



# Select Committee on COVID-19

## Corrected oral evidence: Living online

Tuesday 2 February 2021

10 am

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Members present: Baroness Lane-Fox of Soho (The Chair); Lord Alderdice; Baroness Benjamin; Baroness Chisholm of Owlpen; Lord Duncan of Springbank; Lord Elder; Lord Hain; Lord Harris of Haringey; Baroness Jay of Paddington; Baroness Morgan of Cotes; Lord Pickles; Baroness Young of Hornsey.

Evidence Session No. 9

Virtual Proceeding

Questions 102 - 111

### Witnesses

**I:** Kate Bell, Head of Rights, International, Social and Economics, TUC; Jon Boys, Labour Market Economist, CIPD; Dr Kelle Howson, Researcher, Fairwork Foundation; Dr Jamie Woodcock, Senior Lecturer at Open University.

## Examination of witnesses

Kate Bell, Jon Boys, Dr Kelle Howson and Dr Jamie Woodcock.

Q102 **The Chair:** Good morning, and welcome to the House of Lords Select Committee on Covid-19. I extend a special welcome to our witnesses this morning. Thank you very much for coming to help us with our inquiry.

As you will know, we are being broadcast live and recorded. I ask everyone to stay on mute when they are not speaking. If they would like to speak in addition to the questions allocated to our colleagues, either wave your hand or give me a nudge with one of the reactions you can use on Zoom. Always feel that you can do that if you want to come in on an answer to a question.

The House of Lords Select Committee on Covid-19 is looking at the long-term implications of this horrible pandemic. We have been doing our inquiry for a few months, looking at what this rapid period of digitalisation has done to our social and economic well-being. We have looked at physical health, mental health and work, and you are the last session of our work chunk, which is fantastic because this will wrap together a number of the themes that have come out.

Before we begin, I thought it would be helpful if our witnesses introduced themselves. You do not need to do a long introduction because we have read your very helpful comments, but it would be fantastic to put names to faces.

**Kate Bell:** I am the head of rights, international, social and economics, at the TUC—the Trades Union Congress.

**The Chair:** Kelle, and I hope I am saying your name right?

**Dr Kelle Howson:** Yes. I am a post-doctoral researcher with the Fairwork project at the Oxford Internet Institute.

**The Chair:** Jamie, I should declare an interest as the Chancellor of the Open University. It is absolutely brilliant to see you here today.

**Dr Jamie Woodcock:** I am a senior lecturer at the Open University.

**Jon Boys:** I am a labour market economist at the CIPD, which is the professional body for human resources and learning and development professionals.

**The Chair:** We are trying to unpick the long-term implications. I know that it is very easy to focus on the things people are feeling now, but we are trying to cast our minds out two to five years. Please bear that in mind when answering.

Secondly, as I say, we are looking at this rapid process of digitalisation and its effects. That can be broad and wide, and I realise it is still an enormous topic, but if you can keep those two axes in your mind, it would be immensely helpful.

Q103 **Baroness Morgan of Cotes:** Good morning, everyone, and thank you for being here. We wanted to start with the acceleration of trends in relation to work through the increased use of digitalisation, which we are all demonstrating at the moment by holding Select Committees remotely via Zoom.

There is remote working and increased use of AI and automation. I want to start by asking you about what we have learned in the last 10 months about whether current legislation, particularly employment legislation, current employment policy and current employment practices are adequate to protect workers' well-being in this new era of digitalised working.

**Kate Bell:** Thank you very much for having me. I am conscious of your focus on the long term, but I think it is important to say that we have realised during the pandemic in the last 10 months just how inadequate some of our policy and legislation is for trends that have been around for a long time.

The TUC has been talking about the increased insecurity of work for perhaps the last decade. We have seen that exposed in this pandemic. Insecure work practices, which are sometimes mediated by platforms and sometimes not, short hours scheduling, insecurity of contracts and false self-employment are trends that have been exposed in this pandemic, and the issues that they expose workers to: a lack of sick pay, a lack of security at work, or a lack of ability to raise their voice in the workplace.

We have been calling for some changes for a long time. Better union access to workplaces, to enable people to raise their voices, better enforcement of our existing rights, decent sick pay for all, a ban on zero-hours contracts, and measures to address short hours or short notice scheduling, are practices that are sometimes mediated through technology, sometimes not, but have been exposed.

There are two trends that we have possibly seen increase during the pandemic, although I would say that we do not know for sure yet. The first, of course, as evidenced and as you said, is the rise in home-working. It is really important to note that half of people are still working outside the home. I am quite interested by the work that the Office for National Statistics is doing in surveying businesses. At the moment it says that only 14% of businesses say that they will be increasing home-working in the future. That is a slight corrective to our assumption that we will all be doing this for ever. We do not know. However, there definitely are stronger rights about access to flexible working, which includes not only home-working but the ability perhaps to vary when you work, as well as where you work, which, again, we think have been exposed.

The other trend that I want to mention briefly is the use of surveillance methods and artificial intelligence as a management tool. Again, we are in our early knowledge of this. The TUC started a project on it. We did a survey over the summer and found a small proportion saying that they

have experienced use of this technology. Some 22% say they have experience of artificial intelligence technology for absence management. Some 15% say they are being rated by technology, and 14% say they have experience of these technologies for work allocation.

It is quite difficult to work out how much this is an increase, because we do not have good data to track this over time. However, we have lots of indications that these technologies are on the rise. This is an area where we will need new legislation. We are at the early stages of thinking about this—I am sure colleagues will have more to say about this, and they may have done more thinking than we have—but we certainly think we will need stronger rights to information over the use of this kind of technology at work, stronger rights to collective decision-making over the use of this kind of technology, and stronger rights to privacy and anti-discrimination. I am sure colleagues and witnesses will also be able to say more about those issues, so I might pause there.

**Jon Boys:** We are quite well aligned with a lot of the things that Kate said, except that we would probably hold back on the need for more primary legislation. For example, we have looked at monitoring of employees, and we think that there is probably plenty of existing legislation with good guidelines. Things like GDPR give good guidelines on how you deal with data.

We have put heavier emphasis on norms and management practices. These are the things that we are getting to grips with.

Another example would be zero-hours contracts. We do not think that there should be a ban on them. We did a report ahead of the Taylor review, a couple of years ago, *To Gig or Not to Gig?* We found that there is lots of insecure work in both the gig economy and the non-gig economy. The majority of people working in the gig economy were quite happy with their employment—it was a supplement to their main job and their income.

We have quite a positive story to tell about the quality of work and technology pre-pandemic, but there are certainly some big changes. The major change is that pre-pandemic we were in this super-sweet spot. Unemployment was so low, to a point that most economists would call it full employment. That starts doing really great things. There are policy outcomes that you do not have to work very hard for. You end up with a boost to family incomes and marginalised workers—disabled workers and older workers—getting much higher rates of employment.

That happens without any heavy intervention. You might think about the sums we are spending now on heavy state intervention programmes to boost labour market outcomes that we find desirable. That is where the challenge will be going forward. You can achieve positive policy outcomes such as good work in that macroeconomic environment, but that is likely to go into reverse. Unemployment will probably reach nearly 8%, which is almost double what it was, and a similar level to where it was when it

peaked post financial crisis. There are some trends that are almost outside the technology sphere.

We think that we need better enforcement of existing legislation, particularly about employment rights. It is difficult for people to get redress in tribunals, and because of Covid there is now a larger backlog. That is individual redress. On the government side, there is a need for a single enforcement body, and the response to that, and better working together of different government departments, and that sort of thing. That is us in a nutshell.

**Baroness Morgan of Cotes:** Will you expand a little on what you mean by management practices? I know what I mean, but it would be good to hear from you.

**Jon Boys:** There is often a heavy emphasis when we talk about improving productivity on things like infrastructure projects, and increasing R&D, but when we look at our performance relative to other countries, there is a big, unexplainable gap of this total factor productivity. Lots of research now suggests that a big part of that difference is management practices in the UK vis-à-vis other countries. It is difficult, because it is a softer factor. We are thinking about people having autonomy in their roles and good performance management systems, that sort of thing. There is a whole suite of effective management practices.

