick up their peers along the way. It's a modern way to carpool or hitchhike, so it does not directly compete with the likes of taxi services. The jury is still out on whether blockchain-based platforms may one day 'disrupt the disruptors'.

67. Kessler, S. (2016) 'Inside Juno, the Company that Wants to Beat Uber by Wooing its Drivers'. *Fast Company*, 2 February, [online] Available at: <https://www.fastcompany.com/3057182/inside-juno-the-company-that-wants-to-beat-uber-by-wooing-its-drivers>

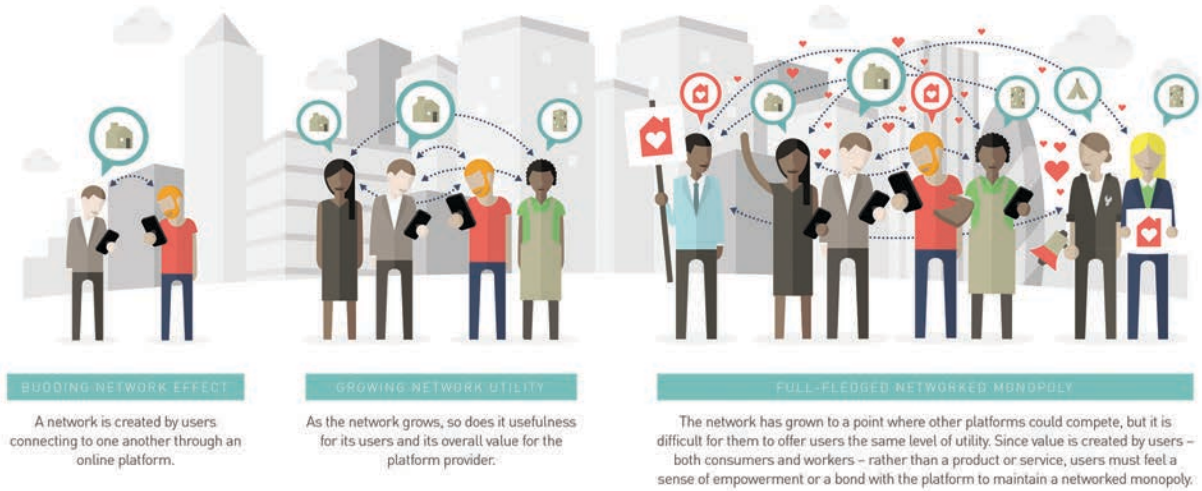
68. Schneider, N. (2014) 'Owning Is the New Sharing'. *Shareable*, 21 December, [online] Available at: <http://www.shareable.net/blog/owning-is-the-new-sharing>

69. Kolhatkar (2016) op cit.

70. The Economist succinctly sums up blockchain as: "a shared, trusted, public ledger that everyone can inspect, but which no single user controls. The participants in a blockchain system collectively keep the ledger up to date; it can be amended only according to strict rules and by general agreement." As the RSA noted in our report on the sharing economy, it a system that naturally lends itself to democratic, co-operative practices.

NETWORKED MONOPOLIES

THE PROCESS OF CROWDSOURCING MONOPOLY POWER



The hype over blockchain has died down following some setbacks with the technology over the past year.⁷¹ It has potential to empower workers in the long run, but more investment and experimentation is needed. There are lingering questions, for example, about how blockchain-based platforms would develop the wider infrastructure of support for users that other platforms have established thus far. An opportunity is here for government, however – given the likely difficulties in regulating blockchain-based platforms, it may be that early involvement in developing blockchain’s varied uses will help government stave off headaches in future.

With all of the examples of alternative models and any to come, it must be stressed that a co-operative model alone will not assure success – simply being co-operative does not mean that the platform is necessarily the most efficient for consumers. Even if workers stand to benefit, platforms must build and sustain a critical mass of users to thrive, which, admittedly, requires making choices about more than the welfare of workers. In the final section, we address some of the systemic problems of capital, culture, and market distortions – all of which influence operational choices – as part of a series of recommendations designed to progress good work in the gig economy.

