

Gig Economy and the Regulation of the Employment Relationship

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There are around 1.1 million people in gig work in Britain, more than half of whom work as taxi drivers, delivery couriers, and in on-demand skilled building trades, cleaning, removals and DIY. They are officially classified as self-employed and are thereby not entitled to basic rights such as national minimum wage or sick pay. Yet, many gig economy contractors have been taken to court over employment status. Uber, the minicab app company, Hermes, the courier company, Deliveroo, the take-away delivery company, and Pimlico Plumbers are among the companies that have been faced with legal disputes. Most of these court decisions (e.g. Uber) are in favour of the claimants and show that they are indeed treated as employed workers but without the rights and benefits. Yet, each case is unique: for example, Deliveroo was successful in its claim that its delivery riders were self-employed, building on the flexible nature of the work itself and the use of technology that enable route swapping. In light of this uncertainty, in 2016, the Government commissioned an independent review of modern working practices. The resulting report (the so-called Taylor review) considered the impact of these new ways of working on the rights and responsibilities of individuals and employers. In November 2017, draft legislation by a cross-party group of MPs was published in response to the report's recommendations.

The above developments have resulted in an emerging body of academic and practitioner literature that can be roughly divided into the following strands. Research comprises work aimed at increasing our understanding of the nature of gig work through historical lenses (Stanford 2017) or by exploring issues of definition, size and impact on the economy (Brinkley 2016; Friedman 2014; Masselli et al 2016). There is also some evidence on the effect of technology on work design (Cherry 2016) and the implications of gig work for the individual worker (Kuhn 2016; Petriglieri et al 2016). However, the literature is dominated by attempts to examine the challenges that this 'new' form of work poses to the employment relationship. The majority of these studies either addresses broad questions on regulation (De Stefano 2016; Leighton 2016; Rogers, 2016) or focus on specific issues such as control and supervision (Cunningham-Parmeter 2016; Kirven 2018). What all up-to-date studies have in common is the realisation of the need to either add clarity to and revisit traditional areas of regulation or add new ones that would fully capture the new dynamics of gig work. Yet, there is lack of consensus and contradictory evidence on the potential of existing proposals to fill regulatory gaps. The paper aims at contributing to these debates by looking at the implications of the gig economy for workers' rights and assessing current responses. Conceptually it borrows from notions of regulation and governance and empirically it draws on primary and secondary documentary evidence including pieces of legislation and case law as well as interviews with Deliveroo and Uber workers.

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