In 2017, the ONS did a survey of about 25,000 businesses, and some of the strongest findings were the association between good management practices—for example, performance management—and the productivity of firms. That is what I mean.

At the CIPD we believe that we could give a big boost to the productivity of the UK, particularly about smaller firms, if we just increased the quality of some of those management practices, particularly the people management practices, where we specialise.

**Dr Kelle Howson:** The focus of our project is specifically on platform-mediated work. We are interested in the conditions of gig workers. We have been researching this since before the pandemic, but the pandemic has certainly demonstrated key structural vulnerabilities of gig workers, particularly as regards the current legislative framework.

A lot of gig workers, because of lockdown restrictions, or an inability to work, have faced a serious risk of income loss since the beginning of the pandemic. This is built into the gig economy because workers do not enjoy basic rights and protections like sick pay, for instance. While the pandemic has highlighted this issue, we see it continuing unless there is a regulatory response.

Most gig workers fall into a regulatory blind spot. Their conditions do not necessarily resemble what we would traditionally think of as self-employed workers. They tend to be quite dependent on platforms for

their livelihood. Generally, they do not have an ability to set rates of payment for their work, and, while there is a promise of flexibility and autonomy, often what we see in practice is quite sophisticated and elaborate systems of incentives and penalties that govern the work of gig workers.

We advocate a review of the current legislative framework serving gig workers. We think there is much more need for clarity about employment status and, potentially, reviewing the definition of workers to include platform workers, who are generally dependent on platforms for their security and for their livelihood.

**Baroness Morgan of Cotes:** Jamie, is there anything that you want to add on the basis of that?

**Dr Jamie Woodcock:** There are two main things that I would like to say. The first is about regulation, and this, I think, takes in gig work and platform work. I have been doing research with platform workers for about five or six years in the UK. There is sometimes confusion about whether the existing regulation is suitable, or whether there are changes that need to be made to regulation. It is worth noting that, today, Deliveroo is in court having another hearing about employment status. I think it will be a very important case in lots of ways.

I believe that the existing regulation should be effective as it is. Having employment status, worker status and self-employment status should adequately cover people. The problem is the misclassification of people as self-employed who should have worker status.

I do not think that there is a need for extensive new primary legislation. It is more about understanding that these people can be reclassified.

Before the pandemic there were lots of stories about the risks of bogus self-employment status. Many commentators talked about some of the risks. The pandemic has shown the risks very starkly to many people. For example, if you are an Uber driver or a delivery courier, you could not receive statutory sick pay, and, in most cases, you could not get the self-employment grant, either. People fell between both measures to support them. I have heard many stories of people working despite getting sick or having major impacts from Covid-19.

We need to take the pandemic as a moment to think what was working and what was not working in the world of work pre-pandemic. I agree with some of what Jon was saying. I am an ethnographer by training, so I very much look at the experience of work. If on a macro level there were some things that were working, on a smaller level in the experience of work many people felt they did not have a say over their work, and they were bearing many of the risks of the work relationship.

I have studied electronic surveillance at work for about 10 years. We should be very clear about the home-working experiment, and Kate is

right to point out that the majority of people are not working from home—they are still going to work in various ways.

Electronic surveillance goes back to the reason for scientific management, where you should be concerned about what your workers are doing, and perhaps not trust them to work of their own accord. The overwhelming evidence with electronic surveillance, whether driven by AI or otherwise, is that it measures quantitative targets and not qualitative targets of work. Overwhelmingly, for many workers who work under these techniques, it has a detrimental effect on their experience of work. It is not pleasant to be monitored electronically. We need to ask whether there are other ways to have those relationships and experiences at work, and ones that listen to workers rather than just measure them.

**Baroness Morgan of Cotes:** You rightly said that not everyone is working from home—perhaps the majority of people are not—but an awful lot of people, particularly perhaps those working in call centres, have been moved to work from home. This is not necessarily a session about all the rights and wrongs of employment law generally. This is very much an inquiry about the move to digital.

We talked about surveillance at home, but what about the responsibility of employers for those who are working at home, in relation to health and safety, or in relation to presenteeism, where people feel that they have to be on all the time, checking emails at crazy times of the day and night, and everything else? That may not be answered in legislation, but should employment contracts be reviewed and changed if people are going to carry on doing more hybrid working so that they cannot actually be seen by their employers in a work environment? Does anyone have a view on that?

**Jon Boys:** We think that it is the responsibility still of employers to look after people at home. We have some early findings of a review on digital presenteeism, but, essentially, we concluded that, although smartphones and connectiveness might mean that we are able to stay connected outside work hours, what really drives this is culture. If there is an expectation of working outside of work hours, it is not really the technology that is the facilitator. In fact, a lot of the technology that we are using now has been around for quite some time. At the moment we are using broadband, voice over IP, and I have a flatscreen TV. I remember using all these in 2005, so we are a couple of decades in.

We know a lot of the negative parts of well-being. We have this well-being report. It is a great report because it has been going for 20 years. We reviewed the first report, and there was no mention of mental health, and that sort of thing, but now it is the majority emphasis of the report. We know that the majority of the negative parts of that and stress come from work intensity.

Again, you are back to management practices, norms and expectations, and the culture. We are also quite clear that employers have an obligation to risk-assess. That does not mean that they necessarily have

to physically turn up—because of Covid—but it is their responsibility. Of course, any substantial changes to the employment contract need to be consulted on.

**Kate Bell:** We have been very keen on the idea of a right to switch off. It is interesting to listen to Jonathan say how that is implemented. It has been implemented in France. It requires management to have a conversation with its workforce, and to negotiate a set of policies about when you are able to switch off and workplace practices. It is not a regulation that says that nobody must be emailed after 5 o'clock, but it is a regulation that says that you have to have that conversation with your staff, and you have to set safe limits. We would like to see something like that in place here, which says that there needs to be collective consultation, and a collective discussion about what normal working practices are.

Of course, much of the technology is old, but the expectation that everybody has it is new, and that is probably what has changed. It is about responding to emails, but for many gig workers, without switching on, they are not available for work, and we need to negotiate that boundary, too.

Q104 **Baroness Jay of Paddington:** Thank you very much to you all for coming. That was an extraordinarily interesting and very vivid set of comments about what the situation is now. You have already indicated some of the changes you might like to see. As the Chair said right at the beginning, we are trying to look for some very specific proposals to come out of our report about how things can be changed.

I can pick up already that there is a difference of opinion between you, for example about whether the law should be changed, and whether there is a role for different legislation. I also heard initially from Kate that there should be better union access. In a sense, that sounds like a slightly old-fashioned view, because some of the traditional things that we would have thought of, as you have all mentioned, as being dealt with by unions have slightly gone by the board.

Would you expand on that, Kate, because I think that is a very interesting thought about whether we could have some sort of revival of different kinds of union representation? You talked about collective consultation, et cetera. Will you elaborate on that, and then I ask everybody else to give us some specific proposals about the longer-term changes that you want to see.

**Kate Bell:** Thank you for that question. Although unions are typified as being part of the 1970s settlement, there is a lot of evidence that the best way to negotiate the complex changes that we are now facing is through independent and collective voice, which is of course what trade unions provide.

There is a lot of very interesting evidence coming out of the OECD, for example. Last year it published a big report called *Negotiating Our Way Up: Collective Bargaining in a Changing World of Work*, which found that

the challenges of digitalisation, and the measures that we will have to put in place in adapting our economy to climate change, require a flexible approach and workers to have a voice. It lays out the pretty extensive evidence that the best way to do that is through collective bargaining, which is what trade unions provide, both at a company level and a sectoral level.

You are seeing countries around the world starting to adopt this. The Biden Administration's agenda is very strong on strengthening the rights of unions. New Zealand is introducing fair pay agreements on how to negotiate on a sectoral level.