71. In 2016, Ethereum, a cryptocurrency that allows developers to build code on top of its blockchain ledger, suffered a blow when one of the systems built on top of it was hacked. This system, known as the DAO, was an investor-directed venture capital fund that lost \$53m (£42.5m) as a result of the hack. Confidence in Ethereum has since waned, also dampening enthusiasm for the blockchain.

4. Transforming the labour market together

The gig economy may be high-growth, but it is still nascent. Adoption of the apps may have been swift, but it isn't too late to shape the nature of these business models.

While the focus of our research is on what the gig economy is like for workers, it also speaks to wider trends in the marketplace. Conditions in the gig economy were not created in a vacuum. For example, companies have increasingly been tightening their grip around workers, whether that's through using scheduling software or tracking technology to monitor the productivity of staff.⁷²

Moreover, if workers are topping up their income in such large numbers, it suggests that some are barely getting by in more traditional jobs. Even full-time employment can be riddled with problems, from chronic low pay to poor pathways for progression. There are also difficulties with enforcement of standards in the labour market, as recent cases of abuse at Asos and Sports Direct reveal.⁷³ Trade unions report that it has become tougher to organise workers against exploitation as membership, which peaked in the 70s, is weak among young people and was last found to be at only 13.9 percent in the private sector.⁷⁴

Businesses claim they would like to do more for workers, but are constrained in the operational choices they can make, limited by capital, culture, and market distortions. In the gig economy specifically, most platforms have been designed to scale and to achieve this they often require significant sums of money. Many turn to venture capital (VC), which then restricts how the business is governed as they are ultimately accountable to their shareholders. While equity crowdfunding is becoming popular, it is unlikely to yield the level of funding possible from VC and increasingly may be seen as complementing angel or VC investment. Some may counter that the primary objective of platforms shouldn't be astronomical growth, but when the market is skewed in favour of winner-takes-all, businesses may feel compelled to compete on those terms. It has been argued that the market reflects a culture in which growth is glorified and disruption revered.⁷⁵

72. Moore, P. and Robinson, A. (2015) 'The Quantified Self: What Counts in the Neoliberal Workplace'. *New Media & Society*, 18(1), 2774 – 2792.

73. Spary, S. and Silver, L. (2016) 'The Real Cost of Asos' Fast Fashion'. *BuzzFeed News*, 29 September, [online] Available at: https://www.buzzfeed.com/sarasparry/these-asos-workers-are-paying-the-true-price-of-your-order?utm_term=.cnxeVMooMb#.doMBda99a0; Goodley, S. and Ashby, J. (2015) 'Revealed: how Sports Direct effectively pays below minimum wage'. *The Guardian*, 9 December, [online] Available at: <https://www.theguardian.com/business/2015/dec/09/how-sports-direct-effectively-pays-below-minimum-wage-pay>

74. Department for Business, Innovation and Skills (2016) *Trade Union Membership 2015: Statistical Bulletin*. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/525938/Trade_Union_Membership_2015_-_Statistical_Bulletin.pdf

