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Submission from Managing Director of Working Free Ltd – www.WorkingFree.co.uk - 22.5.18

Views on the recommendations in Good Work: The Taylor Review of modern working practices that focus on increasing transparency between employers and individuals in the UK Labour Market.

Introduction

We welcome the Taylor Report and, in principle, the Government's responses to it. However, the dominating problem is that no-one is working from an accurate understanding of the overall construction of the labour market in the UK– the big picture.

Within an organisation, workers should generally be on the payroll – and many are. Taylor's proposal to introduce an intermediate status is a good one. But, all this leaves a third category of worker who does not want to be on the payroll but are deemed to be caught by IR35. This is a tricky area – promoted and made worse by HMRC taking the view that all these workers are, in reality, employees and should pay tax and NI on the same basis as other employees. Frankly, this is what HMRC should be doing – collecting tax where they think tax is due.

However, there does need to be a better way. The market – as now described in this submission is very different to what Government perceives and a large number of professionals are being treated unfairly.

This submission offers an understanding and also offers a proposal that would add serious and progressive value in this major area.

The Proposal

Government should not only recognise Independent Working for what it is but should work towards celebrating it. This should start at senior levels – as this is where maximum torque can be obtained but it also easier. Lower levels needs to be handled with more care due to Trade Union sensitivities and Zero hours issues.

Based on the material in this Submission, we propose that where professional services are rendered through a limited company in circumstances where the hiring body may need re-assurance as to the tax status of the supplier limited company, that company may obtain a clearance certificate from HMRC. This will have the effect of not requiring the hiring company to make deductions for tax and NI for fees billed nor being liable for any costs that would normally be associated with employees of that company. Part of the clearance from HMRC will forbid any payments being made by the company as dividends out of profits generated. HMRC should also be empowered to collect due tax on a quarterly basis.

This is where transparency comes in – to help with the major but incremental changes needed. Anything less active would not need any transparency.

Available Data

Generally, employment data is available from the ONS, HMRC and DWP. Data available from private sources will to a large extent be sourced from these three main public sector sources.

The figures referred to in this submission are extracted for the ONS EMP01 statistics.

Understanding the dynamics of this market starts with asking the simple question ***"What is the proportion of the total UK working population who are full-time employees on a payroll – nothing more and nothing less."*** The balance is and has to be the so-called "flexible" labour market. This "balance" contains a broad mix of worker-types – a complex and constantly changing mix.

We contend that the only way to get at this figure for the flexible work market is to deduct from the total 32m – the total working population in the UK – the figure of full time employees on a payroll nothing more and nothing less. What is left has to be the right figure for Government to work from.

These figures – see analysis below – point to very nearly a half of all the working population in the UK being flexibly engaged.

Even the word ***flexibly*** is not a good fit. We submit that a better description is ***"Self Drive Workers"*** – being workers who are primarily responsible for finding their own work – they are NOT primarily dependent on one employer for their livelihoods.

The ONS themselves would, I contend, support this view. They rely wholly on their established panel of data providers who self-certify their figures. They feel very confident that they can accurately report the figure for full time employees on a payroll – but much less so for the balance of the 32m.

Who are Self Drive Workers?

Self Drive Workers are the converse of "purely full time employees on a payroll. Self Drive Workers are those who need, either wholly or in part, to find their own work, their own "clients" – their own things to do – with their infinitely variable and often uncertain levels of reward. They are not usually dependant on one employer for their income

Self Drive Workers are a varied and mixed group of part-timers, self-employed, contractors, freelancers, Interim Managers, Temps, Consultants, Management Consultants, Semi-retired people, Portfolio Workers, Off-payroll workers, etc. (Portfolio Workers include a broad mix of Professionals who have more than one source of income and work-type activity (whether on the payroll, freelance and non-remunerated)). "Redundant Executives" very often position themselves – often unknowingly – somewhere in this 46% category. Some see themselves as (working) Consultants and some see themselves as unemployed and this might vary from month to month. Unemployed statistics from ONS appear elsewhere.

At management levels, most Self Drive Workers get to this status through having been on someone's payroll as permanent employees. They stopped being an employee either through their employers' action or their own. Where through employer action, many opt to stay in the independent lifestyle because they find that it works and sometimes because they can't get a "proper job" (a traditional permanent employee role on a payroll.)