We are quite a long way from that at the moment in the UK, but we think that a right of access to workplaces would also be a digital right of access, so a right to gain information about your ability to join a union could be really important.

We are sometimes asked, "Can this work in a more digital world?" Unions have to do a lot to adapt, but we are starting to see some really interesting innovations. Recently, in Denmark, Just Eat has become part of a collective agreement. It is under the auspices of the Danish Business Authority. It is taking on its riders as employees and offering them sick pay and regular hours. There is a reasonably well-known cleaning platform, also in Denmark. It is somewhat predictable to turn to Scandinavia for our examples. These are very digitally advanced societies that are showing that this framework can be adapted.

We would start with a right of access to workplaces that includes a right of digital access. We think that there is increasing evidence that that is what could deliver the kind of flexible negotiation that we need to navigate this rapidly changing environment.

**Baroness Jay of Paddington:** That is very helpful indeed. Kelle, you were saying in your introductory remarks that we need some legislative changes. Am I right on that, or is it simply that you want to see existing laws strengthened?

**Dr Kelle Howson:** At the Fairwork project, our basic concern is extending minimum rights and protections to gig workers. There are a number of ways to do that, but I agree with Jamie that those protections currently exist in the regulatory framework.

The issue is that platforms have the ability to misclassify their workers as self-employed. We would like to see steps to address that common practice of misclassification, whether that involves changing primary legislation or simply taking the burden off the courts in some way to extend minimum protections to all workers, because the alternative is a deepened platformisation throughout the economy.

We can see the gig economy model reproduced in new sectors, and we are certainly starting to see nascent platformisation in a number of sectors. Whether it is extending current law or whether it is better

enforcing current law, we would like to see steps to address that race to the bottom.

**Baroness Jay of Paddington:** May I ask you a supplementary question on that? You said that you think there is a possibility of either having primary legislation or different legislation, or, I think you were saying, relying on the ways of the courts. Which would you like to see? What would be your preference?

**Dr Kelle Howson:** In the short to medium term, simply better enforcement of existing legislation. We know that at the moment there is not the capacity to undertake inspections in a lot of these sectors, which are seeing rapid platformisation, so that would be a great start.

**Baroness Jay of Paddington:** Jon, I think you also were keen to see better enforcement of what is already there. Am I right in that? Would you develop that a little more and, as I say, be quite specific, if you would not mind, about what you would prefer to see?

**Jon Boys:** We wrote a report on revamping labour market enforcement. Essentially, we think that the framework is there. One example is that pre-pandemic there was about a 38-week delay for tribunal cases. A recent report says that it is up to about two years. That is where someone decides to pursue that line in the first place. Many people who have a grievance do not even get to the stage of pursuing it.

I have also heard from an employment barrister that, because a lot of people have a lot of time on their hands, they are pursuing it now, so that will add to the backlog. There is a capacity issue there.

We think that there should be a simplification of worker status.

**Baroness Jay of Paddington:** Sorry to interrupt you, but how would you define that? Would a simplification of worker status need some form of fairly dictatorial primary legislation? How would you see that happening?

**Jon Boys:** It might be best if I send the report that we have done on revamping labour market enforcement. I am collating from colleagues, but you know what I mean.

**Baroness Jay of Paddington:** I am sorry to ask for the detail.

**Jon Boys:** Certainly that has been our track, particularly in our report on the gig economy, which finds that there is insecurity in gig and non-gig work and that, essentially, by having better enforcement of existing legislation, you help all workers, which is our line.

**Baroness Jay of Paddington:** That is very helpful. It would be extremely helpful if you could let us have anything that you have not already sent in that is relevant to some of the questions. That applies to everybody who is taking part this morning. We would be very grateful if you sent things in. Jamie, coming on to you—

**The Chair:** Sorry to interrupt, but I will ask everyone to be brief because we need to move on.

**Baroness Jay of Paddington:** Unless Jamie has something he specifically wants to add in that context of very specific future changes, I am very happy to move back to you.

**The Chair:** Jamie, do you want to make a brief comment?

**Dr Jamie Woodcock:** I have a very brief comment. Following on from what Kate said, one of the important legislative changes would be to repeal some of the anti-trade union laws that exist in the UK to make it easier for workers to raise their voices collectively. Giving people a voice legislatively would be very helpful.

Q105 **Baroness Young of Hornsey:** I thank everybody for their contributions so far. It is really important that we get a range of views.

I want us to talk a little about inequality. One of the striking features of the pandemic is that it has really exacerbated existing inequalities and thrown into stark relief the fact that all the different moves, changes and transformations have an unequal impact on different social groups. It is not necessarily only about legislation or regulatory mechanisms. I think it was Jon who said that it is also about work culture.

My concern would be whether you think that there is enough in place to protect black and minority ethnic communities, women, disabled workers—the different groups that have been quite adversely impacted by the pandemic in relation to others. Will you say something about what needs to be done to protect the small gains that we have made, and whether there need to be more extensive changes? May I start with Kelle, because you mentioned this in the remarks that you sent beforehand?

**Dr Kelle Howson:** One of the key issues in this area is data gaps. The platforms guard quite closely their data on the supply of workers—who is working on their platforms, what proportion of their income they earn from gig work, how many dependants they have, et cetera—so it is very difficult to get a full picture of how this is spread among different social groups.

Qualitatively, we see that these issues disproportionately affect more vulnerable sectors of the community, including black and minority ethnic communities and migrants. Because platform work has relatively low barriers to entry a lot of the time, compared with other sectors of the labour market, it is performed disproportionately by people who experience high barriers in other areas. Migrant workers, for example, may not have transferrable certificates and qualifications in their background professions. We also know that black and minority ethnic minority communities have been overrepresented in more precarious and lower-paid work. Women who are more likely to have domestic care duties and need flexible working arrangements are more likely to turn to the gig economy. I think it might have been Jon who mentioned disabled

people working remotely from home as a way to access the labour market.

We certainly see potential for the platform model to allow previously marginalised communities access to livelihoods, but the issue is the fact that currently there is an unequal framework, where conditions within the gig economy are less secure and more precarious. Workers are more likely to fall below minimum wage, for instance, once costs and waiting time are taken into account. They are also particularly vulnerable to unfair termination. We need to be aware of the inequalities that are created by these dual models of work and who those disproportionately affect.

**Baroness Young of Hornsey:** It is not only about the gig economy, and I take all your points on that, but I would like to ask the others on the panel, Jon, Jamie and Kate, to comment on the issues of digital surveillance, increasing reliance on algorithms for recruitment, and how people's behaviour at home is seen as being detrimental to company aims and objectives, and so forth. There is a whole suite of issues that again can be said to impact upon these groups more than others. I do not know whether anybody else would like to come in on that issue.

**Kate Bell:** There are two types of issue. One, as Kelle was saying, is how we see structural discrimination and racism in the labour market reflected in the overrepresentation of black workers in insecure work. We have research showing that black and minority ethnic women are about twice as likely as white workers to be in some form of insecure work.

There are two types of action in that area: one is the general legislative support that we want. I go back to our ban on zero-hours contracts, for example, which would particularly benefit those groups that are most likely to experience that kind of work practice. As Kelle was saying, we need better data. For example, we have called for mandatory ethnicity pay gap reporting, as part of that effort to shine a light on where this discrimination and inequality is taking place.

The point you raise about discriminatory algorithms is really important. We have seen multiple reports of algorithms being trained on datasets that enable them to reproduce human biases. One thing our project on AI is looking at is what kind of legislative framework might be needed to control the use of discriminatory algorithms. We do not have all the answers yet. The next stage of our project is coming out badly timed for this inquiry: around the end of next month. The transparency of seeing the data those algorithms have been trained on will be a really important part of tackling that, and in seeing where we are reproducing existing inequalities in the labour market.