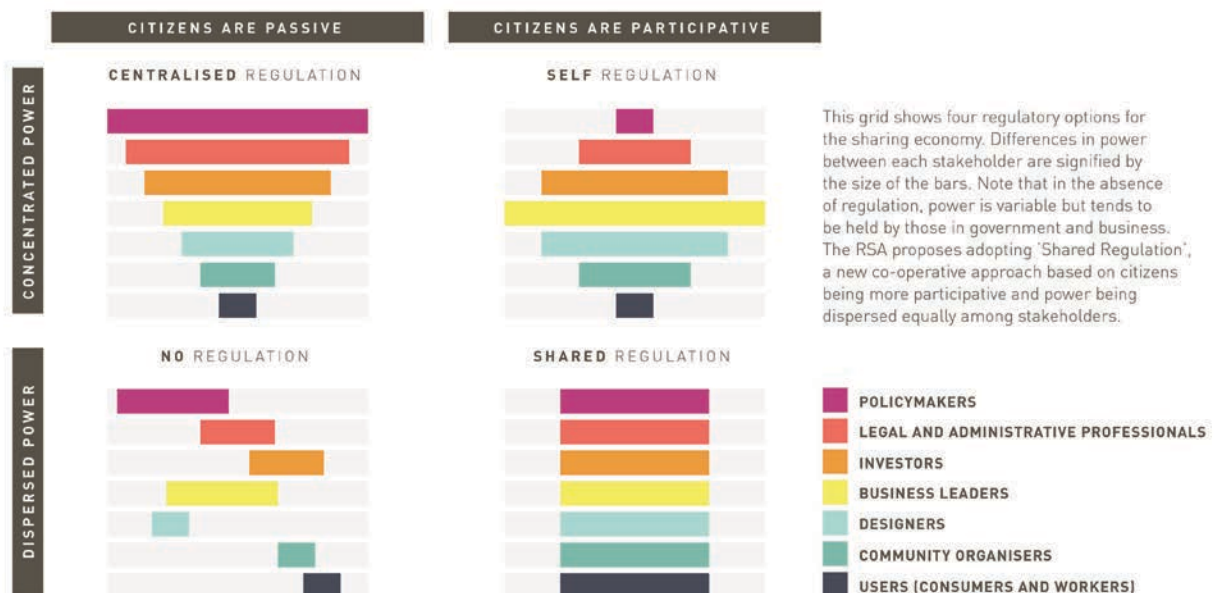
75. Heinemeier Hanson, D. (2017) 'Exponential growth devours and corrupts'. *Medium*, 27 February, [online] Available at: <https://m.signalnoise.com/exponential-growth-devours-and-corrupts-c5562fbf131>

To truly transform the gig economy, more expansive change is needed in the marketplace. While we support efforts to clarify employment status, more can be done to challenge the status quo in terms of how businesses operate and are governed; how rights and benefits are administered to workers, and how business and civil society relate to one another.

Rethinking regulatory approaches

At the RSA, we encourage developing a different approach to regulation. Shared regulation builds on the concept of ‘self-regulation’ as articulated by the academics Molly Cohen and Arun Sundarajan.⁷⁶ Under self-regulation, platforms aren’t viewed as entities to be regulated but rather as actors that are a key part of the regulatory framework; in other words, platforms should not be seen as the problem, but as part of the solution. However, under shared regulation, businesses are only one of many parties entrusted to be a part of the regulatory process. Users – both consumers and workers – are central in the participatory process of shared regulation, but community organisers, legal and administrative professionals (such as lawyers and insurers), investors, and designers are all involved. All of these stakeholders have played a part in the evolution of the gig economy, but there has yet to be any articulation of a shared goal between them.

Moving beyond self-regulation to a wider process of collaborative regulation would be in acknowledgment that, comparable to growing concentrations of economic power, we also have concentrations of political power within our democratic system. We are interested in how to disperse power and actively engage citizens in shaping fairer practices in the gig economy. The chart below, first designed when considering how to regulate the sharing economy, illustrates the different regulatory options available to us.



76. Cohen, M. and Sundarajan, A. (2015) ‘Self-Regulation and Innovation in the Peer-to-Peer Sharing Economy’. *The University of Chicago Law Review*, 82 (116).

In the US, there have been strides made in forming new partnerships between businesses and institutions, such as trade unions and membership associations, widening the scope for workers to realise more rights and benefits. For example, Uber has partnered with the International Association of Machinists' (IAM) Union to establish the Independent Drivers' Guild, which seeks to improve the conditions of Uber drivers. It will involve the Freelancers' Union (a membership association for freelancers) to further progress portable benefits, which are benefits, such as healthcare or pension plans, tied to a worker, rather than a company, and are thus retained even as workers move between platforms. These efforts at collaboration demonstrate that by attempting to innovate outside of the system as well as within, more radical change is possible.