The current position

Of the current 32 million working people in the UK at the end of March 2018 (figures published on 25.5.18) only 55% are purely full-time employees on a payroll. The rest – 45% – are what can creatively be described as Self Drive Workers – a mix of many other working formats and arrangements – but NOT full time employees on a payroll. See figures below.

We have been observing these figures for nearly 20 years and documenting them since 2013 – please note the changes that have taken place since that time.

Message to Government from Working Free

The Government should note two points of fundamental importance – based on the fact that this 55%/45% split has not changed over the years and, in our contention, is not likely to:-

- When the number of permanent employees increases (described by the Government as their key measure) so does the size of the "flexible" work force. This means that an improving economy benefits everyone in the workforce, however described. A rising tide floats all boats.
- This 55%/ 45% split looks like being a permanent feature of the UK's business landscape. When we started publishing our figures and views years ago we were told that rises and falls in the economic cycles would alter these figures – permanent jobs go up in good times and down in bad times. Generally not true, we contend. But this might be true a bit as flexible workers trading through differing formats may well earn less – or even nothing – and no-one ever finds out about it – certainly not in publishable form.

In broad terms, this 45% have to find their own work – if they want to. Having to sell their own professional services is very different to finding a permanent job and is relatively unsupported. This is genuine risk. The UK has been moving away from this traditional work model for many years, – and now this level of flexibility has become significant and entrenched. How best to manage this, and to work out where it is heading to is important.

What are the implications for Government?

Traditionally, all the Political Parties have always talked about Jobs and about employers. The reality is that they are only talking about half the current working population. If they fully realised that, today in the UK, the other half of the 32m – the Self Drive Workers – do not want to talk about jobs and they don't want to talk about employers or employment – they certainly do not want to hear about legislation, restrictions and accusations about tax-dodging.

They want to talk about work. They want to see a broadly based successful economy growing steadily and creatively, in new industries, in new technologies, in new places and creating

opportunities for work and actively encouraging individuals in all these directions including, importantly, exporting and working overseas.

The Government needs to recognise that this is major change.

Governments somehow feel compelled to want to control and tax Self Drive Workers in exactly the same way in which full time employees are controlled and taxed – not recognising that Self Drive Workers are separate businesses, have no employment protection (limited social and legal protections, no sick pay, no holiday pay, no redundancy pay, no PHI, no other benefits) and have to pay for their own direct costs of running their businesses and take the full risk in finding their next assignment. This needs to change. It needs to change in the direction of everyone being winners

Example *– when Government reduces public sector headcounts either after a recession – or reflecting political ideology – with the aim of reducing costs, where do these people go and what do they do? Indeed, are any costs actually saved?*

Apart from being given varying amounts of money from the public purse (unlikely to be recovered by savings for a number of years) outcomes include – some of these people do nothing, drawing unemployment pay and other benefits or go back into their former organisations as Independent Consultants. The real questions are around whether they find appropriate work elsewhere and do the organisations benefit commercially from them NOT being there?

Over the past decade – particularly after the great recession - Economists and the Government have not been sure why GDP was going down whilst employment levels remained relatively stable and did not get anywhere near reflecting this drop in GDP. To a material extent, this will have been due to permanent employees simply earning less – partly through bonus/flexible pay schemes paying out less than before or not at all. But, in part, this has much to do with Self Drive Workers including those made redundant. These people are still in the labour force but with much reduced earnings particularly in the early part of a recession.

The allocation of public sector contracts should be reviewed to include more Self Drive Workers – not easy – but the principle of "using all the talents" is a good one. The recent practice of awarding contracts to larger companies with the provision that a stipulated volume should be passed onto small businesses has not largely worked.

The impact of the Self Drive Worker on Trade Unions is an interesting one. Most Self Drive Workers do not belong to Trade Unions – and see little reason to want to. In fact, most trade unions rarely think of Self Drive Workers and where they do, treat the concept as they do Zero Hours Contracts. There might be a case that they should recognise the relevance of Self Drive Workers but the traditional trade union focus is on their members being paid more and working less – not appropriate to Self Drive Workers. Beyond this, Self Drive Workers recognise the need for a process of improving levels of knowledge, modern technical skills, added value attributes, soft skills and the personal ability to contribute to the success of the organisation.