**Dr Jamie Woodcock:** I have a very simple, short recommendation. If algorithms are being used to make management decisions at work, one solution to prevent the biases that other witnesses have discussed is to say that employers should be able to explain how a decision was made if an algorithm was used. There has to be a point of contact who is

responsible for the decisions that are made. If it is not possible to explain how the decision has been made, it is not appropriate to use that technology at work.

**Baroness Young of Hornsey:** That is really helpful.

**The Chair:** Does that answer your questions?

**Baroness Young of Hornsey:** To some extent. That is fine, thank you.

Q106 **Lord Pickles:** We came quite close to what I was going to ask towards the end of that last answer. It has been really interesting, particularly on the gig economy.

If we are looking three to five years ahead, I would be really grateful for your opinions on the hybrid economy, where part will be digital and part will be in the workplace. You have given us an analysis of the gig economy and I would be grateful if you gave us some views on that. It would be a wasted opportunity not to pick your brains on this aspect. I honestly do not mind who starts first, but, Kate, you were quite close to talking about the use of algorithms and the like. Would you like to start?

**Kate Bell:** I do not think I have thought of it as the hybrid economy, so that is a really interesting framing of it. One of our concerns about this whole discussion has been that every time we have work mediated by new technology we start talking about it as if it is a different type of activity, or a different type of relationship, whereas most of the time it is still individuals carrying out tasks in an employment relationship with an employer over a period, where they have a continuing relationship, and that relationship needs to be mediated. It is one of a power imbalance naturally, which is why we talk about collective bargaining as being so important. It is one that needs to be regulated by legislation, and, as Jonathan was saying, by effective management relationships. I suppose what we have been trying to think about is what kinds of employment standards and practices are robust to the new forms of technology, and apply them across the board.

We would always start with collective voice as the most important mechanism for addressing that. What Jamie just said about decisions being explicable is a really good principle. If we think about some of the debates on employment status, where people have found it really difficult to say how you should be classified—that was happening before the rise of platform work—that might be another principle that we want to put in place. What we are talking about, the principles of non-discrimination, are also really important.

One thing about the hybrid economy, or the potential of technology, we should be thinking about is how we can be more ambitious with the kinds of flexibility and autonomy that workers are offered. Kelle mentioned the increased potential for disabled workers to be part of the workplace. If you talk to many disabled workers, they will say, with some frustration, “We have been asking for this kind of technology to be used for a decade

and it is only in an emergency that suddenly we can have full and equal participation in meetings”.

There is a set of minimum standards that should sit under all our employment relationships, but we should be thinking about the potential of technology to drive that inclusion. I am sorry if that was a slightly broad answer to your question.

**Lord Pickles:** That is really helpful. Jon, regarding management style, how different will a hybrid economy be from how we have been going on?

**Jon Boys:** I am fairly excited about what this could mean, because we will only increase the number of options available by having home-working as something that people can do. There will be a few toss-ups, a tussle between the benefits to working from home—we all have a better work/life balance—and the benefits from being in the office and face-to-face interaction. One of the biggest things, and big unknowns, is what it will do for innovation and ideas sharing. There is quite an ugly phrase that economists use of “agglomeration economies”, which is literally what happens when you get lots of people in the same place sharing ideas. It is a two add two equals five sort of phenomenon. There will be a bit of a trade-off between the two.

One thing about monitoring and management practices might need to be let loose that has been coming since about the 1940s. There has been a move towards recognising the sociology of work and autonomy and the merits of autonomy and work. It requires a shift. That shift has happened because about 12 months ago you might have heard the phrase “shirking from home”, but I do not think anyone uses that phrase any more. We have clearly demonstrated that we can work from home, and there is no assumption now that the people working from home are shirking, because we have done the experiment.

There is a really good example that I like. In 2014, there was a train strike on the London Underground, and a study found that after the strike 10% of people who took a different route stuck with their route. That is a really good example of what happens when you force experimentation. If our first lockdown had lasted three months and we had gone back to work, nothing much would have changed, but now we are in lockdown three, these norms have really had a chance to embed. There has been quite substantial investment in ICT.

I think that the biggest shift is in management thinking about control and what you can do with people. I think that we will see a return to the office, but certainly elevated levels of home-working, and a hybrid economy.

That does all sorts of fun things. For example, you can apply for jobs further away if you have to commute only a couple of days a week, so you could expand the labour market. Firms can have a larger geographical reach of their talent pool.

We will see some big shifts, and certainly a move towards more hybrid working, which is here to stay.

Q107 **Lord Hain:** I am a little worried, but you tell me if I am wrong, that this discussion is happening in a world that is relatively middle class and relatively comfortable. The reality that I see around me, perhaps because I live in a former coal-mining area from where I am speaking to you now, is increasing inequality on class, income, gender and disability. We have touched on some of these.

I would like to probe a little further on recommendations that this committee is interested in for changes in the law. Jamie mentioned lifting anti-union laws. It would be good if you were a bit more specific about that. Kelle, will you tell us a little more specifically about workers' rights for platform workers? We have seen a retreat from large employers to small employers and now to individualised working, whether you describe it as gig or platform, or whatever, and a decline in unions. Unions now in the private sector are 10% and falling, and overall union membership is 20% and falling. You have to have some other way of empowering and giving workers opportunities, and I do not think that we have gone into that as much as we should, or am I wrong?

**Dr Jamie Woodcock:** I am pleased that you repeated the question at the end, because the moment you said my name during your question my Zoom cut out and I lost that. If it was about anti-trade union laws, I am very happy to speak about that.

The first thing is that there are two trends with trade unions at the moment, broadly speaking. The first, as you identify, is a secular decline in trade union membership, particularly in the private sector. I also think that there are some very exciting things happening with new groups of workers who are beginning to organise. I do ethnographic research with a series of groups of workers who are becoming organised for the first time. One of those is a group of Deliveroo workers who are taking the court case today.

For many people in the platform economy, one of the issues with misclassification is that self-employed workers do not have the same rights to a trade union as workers or employees do, which is what the Deliveroo case today is about.

For many workers—for example, video game workers who have recently unionised with the IWGB, or technology workers who have recently organised with the CWU—many of the frameworks around which people organise can feel quite outdated and restrictive. We need to make it easier for workers to raise their voices collectively and have a discussion about the quality of work. I will tell you a very quick anecdote about this.

**Lord Hain:** After the session could you send us specifically what you mean by that?

**Dr Jamie Woodcock:** What I mean by ways to increase people's voice?

The first one is that full employment rights should be granted to workers and employees from day one rather than after two years. Many young workers are scared of being sacked for talking about their rights at work. As Jon noted, if you wait two years for an employment tribunal, and you are sacked, that does not feel like a great recourse or being able to have a say in your workplace. We need full employment rights immediately, and we need much more strenuous protection of people who are treated differentially or sacked for being part of or organising with a union.

**Lord Hain:** Kate, will you comment on that before I ask Kelle?

**Kate Bell:** Sorry, my internet is struggling a little. I have two things to say. One is that we have a comprehensive set of proposals that I will send you on repealing anti-union laws, including the Trade Union Act 2016, which made it harder to organise.

In this context, one thing that we asked for, and the Government did a review of, was the ability to use e-balloting methods. The Government published a review of that in 2017, but have taken no action on it, which was a way of modernising methods of union democracy.

The other thing I wanted to mention in the context of rising inequality, which we absolutely have seen over the last decade, is the context of austerity, which also helped to drive those employment practices. We had very weak demand in the economy. We had a downgrading of terms and conditions in the public sector. We had economic demand sucked out of the economy. In that context, businesses were taking on greater risk, with their ability to pass that risk on to workers, which is part of what I think explains the context of insecurity that we have seen over the past decade.

Stronger employment rights are absolutely vital. Stronger trade union rights are the key, but that also needs to be taken in a macroeconomic context where we are investing to deliver better jobs in the public sector and in the private sector, meeting perhaps the Government's levelling-up agenda. That broader context is also important alongside the stronger employment rights that I think the panel is reasonably united in wanting to see.