The aim of our final recommendations is two-fold:

1. Begin building a new foundation of social and economic security that isn't premised on traditional employment, but is based on good work for all.
2. Address systemic issues in the labour market, such as a lack of support for atypical workers or promising new business models.

The starting point should be committing to a new way of working together, or what we call shared regulation. In response to the changing labour market, the new government must steer innovation with workers in mind, setting out its vision for good work in collaboration with businesses and civil society. There is also a need to develop the wider infrastructure of the gig economy to better support workers, irrespective of their employment status, and to harness the potential of platforms through fostering the next generation of business models.

Ultimately, there is a larger question here about what kind of marketplace we want to enable in the UK.

The RSA's recommendations

Developing the wider infrastructure of the gig economy

Recommendation 1: Government should collaborate with platforms, civil society, and workers on a 'Charter for Good Work in the Gig Economy'

The new government should set out a vision for what good work is, collaborating with platforms, civil society, and workers themselves, to shape what this looks like specifically within the gig economy. Collaborating on this Charter will provide an opportunity to put shared regulation into practice as different stakeholders work towards a shared goal. It will serve as a starting point for committing to a new way of working together, as well as ensuring that work is fairer and more fulfilling as the gig economy grows.

Government could establish this Charter in partnership with representative bodies, such as Sharing Economy UK (SEUK), and organisations with an expertise in this area, like ACAS. There could be an open call for contributions to capture a full range of perspectives. Similar to the Scottish Government's Fair Work Framework, a principles-based, rather than prescriptive, approach could be taken, but thought should be given to how these would translate on the ground.

Just as the current government has already signalled that we value technological innovation, a new government now needs to demonstrate with this Charter that we value workers as well. The point would be to help businesses understand what a good model of harnessing innovation in the interests of workers looks like. If traditional employment may no longer be the norm in the future, and particularly within the gig economy, there needs to be a commitment to providing workers with an alternative model of social and economic security.

Government may take the lead in distinguishing what good work looks like, but businesses and civil society are crucial in making good work a reality.

Recommendation 2: Government should invest in a dedicated service for gig workers

A dedicated statutory service could offer gig workers advice and general counsel about their employment rights, and information and guidance on the self-assessment process for taxes. While government should initially invest, it could be delivered through an organisation, such as a members' association; the advantages of this would be enabling affordable insurance and pension packages based on economies of scale, administration of wider benefits, and the ability to pool members' fees to invest in their best interests, such as in the development of WorkerTech.

The government's own website (gov.uk) does not adequately clarify different legal statuses possible in the gig economy, let alone anticipate complex questions concerning how to work out which status may apply.

Technically, government could develop another online tool, but gig workers would realise additional benefits if a service could be resourced by government and tendered for by an organisation, such as a members' association with national reach. The concern with a tool is that some may encounter difficulties with text online since legal terms aren't easy to understand, or because English is a second language. But perhaps more importantly, members' associations can find ways of easily connecting gig workers to one another, breaking down what is naturally siloed work. They can also support gig workers in other ways, for example, by insuring them or investing in technology (ie WorkerTech) that further empowers gig workers on the job.⁷⁷

Government should seek to pilot the service for a year, assessing whether it could be continued based on any uplift in taxes from gig work or through other commercial models.

Recommendation 3: The UK's Financial Capability Board should expand its Strategy to strengthen financial savvy and security among gig workers.

Expanding the UK's Financial Capability Strategy to include gig workers would be beneficial in terms of strengthening financial savvy and stability in a growing proportion of the workforce. Given how important a sense of a secure foundation is, there could also be more experimentation with 'nudging' to encourage saving for the long-term.

⁷⁷. Worker Tech refers to technology designed to enhance worker representation, participation and engagement in organisations.