Employment legislation, as it affects Self Drive Workers, has been over-complex for too long in terms of differentiating between Self Drive Workers and employees. Whilst the volume of new Employment legislation has generally reduced over the last year or so, it is still quite complex for employees. However, for Self Drive Workers, there has been virtually no relevant employment legislation as they are not employees. But things are changing.

Tax legislation around Self Drive Workers has been muddled for years. There is a sense with many that HMRC sees Self Drive Workers as tax dodgers. No doubt there are some. Generally, Self Drive Workers pay less tax than "purely full-time employees on a payroll." Those who run their own "businesses" know how to tax-plan to best effect. This cannot realistically been seen as tax dodging,

although there will be some. It reflects risk and the uncertainty of work – both as regards the level of charge and the volume, the marketing cost of finding this work and other matters that need to be paid for which would have been paid for by the employer, had the worker been an employee.

Support for Childcare provision seems to be improving in recent times. This is welcomed and is particularly important in enabling women back into the (interim) workforce

Self Drive Working is a direct linear outcome of the UK's move away from factory-based manufacturing/ industrial activity – going back to the Industrial Revolution – towards technology-driven knowledge working and 24/7 response times. These changes – set to continue indefinitely – demand flexible labour and risk taking – all of which will increase.

Generally, there is an oversupply of goods and services in the UK and it looks like this gap will widen. This means, amongst other things, that many workers have to find different things to do. These people need to be resourceful, trained and supported. Inevitably, some don't find a market for their professional product – mainly because there is not one or was one that has now disappeared – or because they are not good enough. This is the entrepreneurial risk. Self-drive workers need to continuously re-invent themselves.

Comments on legal and definition issues.

Please note how the HMRC define self-employment:-

"A person is self-employed if they run their business for themselves and take responsibility for its success or failure. Self-employment can be in the form of a sole trader, a partnership (two or more people who run a business), or an owner of a limited liability company (also responsible for running the business). The split between full-time and part-time self-employment is based on respondents' self-classification."

- A self-employed person who earns little or nothing may define him/herself as unemployed.
- Why should a professional running his own small consultancy limited company be not called a full time permanent employee of that company? Many do.
- If there is a way of determining what a PSC (Personal Service Company) is, how much bigger does it need to be to escape this defintion?
- You could say the same for small Partnerships, although the legal issues are different.

According to Companies House, the number of new limited companies being formed has increased significantly over the past few years. What is not fully known with any accuracy is how this increase splits over being a vehicle for the self-employed or a genuine new business, or part of an established business, and if so, of what substance – and for what purpose.

A partner in a business or professional practice – This applies to all the professional partnership practices in the UK – including most accountancy practices, law firms and some Consultancy Practices and some estate agents – and which are run under Partnership law as opposed to company law where they would categorise themselves as employees. To the extent that the responders to the Labour Force Survey categorise themselves as "self-employed" in their monthly returns, the ONS will include them in the "self-employed" figures. Otherwise, they would be categorised as "employed".

EXAMPLE *– Partners in the big four accountancy Practices – indeed, in all accountancy Practices operating under partnership law – excluding those who operate under company law – are technically self-employed. They are certainly treated that way by HMRC for tax purposes, but tax is generally collected more frequently than other self-drive workers.*

The ONS statistics do not differentiate between the various levels of "worker" – whereas Working Free looks only at "Management" levels – seen as those who would routinely see themselves as earning about £50k and upwards, based on their previous work roles. It is felt that this differentiation does not materially alter the analysis.

The ONS retrospectively alter published figures as more information emerges – so some which are available now may differ from those stated in our schedules which we generally compile from information published as soon as it became available.

The ONS figures are not reconciled with HMRC's figures for "self-employed" nor with the figures from Companies House relating to the creation of new limited companies.

***Temps are included in both full-time and part-time workers* on the payroll.** These figures are also recorded separately by ONS and in the figures quoted in this website are deducted.

Senior people retiring as soon as possible on two thirds pensions are mostly well set up – but their numbers are decreasing as pensions schemes change – and also, as, current employer and government action starts to chip away at their value. Older people who need to keep earning and also keep working for other reasons need to be supported. ONS reports that the increase in part time working is partly mainly due to older people.