**Lord Hain:** When you send us those details, will you frame them in the context of a digital inquiry? We are not so much doing an employment rights inquiry as a digital inquiry, but this is clearly part of it. Kelle, will you comment on the question?

**Dr Kelle Howson:** My research is internationally focused, so I am better placed to comment on the challenges faced by gig workers as regards organising and expressing collective voice than specific issues with UK legislation. However, I would be happy to consult colleagues and follow up with some supplementary information, if that is helpful, about specific proposals.

One issue that we see linked to the digitalisation of the economy is that platform workers, in particular, tend to be much more atomised in their work. Quite often they have difficulty accessing management and are not always able to communicate with a human representative of the platform. Quite importantly, they are often at risk of arbitrary or unfair dismissal if they try to make their voices heard. I completely agree with Jamie that extending employment protections to platform workers is the most important place to start, specifically when it comes to protection from unfair dismissal, which is one of the biggest barriers that we see to organisation.

**Lord Hain:** In that respect, what about sick pay and maternity and paternity rights?

**Dr Kelle Howson:** Absolutely, that would be within the suite of employment rights that most platform workers currently do not have access to. The practice of classifying workers as self-employed of course reduces costs for companies quite substantially, particularly because they do not have to pay these kinds of benefits—sick pay, holiday pay and maternity leave—and they do not have to shoulder the risks of having employees or workers. However, we would really question whether platform workers fall into this category of self-employed workers. Usually they are dependent on platforms, and they cannot delegate their work to others or set their own rates.

**Lord Hain:** Are you looking for a set of minimum standards, effectively, for these platform workers, digital workers?

**Dr Kelle Howson:** Yes, those minimum standards already exist, and we argue that they should be extended to platform workers.

**Lord Hain:** I do not know whether Jon has anything to add to that question.

**Jon Boys:** Only that we did a report *People and Machines: From Hype to Reality*, and it really emphasised the importance of employee voice when bringing in changes. Essentially, there are plenty of positives that can come about from investment in particular in things like AI and automation. It can boost business improvement, productivity and employment. The businesses we asked saw more jobs as a result of investment in tech than not, but, fundamentally, it was about increasing employee voice in the process. Whether that be through collective agreements with trade unions, or other more informal ways, we would really emphasise the need for voice in any decisions about technology.

**Lord Hain:** That then raises Kelle's point that you cannot as easily speak to your manager because you cannot just go down the corridor in that atomised form of working. What do you do about that? I think that we all feel it in dealing with platforms, sitting at home trying to get a problem solved.

**Jon Boys:** That is a really good example of where some sort of collective agreement and better ability to organise would probably be beneficial because of the atomisation of these workers.

Q108 **Lord Alderdice:** I would like to pick up from where Lord Hain was questioning. Work of course has many functions. It is not just about income, but income is important, and even people who are in employment are often still in poverty, as well as insecurity.

It seems to me that many of the mechanisms that you have mentioned are trying to, as it were, update approaches from previous arrangements. That is a very appropriate thing to do, but there is one other mechanism that has been gaining currency in this area and that really changes the picture quite dramatically—a universal basic income, whereby all citizens would get a basic income that removed, to some degree, or at least diminished, the vulnerability to substantial poverty and, indeed, to insecurity. If you are very afraid that if you lose your job you will have nothing coming in at all, especially in the gig economy, a universal basic income would help that, at least a little. Have any of you explored this question of a universal basic income and its implication for the questions that we have been talking about?

**Dr Jamie Woodcock:** I have a few things to say on this. The first point is that there are two different kinds of universal basic income. We have to be careful to think about what form of universal basic income we are talking about.

The first is the form you are perhaps thinking of: an amount of money that frees people from other constraints, and which provides more flexibility and alleviates poverty, in various ways.

There is another kind of UBI, where, instead of receiving services from the state, you receive a cash payment and then you choose which healthcare provider, or whatever, to go for. It can become a form of privatisation of the state, in various ways.

One of the risks, given that we have discussed across a number of questions the lack of democratic say that many workers have over their work processes, is that a UBI could instead be used by many unscrupulous employers to lower what they are paying people, and have the state pick up that lack of pay. A UBI would work only if people had a say in how it was shaped and it was able to actually deliver on the kinds of improvements that people need. Right now, I am not so confident that would happen.

**Kate Bell:** In 2017, we did a report on this looking at the pros and cons, which are balanced, as Jamie was setting out. One thing that I find useful about the concept of universal basic income is what it helps us to think about.

Should there be higher levels of basic social security? Yes, we have been calling for a long time for Universal Credit to be significantly increased. We could achieve that now without a complete overhaul of our system.

Do we think we should return to a system of universal payments for children in the form of child benefit? Absolutely.

Are there other things that we could make universal—for example, a universal learning entitlement? We have been arguing for that for a long time, for workers. There are definitely elements of universalism that would give people more security and stability at work, which we could introduce without necessarily the wholesale overhaul of our social security system that a universal basic income might involve. We would absolutely support the idea that we should be giving more security to workers when they need to rely on income other than work.

**Dr Kelle Howson:** I do not have much to add to what Jamie and Kate have said. One small point to make is that I absolutely agree that we should be thinking about innovative ways of providing a safety net for those who are falling through the cracks. One possible risk of universal basic income, if it is not accompanied by other measures, is that it could come at the expense of targeted measures that are trying to address the inequalities that exist in the labour market. There need to be more targeted forms of security for the most vulnerable.

**Jon Boys:** I would probably say the same, particularly in the context of Covid and getting support out of universal basic income: it is not very targeted. It is a phrase that I hear less and less now, and that is because it was a product of about two years ago. We were getting quite excited about the idea that automation would get rid of vast swathes of jobs and we would have people who needed income but no route to get it. Now that business investment is so down as a result of Covid, and we are not expecting such high productivity increases, it is less of a worry that people will not have the link between work and income. It is exactly what the other witnesses have said. More targeted interventions are where we probably need to go, at least in the immediate future, in the Covid crisis.

**The Chair:** Before we come on to the next question, I would like to be totally clear about all your views about the nature of the pandemic's relationship to the increase—or not—in platform working. I want to ensure that we have teased out your answers on this one because it is so important. Anybody may feel free to chip in on whether you see the pandemic as having increased platform working, for any particular groups—going back to Lola's original point, which Peter raised as well—and whether it has revealed inequalities. Could you add anything? I feel we have covered so much ground and different topics, and I want to ensure that we have that question firmly answered about the relationship between the pandemic and platform working, and whether that has affected any groups, adversely or positively.

**Dr Kelle Howson:** In the short term we think that the pandemic has had a polarising effect on gig work. This has driven an increased demand for certain types of gig work. These have in fact been key services like delivery and logistics, which have allowed people to isolate and remain supplied. We have seen a huge increase in that. We also expect that with

a rise in unemployment there will be an increased supply of gig workers across the board.

In the short term, since the beginning of the pandemic, we have also seen demand for certain gig services drop off. As you can imagine, services that involve direct contact have dropped off, leaving workers with lost earnings. Those would include domestic work, potentially care work, personal grooming services, a lot of these kinds of services. The gig economy encompasses what we would call cloud work or online remote working, and with the rise in remote working, and an increase in digitalisation, certainly we would expect to see an increase in these types of gig work as well. In the long term, as unemployment is likely to continue to grow, the supply of gig workers is likely to grow as well.

**The Chair:** Again, to pick up on the inequalities—or not—within that growth, so that we really understand your view, Kelle, would you say that that will affect particular groups in a particular way? I am thinking particularly about black women you mentioned before or other subsections of demographics. Can you talk through that?

**Dr Kelle Howson:** Yes, we certainly see that certain demographic sectors are overrepresented in a gig economy, specifically in the most high-risk types of gig work in the pandemic context, like delivery and logistics. These workers have been at particular risk of contracting the illness and potentially passing it on to others. There are definitely inequalities, but as gig work grows and, as new sectors become platformised, as I mentioned before, the risk is of a race to the bottom, and of undermining the labour protections that exist for more and more types of workers.