The UK's Financial Capability Strategy is currently being delivered under the Money Advice Service, an independent service set by government. It strives to improve people's ability to manage money well on a daily basis and also during periods of financial difficulty. However, the Strategy's remit does not encompass non-standard or atypical work, such as self-employment, employment on a zero-hour contract, and gig work.

Considering that an increasing number of young people 16-30 years old are either already in or interested in gig work, it seems like a group that ought to be particularly supported. Earnings from gig work can be prone to fluctuation and thus it can be difficult to set aside savings, particularly for the long-term.

We recommend that the Board overseeing delivery of the Strategy seek to work with the members of SEUK and other platforms to improve the financial capability of gig workers. Some platforms are already collaborating with partners rolling out innovative banking solutions for workers that may have wider benefit. Cogni, for example, provides gig workers with free Business Accounts to help them separate their personal and professional finances and tracks their spending to help them identify opportunities for savings.

'Flexible safety nets' could also nudge workers to accrue savings that they could either draw on in difficult periods, use to upskill, or to set up a pensions fund with matched contributions. Given that gig workers under the age of 22 will not be auto-enrolled by government in pensions, a flexible safety net might offer them an easy route to maintaining long-term financial security. These nets could be formed based on the US concept of 'portable benefits', which are funded through levies and administered through third-parties. In the UK, a taskforce could be set up to agree how the levy should be determined and the benefits administered.

Recommendation 4: SEUK, on behalf of platforms, and a civil society organisation should establish 'Independent Peer Review Hearings'.

To ensure that gig workers have a fair appeals process and an opportunity to build community, Independent Peer Review Hearings would enable gig workers to challenge deactivation in front of a panel of their peers.

The idea for these hearings is based on the Drivers' Panels recently set up as a result of the partnership between the International Association of Machinists' (IAM) Union and Uber in the US. The partnership forged the Independent Drivers' Guild, which introduced Drivers' Panels to support a fairer appeals process and to build a sense of community among drivers. Panels create a new community service role for drivers, as well as a sense of connection between them. Drivers feel more invested in the platform because they feel they are being treated fairly.

Independent Peer Review Hearings could be set up to enable a more transparent process of addressing workers' deactivation appeals. While there may be clear deactivation policies in place, hearings demonstrate to gig workers that the process is fair and accountable. Furthermore, in the UK, challenging unfair dismissal (essentially, deactivation) is only the right of employees, so even 'workers' in the gig economy would be in need of this unless reforms to the category are made.

Hearings would consist of panels comprised of a gig worker's peers. Any gig worker can volunteer to serve on a panel, and the panel would only weigh in after a worker appealed against the platform's initial decision.

The Independent Peer Review Hearings would aim to be industry-wide, rather than platform-specific, which is why a trade body like SEUK should spearhead the initiative in collaboration with a civil society organisation.

Encouraging sustainable business models to take shape

Recommendation 5: SEUK should work with platforms and relevant institutions to enhance training and development opportunities for gig workers.

All platforms should provide mutually beneficial training and development opportunities for workers, and some already do. However, it will require greater coordination of the sector by a trade body like SEUK to ensure that platforms are considering what progression looks like for gig workers and to devise a strategy that would support businesses to improve their offer. Institutions, such as trade unions or specialist organisations like CIPD, should be involved to provide independent and expert advice and input into the strategy.

In Section 2, we recommended that government specify that employment intermediaries are able to offer training and development opportunities, and to any category of worker. We now recommend that SEUK support platforms to take this further, collaborating with relevant institutions, such as trade unions or HR specialists like CIPD, to craft a sector-wide strategy that would consider how gig workers can upskill and possible pathways for progression.

As part of this, it would be helpful to take stock of what is already being provided, creating a public directory of training. Some platforms offer general, rather than platform-specific training, which is of wider benefit and will be useful in other work. For example, Uber offers courses in English language proficiency and financial capability, while Staff Heroes has a portal with options for different certifications in hospitality and tourism. All of the training is voluntary.

With a strategy in place and greater transparency, more investment in training could be stimulated.

