

Matthew Taylor unveiled on 11 July 2017 the results of his [review](#) into modern working practices in the UK economy. The review was commissioned by the Prime Minister at the end of 2016 to look at how UK employment practices need to change in order to keep pace with modern business models.

The review is lengthy (116 pages) and says it is based on a single overriding ambition, namely that all work in the UK economy should be fair and decent with realistic scope for development and fulfilment. It includes recommendations for specific measures to be taken as soon as possible by the government, as well as longer term strategic shifts in policy.

Key recommendations are:

- Employment status law should be clarified, i.e. it should not be as difficult as it is currently for individuals and employers to determine a person's employment status. The review recommends that the government introduces legislation to provide a clearer outline of the tests for employment status, setting out the key principles in primary legislation, and using secondary legislation and guidance to provide more detail.
- The current three-tier approach to employment status (employee – worker – self-employed) should be retained, but the two categories of people who are eligible for "worker" rights (workers and employees) should be easier to distinguish from one another. A new term, "dependent contractor", should be introduced to refer to the category of people who are eligible for "worker" rights but who are not employees. Furthermore, greater emphasis should be placed on control and less on the requirement for personal service when determining whether an individual is a "dependent contractor" for these purposes.
- For those individuals working in the gig economy, the government should consider adapting the existing piece rate legislation to ensure such individuals are still able to enjoy maximum flexibility whilst also being able to earn the National Minimum Wage.
- Greater efforts should be made to align the employment status framework with the tax framework so as to ensure that differences between the two systems are reduced to an absolute minimum. The review suggests that where a tribunal determines that an individual is an employee for tax purposes, for example, that this decision is also binding for employment law purposes.
- "Dependent contractors" as well as employees should be entitled to a written statement setting out their terms and conditions to be provided at the outset of the working relationship. This should include information about the "day one" statutory rights they are entitled to, how they are calculated and how they will be paid. There would also be a right to bring a standalone claim in the tribunal if such a statement was not provided.
- The government should provide individuals and employers with access to an online tool that determines employment status in the majority of cases, along the lines of the Employment Status Indicator tool that is now available for tax purposes.
- The government should ask the Low Pay Commission to consider the introduction of a higher National Minimum Wage rate for hours that are not guaranteed as part of the contract, as a means of incentivising employers to schedule guaranteed hours as far as reasonable within their business. The government should also consider other ways in which employers might be encouraged to guarantee more hours to their staff, including the role of voluntary collective agreements.
- For those working casually and intermittently, any gaps in working of up to one month would not break their continuity of service needed to qualify for some employment rights. Currently any gaps of more than one week break continuity of service. It would therefore be easier for such individuals to access rights which require a qualifying period of service.
- A range of proposals concerning agency workers, including (i) more transparent information to be provided to agency workers about rates of pay and who is paying them; (ii) increasing the pay reference period for holiday pay purposes to 52 weeks to take account of seasonal variations and give "dependent contractors" the opportunity to receive rolled-up holiday pay; (iii) the right for agency workers to request a direct contract of employment if they have been placed with the same hirer for 12 months and an obligation on the hirer to consider the request in a reasonable manner; and (iv) the "Swedish Derogation" under the Agency Workers Regulations 2010 to be abolished.
- For those zero hours workers who have been in post for 12 months, the right to request a contract that guarantees hours which better reflect the actual hours worked.
- The Information and Consultation of Employees Regulations 2004 should be extended to include employees and workers and the threshold for implementation should be reduced from 10% to 2% of the workforce making a request.
- New duties on employers to report certain information on workforce structure, in an attempt to make companies more transparent.
- Individuals should be able to get an authoritative determination of their employment status without paying any fee and at an expedited preliminary hearing. Furthermore, where an individual challenges their employment status, the burden of proof in employment tribunal hearings should be reversed so that the employer has to prove that the individual is not entitled to the relevant employment rights, not the other way round.

- On the tax front, the review believes that the principles underlying the proposed National Insurance (NI) reforms in the Spring Budget are correct and therefore that the level of NI contributions paid by employees and self-employed people should be moved closer to parity.
- Reform Statutory Sick Pay so that it is a basic employment right comparable to the National Minimum Wage, for which all workers are eligible regardless of income from day one. It should be payable by the employer and accrued on length of service.
- Individuals who have been off work for a prolonged period of ill-health should have the right to return to the same or a similar job, provided they engage with the Fit for Work Service.
- More robust penalties for those employers that fail to pay tribunal judgments or fail to apply judgments to other relevant relationships in their workforce.

It is important to remember that the Taylor Review is, as its name suggests, just a review and not a list of proposals that will inevitably become law. In the words of Matthew Taylor, "*It now falls to the Prime Minister, the Government and Parliament to decide how to respond to our recommendations*". We will, of course, be keeping you updated on how matters progress.

We will be discussing employment status, including the Taylor Review's recommendations for reform, at our [London](#) and [Birmingham](#) September Employment Seminars.

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