**Kate Bell:** Kelle has put it much more eloquently than I was going to. There are two straws in the wind from the labour market statistics. One is that we have seen a really sharp drop in the number of people who are self-employed. There are around half a million fewer self-employed people since the beginning of the pandemic. That is not necessarily from gig work. That might be people who were falsely classified as self-employed reclassifying or rethinking of themselves as self-employed to gain furlough support. One trend that was being talked about before the pandemic, or a few years ago, was the relentless rise of self-employment. We have seen that fall off.

However, we have seen in the statistics that came out in August, and we will have new stats in February, a pretty sharp rise in the number of people on zero-hours contracts. I think it was about a 100,000 increase, although I will check that and confirm it with you. There, we saw it in sectors that are particularly female dominated, care and retail in particular. I think that we might see a shift in the forms of insecure work. That is not necessarily digitally mediated work. You will know that the national statistics do not give us good stats on that. We might see some shifts in working arrangements that we do not fully understand yet.

**Dr Jamie Woodcock:** I think that the pandemic, particularly through platform work, has increased inequalities with delivery drivers, as Kelle said, particularly with BAME—black and minority ethnic male workers. One impact that will continue to be exacerbated, and will have to be dealt with post pandemic, is in health and social care. We often think of platform work as being predominantly male—delivery drivers, taxi drivers and so on—but the largest growth area for platform work is health and social care. Arguably, more people work on platforms in this sector than elsewhere. The stress on the health service through the pandemic is likely to exacerbate the platformisation of parts of health and social care, which will have a hugely detrimental impact on predominantly women workers, and BAME women workers, post pandemic.

**The Chair:** That is a really important point, and we might need to come back to it. I can see that Lord Hain wants to come in. Will you make it a quick comment, because we have to move on?

**Lord Hain:** Briefly, does anybody want to expand on that? That is a profoundly important point, as you have said, Martha. Will anybody expand on that as regards recommendations for dealing with it?

**The Chair:** Do you want to add more colour to that, Jamie? I agree with you and it strikes me as very important. Could you give some examples of what that health and social care work looks like?

**Dr Jamie Woodcock:** I would be very happy to. There is an increased rise in private care work being carried out through platforms, particularly people finding care for older relatives, or people with long-term sickness, and so on. There is a question here where we have allowed a number of unequal practices to develop in what used to be minicab work or food delivery work, where we have said that these people are used to having precarious working conditions, and it is probably relatively similar to what it was before.

There is a bigger societal question for us about how we deliver care work, if we deliver care work increasingly through these platform methods. You can see that, if you were a platform operator operating care work platforms, the NHS looks like a very good opportunity to increase your business. It is a question of whether we can accept pizza delivery from precarious contracts—I do not think we should, by the way, as an aside—but if we have people who are carrying out long-term care for people, what is the impact of making them do it on very short, very precarious contracts, with no access to sick pay, for example?

When those risks and vulnerabilities are borne by people who are delivering care, it will impact the way we care for each other in our society. That is why what happens with Uber and Deliveroo is so important, because it does not have implications just for those workers but for a much wider suite of changes that might happen.

**The Chair:** We will come back to that, I am sure, in the recommendations. Kate, do you want to come in?

**Kate Bell:** Briefly, we already accept those conditions for workers in the social care system. One in four social care workers are on zero-hours contracts. Many of them do not have sick pay, and many more are working through agency work. We may be transferring their insecurity to one that is mediated through a platform, but we should not think that we are moving from a sector in which we have a good set of terms and conditions for social care workers, because they already work in terrible conditions. I think that is the point I want to get across.

**The Chair:** May we move on? Lord Pickles will pick up some of the future-facing questions.

Q109 **Lord Pickles:** I suppose it is a return to the hybrid world, but can we think about how technology might reshape the working landscape, again looking at a three-year to five-year period? What is the biggest threat to workers' well-being, and what action is needed to address it?

You have answered really well. I understand exactly about platform working, and I understand about the gig economy, but we are not going back to February 2020. It will be different and it will change. I suppose, Kate, I would like you to go on from the answer you gave me a little while ago. Would you care to speculate on the points we need to lay down and the protections we need to lay down to protect people's well-being?

**Kate Bell:** When we think about the future, it is really important to remember that the future will develop in the institutional context within which we shape it. We have a huge opportunity now. The Government promised an Employment Bill in 2020. They still have the opportunity to bring that forward. There were some positive proposals in what they were talking about, about legislating against short notice cancellation of shifts, about potentially improving enforcement and about rights for carers. We have an opportunity to take forward that legislation, and we would argue to strengthen it, with some of the proposals I have been talking about today.

There is also, as everyone has talked about today, the need to think about new technology, and how we address that, particularly about the use of surveillance in the workplace, and to ensure that our existing legislation is fit for purpose to understand how you implement anti-discrimination provisions, privacy provisions, collective rights in a context in which new technology is being used.

The other threat perhaps is that we fail to invest sufficiently in training to help people navigate the changing world of work, and we fail to plan collectively for the changes we want to see. The Government are promising us an industrial strategy refresh. That could think about which technological investments we want to see to address some of the productivity problems Jon talked about, and to address some of the problems we face in reaching net zero—a huge potential of technology.

At the moment, it feels as if this is being introduced in an unplanned way and in a way that has not consulted workers or businesses about the

potential, and where we want to see this technology used to encourage work.

We have seen some announcements from the Government about training, but we have also seen, for example, them pulling the funding from Unionlearn, which supports people into learning who have been away from it for quite a long time. We know that we will need to invest in that training and invest in an upgrade of workers' rights—not the downgrade that has been talked about over the last few weeks, I guess—and in new tools to tackle the technology. The biggest threats come from inaction rather than from thinking that technology will inevitably push us down a certain path.

**Lord Pickles:** Kelle, you were nodding a lot there. Do you want to pick that up?

**Dr Kelle Howson:** I really agree with the last point Kate made, which is that technology will not produce an inevitable path. Digitalisation, and specifically of course most of my knowledge is about platform working, can be a really important tool to address some of the crises that we are facing, particularly the crisis of unemployment. Platforms have the potential to increase productivity, to increase economic efficiencies, and we do not necessarily think they are inherently negative.

The issue that we see, as I have mentioned, is the practice of misclassification of workers as self-employed. We would see that as the biggest threat to worker well-being in the medium to long term, but we certainly would not take a wholly negative view of technology and digitalisation as regards its potential for either improving or undermining the conditions of workers.

**Lord Pickles:** Will you give a couple of examples of where it might be positive?

**Dr Kelle Howson:** Platforms have the ability easily to connect people with work and their immediate location, and flexible working can be extremely positive, as I mentioned, particularly for people who have faced higher barriers to traditional employment, 9-to-5 jobs, for instance. We would definitely not disregard the platform-working model. The only issue is that platform workers have been classified as self-employed when their conditions do not resemble those of self-employed workers.

**Dr Jamie Woodcock:** To reiterate some of that, we should be cautious about only critiquing platforms. Many workers want more flexibility, and they have not been able to get that from traditional forms of employment. Kate is right to say that non-platformed work has many problems. Some people are trying to escape the problems of the existing work by moving to platforms, and finding that the bargain is not what they expected, and that they take on a huge amount of risk, as Covid-19 has shown.

One of the biggest challenges ahead is this question of what happens with employment status. I say this because we often think of the future of work as a kind of imagined horizon that we will arrive at—that there will be robots everywhere and work will have completely changed. The reality is that the future of work is set by decisions that are made in the here and now.

The cases of Uber and Deliveroo are incredibly important for shaping what kind of future work arrives. You only have to look at what has been happening in California with the AB5 legislation about the employment test to see how high the stakes are, with who wins or loses in those legal cases. For example, it is worth noting—I was sent a number of briefing documents without asking for them from Uber to try to influence—

**Lord Hain:** What is the AB5 legislation?

**Dr Jamie Woodcock:** It is about employment tests in California that would have reclassified Uber drivers and Lyft drivers as employees. Uber spent huge amounts of money lobbying against this legislation being brought in. I do not know if any other witnesses received briefing documents from Uber trying to encourage me to say positive things about them as a witness. These things matter, which is why Uber is lobbying, and why we should have other voices—and critical voices—as part of this.