Recommendation 6: Government should seed and support promising technology in the gig economy.

Government could seed and support promising technology in the gig economy through ringfencing a proportion of its new R&D fund and introducing a 'regulatory sandbox' for experimentation with blockchain technology, WorkerTech, and other technology that could better the labour market as a whole.

As we mentioned in our report, blockchain technology has a lot of potential, but early efforts do not come close to competing with the likes of more established platforms. Government should seek to support blockchain-based start-ups, particularly because funding can determine what the nature of corporate governance is (as the difference between Loconomics and Juno demonstrates, for example). There is also a window of opportunity here for government to gain insight into any issues with blockchain technology that might pose a regulatory problem in future.

Similarly, WorkerTech, which refers to technology intended to empower workers (ie through connecting typically siloed workers to one another), is showing promise. Again, this is mainly developing in the US, where platforms like CoWorker (enabling workers to build campaigns and petition for changes in their workplace) have been set up and are successful.

We recommend that government ringfence a proportion of its new £4.7bn R&D fund, assuming it is continued by the new government, to stimulate innovation in blockchain technology, WorkerTech, and other promising technology that could improve the lives of workers. It could do this through setting up a Challenge as part of the Industrial Strategy Challenge Fund (ISCF) for collaborative research between industry and academia. Following the current government's review of patient capital funds, an incoming government could consider match-funding investments in this technology, channelling funds in a similar way to the British Business Bank but with a patient outlook.

A regulatory sandbox should also be set up, which will allow these start-ups to test innovative products, services, business models and delivery mechanisms in a live environment.

Recommendation 7: Government and Co-ops UK should help nurture platform co-ops that explicitly embed a social purpose into their mission, and government should consider supporting their growth by creating a fund to provide long-term equity investment.

New life is being breathed into co-operative models by companies like Loconomics and Juno. Co-operatives enable wider distribution of wealth among workers, but they also present an opportunity for platforms to create a sense of 'stickiness', or cultivate loyalty from workers in an increasingly transient labour market. Yet, co-operatives should also be nurtured to benefit communities as well as workers and platforms. As the platform co-op movement gains momentum, co-operatives should be encouraged to explicitly embed a social purpose into their mission, which would unlock alternatives to venture capital. It would also strengthen the case for an incoming government to support platform co-ops by introducing a new fund providing long-term equity investment.

Organisational innovation is as important as technological innovation, which is why the trend towards platform co-ops is significant. Workers can recapture some of the value they've created through a share of the wealth, or profits, and platforms potentially experience an uplift in productivity from more loyal, dedicated staff.

For example, some platforms noted that while they found it easy to attract workers, it was trickier to keep workers on the platform. This was particularly the case if transactions weren't made on a one-off basis, but could instead be repeat bookings (meaning that once connected, the worker and the consumer needn't continue transacting via the platform). Given the grey area of employment status in the gig economy, these companies are finding it challenging to create a sense of 'stickiness' on their platforms, or keep gig workers loyal to their platforms, without exercising excessive control. Adopting a co-operative model might ease this friction.

However, co-operatives could also rally more support from the communities they serve if they positioned themselves as part of the wider agenda to achieve inclusive growth. In doing so, they might qualify for financial consideration from a broader range of investors, such as Big Society Capital. Co-ops UK should thus support platform co-ops to embed a social purpose into their mission, much like a Community Benefit Society ('BenCom'). This would also strengthen the case

for government to support platform co-ops by introducing a new fund providing long-term equity investment.⁷⁸

Recommendation 8: Government should modernise the Competition Act in the UK.

In light of Brexit, there is an opportunity for the UK to revisit competition law and modernise the Competition Act of 1998. Concerns have been raised that industry in the UK is too concentrated and that this may mean innovation is stifled. To ensure a diversity of businesses, including in size, the UK needs to maintain a healthy and competitive market in which small businesses can equally thrive alongside established incumbents. Workers will better fare across the economy if inroads in the market are not made at their expense as companies try to achieve scale. Government should therefore consider widening the remit of the Competition Act to take into account workers' interests alongside consumers' interests.