It is wrong of the Government to think that all Independent workers want to get back into permanent employment. Many Self Drive Workers quote lifestyle as the main reason for becoming independent. This seems to happen more frequently with women and, whilst there are more men than women operating as Independents, women are catching up.

Conversely, many employers – maybe the majority – welcome the flexible employment patterns afforded by Self Drive Workers and are increasingly building the use of independent workers into their resourcing strategies.

One of the contentious elements in current flexible employment patterns is Zero Hours Working. It is a salutary exercise debating the pros and cons of Zero Hours working but the practice should be seen as just part of the flexible remuneration patterns currently active in UK businesses, particularly now that most of the perceived unsatisfactory elements have been removed and responding to increasing demand for 24/7 working. It falls into the same flexible arrangements context as profit related payments – whether alongside a salary or retainer, bonus/ commission schemes and share incentive schemes and, indeed, wherever outcomes are dependent on personal deliverables or the company's performance – or both. And why not?

Additionally, and importantly, there are many individuals operating on an independent basis, setting up and/or running micro businesses or entrepreneurs chasing their ideas and not currently earning much, if anything. New patterns are emerging including more people with second jobs, zero hours workers, greater numbers of contractors and interim managers, independents teaming up with others and individuals trading through a myriad of business formats.

This burgeoning rhetoric around Entrepreneurs and Entrepreneurship – the glamour people in the Self Drive Worker market – reflects the significance of this phenomenon as between the different stakeholders – Government, businesses and the swelling ranks of individuals now operating as Self Drive Workers. Part of the reality of this is very likely to reflect that there are many Self Drive Workers who do not see themselves as Entrepreneurs and, in fact, are. Many see themselves as Entrepreneurs and, in fact, are nothing of the sort. But the underlying reality is that this sector is vital for the future of the UK's economy. It is growing. And the Government wants it to grow. Sometimes it is not apparent exactly what the Government is actually doing in this area.

What are the implications for businesses?

There is a certain irony in that the quest for greater efficiency – whether through technology or better management – has resulted in much reduced corporate headcounts over the years. Whilst technology has had a major impact, what has happened, we would contend, is that much of this headcount reduction has been disguised by the external use of consultants, interim managers, contractors and outsourcing. There is a core level, below which the only result is that the work does not get done – either in part or wholly or badly.

"Disintermediation" (getting rid of the middleman) whilst always more of a threat than a reality can get nearer to being a reality through Self Drive Workers. Greater emphasis on key drivers to the business are increasingly being either handled or managed in-house through external parties being contracted into the organisation.

The concepts of loyalty and team building are becoming opaque and, to a certain extent, self-contradictory. Loyalty is being seen less as a laudable and traditional characteristic and more of a contractual obligation. Good pay-offs make being fired "acceptable" for many and a convenient launch pad into Self Drive status.

What does it mean for Individuals?

Massive changes so far. Massive changes to come.

In many ways, this aspect has to be seen as the most important one. It's about how people earn their livings, how they live their lives and how these change when they don't have a direct employer.

What has changed for the good in recent times is the arrival of "choice" and "lifestyle". Broadly, people can choose what to do with their working lives – although on many occasions it does not feel that way!

Because career development is not an issue with Self Drive Workers, higher risk work is likely to be undertaken as long as payment is more or less assured – even being "paid" in ways other than money – such as equity in a business is involved.

Some observers, many with talent management remits, see the Self Drive community, broadly defined, as a key source of specific skillsets and experience that would support aspects of corporate and business development projects.

This website aims to be a signpost guide to success as a Self Drive Worker. Knowing about the background is important. Routes to market can be complex and unexpected. Skillsets need to sharp and up to date and relevant. Ability, interpersonal skills and personality need to match the role and the task.

Analysis of ONS figures (EMP01 - March 2013 and March 2018 (published 15.5.18)

	March 2013		March 2018	
	All figures	NOT f/t	All figures	NOT f/t

Employees (Full-time)	18565		20402	
Employees (Full time but with a 2nd job)		1098		1137
Temps (incl: here in F/T Employees)		1617		1594
Employees (Part time)	6715	6715	7029	7029
Self Employed (Full time)	3022	3022	3290	3290
Self Employed (Part time)	1155	1155	1456	1456
Unpaid family	105	105	110	110
Govt Support	147	147	57	57
Total in Employment	**29709**	**13859**	**32344**	**14673**
		46.65%		45.37%