**Lord Pickles:** Jon, and then I will hand over to my colleague, Lord Harries.

**Jon Boys:** Yes, I got an email from Uber. My big concern about the time horizon you have given of three to five years is that we are still within the fallout from the pandemic in that timeframe. In about three years we might still have raised unemployment levels. Good-quality work has been high on the political agenda. There has been a lot of political will for good work, even in the commissioning of the Taylor review of modern working practices.

I fear the challenge is that in the environment we are going into furlough is kicking down the road the increase in unemployment, and there will be a transfer of emphasis from quality, good work to quantity. We will just need the numbers, and that will be the bigger political imperative. A three-year to five-year timeline might seem like the longer term, but it is those macroeconomic factors that will hold us back from good work more than some of the technological factors.

**Lord Pickles:** That was a wonderful dose of cold water on all our thinking, but very welcome none the less.

Q110 **Lord Harris of Haringey:** We have touched a couple of times during the course of the discussion today on the whole issue of workforce monitoring and workforce surveillance, and so on. Kate told us that it was not that widespread. I think you talked about 22% in some circumstances, 15% for rating people, 14% using it for work allocation, and so on. I would be interested in hearing a bit more about your ideas on, first, whether this

requires more of a framework of control, and, secondly, how it can be used in a beneficial way.

I get these strange bulletins from Microsoft Teams telling me how often I have been interactive with people, which, frankly, are of no use to me, and I cannot believe would be of use to anyone. Clearly, these tools are becoming more and more sophisticated. Are they necessarily negative? Can they be used positively? Does there need to be some sort of legal framework or regulation around them? It may be that Jamie and the others will want to come in, but Kate initially.

**Kate Bell:** There probably need to be legal changes. As I mentioned, we have a report coming out at the end of March that will look at some of that framework. I mentioned some of the areas about transparency, about rights to collective consultation, about reinforcing the rights to privacy that we might need to reinforce.

We do not yet know the extent of these tools. We have surveyed workers. We did one representative poll of workers and an online survey of union reps, and lots of people told us, "I have no idea whether this is going on in my workplace or not". I get those strange Microsoft emails as well. I am clear that my workplace is not using them to monitor me, but perhaps if I were working—

**Lord Harris of Haringey:** You are working in the TUC.

**Kate Bell:** I would be quite surprised. And I did not get emailed by Uber, I should say, which I think is funny. We do not know the extent of them, but we need a framework. One interesting thing we found was that, when we did that survey of union reps, some people were saying, "Could this be used to make more transparent decisions? Could this be used to check, for example, the extent of pay disparities for different ethnic groups, gender pay disparities and disability pay disparities?"

We need to be really clear about what things can be measured, what things are appropriate to apply a data-driven approach to, and what things will always be a matter of human judgment. We cannot do that through legislation, but a legislative framework can help us, as Jamie was saying, to ensure that you can explain decisions.

There are ways in which we collect data in our workplace. For example, we have a target to increase BAME representation, and we collect data on that within the workplace. There may be a tool that could help us do that much more quickly. That would be great. To help tell us what we are doing wrong in our recruitment processes, which means we are not making fast enough process on that, will need human decision-making. We need the legislative framework that enables the transparency and more discussion and collective negotiation about what types of decisions still need to be made by humans, in conversation and consultation with colleagues.

**Lord Harris of Haringey:** You mentioned that you have some work coming out at the end of March. I do not want to prejudice your

publication date, but it would be very useful if you sent our clerks a summary of that, and they can mesh it in so that we do not pre-publish anything that you are about to say. I suspect it would be quite informative for us. I do not know whether Jamie or Kelle want to come in.

**Dr Jamie Woodcock:** I would tell you a couple of things about electronic surveillance. The first thing to say about this is that it is not new. I worked in a call centre as part of a research project about 10 years ago, where there was extensive electronic monitoring. It is worth looking back at some of these examples to see how they might be used today. If anybody here has worked in a call centre, or perhaps had some time talking to people in a call centre, they will know that this has had very negative impacts on the quality of work, and has made call centres a form of employment that many people do not enjoy working in, or want to seek employment in.

The issue with call centres, in a way, because of the lack of effective trade union representation, or the lack of organisation, is that many of these technologies are brought in without consultation of the people working there. The problem with many of these tools is that just because they are available does not mean they are effective, and it does not mean they should be used at work. When there is a lack of democracy in the workplace, managers may just bring these things in anyway.

The discussion we have had in a couple of the questions about more voice and better industrial democracy, in a sense, would solve some of these problems. It is talking to a workforce about how it can be supported by management, and so on, rather than letting management measure how many toilet breaks you take every day, or whether the sentiment of your emails is being positive enough, because nobody wants to work in those conditions.

**Dr Kelle Howson:** I do not have much to add there on what has already been said. I would say that the central issue is that we do not know, and, more importantly, workers do not know, necessarily what kind of data is being collected, what kind of surveillance is happening, and how that feeds into, as Jamie mentioned, management decisions and algorithmic decisions about who gets work and how much they get paid for it. For platforms in particular, a really important part of their business model is to closely manage supply and demand, particularly platforms like Uber, to be able to direct labour supply to areas where there is increased demand. We quite often see as part of that rising and dropping rates.

There is a wider implication of the data collection that a lot of platforms are undertaking, which is that it is much more central to the platformisation of the economy than we acknowledge. Traditionally, a lot of platforms have operated at a loss and entered new markets with heavily subsidised operations. One of the key motivations for this is the ability to collect proprietary data assets, and the potential future value of those data assets. I realise that this is not really proposing any solutions, but transparency with workers about what data is being collected is a really important start.

**Lord Harris of Haringey:** I assume that data protection laws allow you, and it may not be a good thing to do in the workplace, to request your employer to provide a statement of what data they hold on you, but, of course, that does not help you if you do not have some indication of where you are ranking, or where you fit in, and some explanation as to how that data is used.

Would there be some way in which that data could be made available to, for example, a trade union, or some other monitoring body, in anonymised form so that there would be a reference point for employees who wanted to see where they fit in relation to the way in which their employer is treating people?

**Dr Kelle Howson:** It would be excellent if there was a way to achieve that. I know that platforms would be very resistant to such a proposal, but if there is a regulatory way to achieve greater transparency with workers about data collection, we would very much be in favour of that. Jamie, perhaps you have a better idea than me of a concrete possibility.

**Dr Jamie Woodcock:** A very small example is that there is a risk sometimes that we talk of platforms as if they are unregulatable, because they have presented themselves as unregulatable in lots of ways. There is a fantastic example of Uber in New York, where the New York limousine and taxi licensing authority essentially said to Uber, "If you do not hand over your data, we will email every single one of the drivers who drives on our platform and tell them their licence has been suspended for Uber". Uber then brought all the data and gave it over to the licensing authority.

If we think of it in a UK context, Uber drivers are licensed. In London, Transport for London provides the licences. It has leverage with these platforms. We need to be more creative about what we ask for from platforms. One of them is to say, "You should provide data, otherwise you can't operate here". A challenge for individual workers is what you ask for. Data literacy is very challenging in lots of ways and, if you do not know what to ask for, you will not get the right answers. This is where regulation can play a role of saying, "You must disclose these things, otherwise you won't have a licence to operate".

**Jon Boys:** My comments are very similar to Jamie's initial comments. Often we monitor pretty crude inputs—key strokes and moving the mouse. You would be much better off monitoring outputs, but sometimes they are a bit more difficult to monitor. We produce guidance for our members, HR professionals, on monitoring and we say, "Yes, you can do it, but we strongly encourage you not to". We say that it has to be legal and ethical, but really you have to think about whether it is even an effective thing to do, given the gains that come from people knowing that they have autonomy to do their roles.