As we discussed earlier, the market in the UK has become increasingly concentrated in a number of different industries, but businesses are not held to account because they still serve the best interests of consumers. Primarily, businesses are attempting to increase their market share through competing on price, but this has perverse effects across all industries in terms of influencing the way that companies operate and the choices they make. As a result, suppliers and workers are likely at a disadvantage. For example, we are sometimes made aware of labour abuses in an international factory,⁷⁹ or of suppliers being squeezed in a bid to keep store prices low.⁸⁰

In our report on the sharing economy, we raised the issue of new forms of monopoly power emerging as platforms scaled. We cautioned that anti-trust law alone would not inspire change in the market, and while we still maintain this, we recommend modernising competition law to acknowledge the changes in the market and signify intent to address distortions.

Networked monopolies may not prove to be a concern, especially relative to other types of oligopoly or monopsony power currently wielded in traditional industry. However, government can only be certain if it interrogates this further. We recommend that the Competition and Market Authority initiate an inquiry into whether market competition is robust, with the aim of modernising competition law so that workers' interests are prioritised alongside consumers' interests. A case could be made for also considering the interests of shareholders and taxpayers.

This would hopefully create a fairer playing field in the long run for start-ups, and lead to better conditions for workers in the gig economy and beyond.

78. This case would need to be grounded in evidence that co-operatives embody ideal corporate governance in order to warrant government investment.

79. Bain, M (2016) "A web of terror, insecurity, and a high level of vulnerability": H&M, Gap and Walmart are accused of widespread worker abuse'. *Quartz*, 31 May, [online] Available at: <https://qz.com/695763/a-web-of-terror-insecurity-and-a-high-level-of-vulnerability-hm-gap-and-walmart-are-accused-of-hundreds-of-acts-of-worker-abuse/>

80. Kollwe, J. (2015) 'Supermarket price war squeezes small supplier profit margins by a third'. *The Guardian*, 23 November, [online] Available at: <https://www.theguardian.com/business/2015/nov/23/supermarket-price-war-squeeze-small-supplier-margins>

Concluding remarks

The disruptive practices of a small number of companies in the gig economy have captured the public attention. But the gig economy, which itself falls under the umbrellas of the sharing economy and the ‘platform economy’, is a much bigger phenomenon. We need greater awareness among policymakers, commentators and the public of the diversity of this fast growing sector. Our own comprehensive research suggest that the gig economy could grow exponentially over coming years.

In the face of this potential there are a number of specific, short-term issues that need to be addressed through updating and clarifying the laws and regulations that are being applied (and misapplied) to gig work. As well as addressing these pressing matters, this report argues that we need to look at gig work through a wider lens, recognising that not only is the gig economy shaped by technological innovation, the working of the market and government policy but also by public expectations and aspirations. Unless we frame policy according to progressive values the danger is that human welfare will be compromised by technological possibility and market power.

This is why we urge that policy for the gig economy, and wider platform economy, is framed by a commitment to good work. By this we mean work which is fair and decent and with scope for personal fulfilment and career development. This goal provides direction and purpose in a debate that is complex and fast moving, as well as engaging with core concerns about eroding social and economic security as a result of technological innovation.

With good work as our aim we can see the immense possibilities provided by platforms to offer the workers of today and tomorrow not just tangible advantages like better remuneration and greater flexibility but a new more empowered relationship to work.

There can be a tendency to take a binary approach to regulation – permitting platforms free rein or restricting them by creating a hostile environment. There is a third way – shared regulation – and it requires a different way of working with business and civil society to steer innovation in workers, and ultimately society’s, best interests. As we observed, this is an early test of how we respond to increasingly rapid changes in technology, and so it’s crucial that we get it right with the gig economy.

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8 John Adam Street
London WC2N 6EZ
+44 (0) 20 7930 5115

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