It comes down again to the fact that there are sufficient laws in things like GDPR, but it is about interpretation. The areas for improvement are again about voice, whether that is an official or an informal channel. That

is the best way to introduce these changes. We encourage them not to, but we say, yes, it is possible.

**Q111 Baroness Benjamin:** I would like to thank all our witnesses. You have given us much food for thought this morning. From listening to you, it shows what many of us suspect and know, and that is that in our society there are many people and communities, especially those from a minority background, who feel left behind, taken advantage of, not considered by employers and policymakers.

As an optimist, I feel that the pandemic has perhaps given us an opportunity to rectify this as we move beyond Covid, and to give as many people as possible optimism, hope and fairness for the future. We need to use every tool we have to fix this oversight as we hurtle into the digital future.

With that in mind, are there any other recommendations that you would like this committee to make in our report to present to Government, employers and other policymakers to protect workers' rights, and their well-being, in this digital age? I would like to start with you, Kate. Perhaps you could tell us what your further recommendations might be.

**Kate Bell:** Thank you. It is nice to have a note of optimism. I feel that I have had a great opportunity, and thank you to the committee, to set out our priorities. I would reiterate collective voice, stronger regulation about fair scheduling, including in zero-hours contracts, better enforcement, new rights about access to data and surveillance, and the importance of training.

One thing I would say in the moment of optimism, and in recognition of the work that key workers have done during the pandemic, is that a pay rise for key workers would be a really important way to make people feel more valued. We are very concerned about the public sector pay freeze that has been put in place. A rise in both the minimum wage and in key worker pay across the public sector would be one way to give that sense of optimism and recognition, which so many people have realised we now need.

**Baroness Benjamin:** Do you think that optimism is lacking in the workplace at the moment?

**Kate Bell:** I think that optimism has been lacking this January generally. I feel that there are things that the Government could do to inject that optimism, and starting with pay might be a good way to make people feel some kind of tangible benefits and a real improvement in their lives.

**Baroness Benjamin:** How about you, Jamie?

**Dr Jamie Woodcock:** Trying to feel optimistic coming out of January is challenging in lots of ways. The pandemic is an opportunity, or at least coming out of the pandemic is an opportunity, because I think it has shown many of the inequalities that perhaps not all of us were aware of before. This is particularly the case with key workers. I would echo what Kate has said about an increase in the minimum wage and pay rises for

key workers, and for people who have not fallen into the key worker status but have performed key worker roles in many cases.

An important area is access to justice. I note that there are some delays with the single enforcement body. From my research, huge numbers of people think that it is relatively normal in work to not have access to justice, to have pay withheld, to not have access to payslips, to not get holiday pay, particularly young workers.

We need a twofold approach, one of which is about access to justice, not having to wait two years for an employment tribunal to correct wrongs at work, and on the other side thinking about how we can empower normal people in work to think about the future of work that they want.

A core part of that is what we have talked about with repealing anti-trade union laws, and facilitating ways for people to organise, and taking seriously people's perspective on their work, and what they want from work and their communities. That is a big challenge, but, if we do not listen to people, one thing that may come out of the pandemic is that people will want revenge for how they have been treated. We should take this opportunity to listen to people and support them as part of that process.

**Baroness Benjamin:** I am interested in your talking about revenge. What kind of revenge do you think the workers would want to take?

**Dr Jamie Woodcock:** For many workers in precarious work, if your employer has not furloughed you, or insisted that you continue coming into work, or not found ways to recognise your contribution, that creates an underlying conflict with people that I think will come out in different ways. We cannot say that we can just ignore the inequality in society. It will find its expressions in different ways. We should find a way collectively to work through those things and build a society that works for everyone rather than continue to polarise, which is what has happened during the pandemic.

**Baroness Benjamin:** Thank you. What about you, Jon?

**Jon Boys:** It would be similar to some of the things that Jamie and Kate have said. Voice is very important, as is beefing up the existing enforcement regime. A well-resourced single enforcement body would be great, with more labour market enforcement inspectors. The Government should take responsibility perhaps for compensating employees when there is non-payment by their firm when they have actually taken them to court. After the delay and getting a positive result, they are often not compensated.

We have also advocated a large "know your rights" campaign. The Government could work with organisations such as trade unions and professional bodies—ACAS and Citizens Advice—and run a high-profile campaign. People are often not aware of their rights in the first place. Even getting further along the stage of going to an employment tribunal,

if you are not aware of where you stand in the first place, you do not know where to start. It is about beefing up the existing enforcement regime.

**Baroness Benjamin:** Jamie, going back to something that you said when you described not getting sick pay or holiday pay, it sounds like the life of actors. That is the kind of life we have. There is no security whatever. Perhaps if we have changes, our actors will benefit from this.

**Dr Kelle Howson:** To pick up on your point, yes, we quite often see artists, actors and musicians also falling under these insecure conditions. That is where the original term “gig” work came from—gig workers and musicians’ gigs. We have seen that a lot of the key services that we have relied on as part of the pandemic response have been performed by workers without this security. Of course, there are implications for those workers themselves, and for their dependants, and their communities, but there are also wider implications for our ability to respond collectively to crises in the future, if important services continue to become more insecure and more precarious.

One way to address the misclassification of workers is to put the onus on firms to prove self-employment instead of workers proving that they are misclassified. Of course, there is a legitimate place for self-employment, but at the moment the self-employed category is being abused. We think that there should be clarity up front as regards employment contracts and employees’ rights and benefits. As Jamie said, a lot of workers and gig workers are not actually aware of the rights and benefits they have as employees. Ensuring that information is included up front when entering into any kind of contract, as well as transferring the onus to firms and to platform companies to prove self-employment up front, would be good measures to extend basic rights and protections to gig workers.

**The Chair:** May I come in on that point, Kelle, and ask the others as well? I am conscious of the fact that we have not quite cracked or talked about the relationship between employer, government and individual, particularly in the working from home or platform-based work economy. I take completely into consideration the important point that Kate made that only half of people are working from home, but in the future we have to believe that there will be more platform-based roles, as we have discussed.

I am interested in where you think the responsibility for supplying broadband and basic energy into homes and office equipment should lie. I am lucky enough to work with a lot of the Silicon Valley companies, and they are supplying huge amounts of stuff to their employees. I am interested. because I do not think that any of you have mentioned the responsibilities and rights about what that set-up looks like and where the responsibility lies. Does anybody have views on that?

**Dr Jamie Woodcock:** May I add a brief comment? Particularly in London, where I am based, the shift to home-working for many people has been very difficult, particularly for younger people living in shared

accommodation with little space to work. I see this particularly with my students: students who are having to log in to online classes with multiple people in the room, and so on. It is really important that we do not look at our own situations and think that everyone has an office that they can Zoom from. It is definitely not the case.

We need to revisit access to broadband. Broadband is a utility and it should be treated as such. The privatisation of the telecoms network has been an abject disaster. We need to revisit these things, because people cannot work from home with poor internet. The state can play a role in supporting infrastructurally how we make that move to digitalisation, otherwise people will be left out, particularly outside cities.

**Jon Boys:** I have talked to our rewards specialist. We do a rewards survey every year, and he said that it is mostly the employees who are paying for working from home at the moment. Part of that is because, when we did the surveying, this was at an earlier stage of the pandemic and we thought it was.

**The Chair:** We thought it might be a month.

**Jon Boys:** Exactly. Some organisations have home-working allowances in place already. We suspect that a lot of people are doing what we are doing at CIPD, because there is relief available through the tax code. There are some drawbacks to this. It is not necessarily a drawback because if you are a higher rate taxpayer you get more relief than a lower rate taxpayer, so it is not necessarily fair, but I suppose we have it with pensions as well.

In the future, when things become a little more hybrid, it is about who should pay. At the moment the jury is out. We had this conversation and we could not get to the bottom of it, because there are costs and benefits for both sides. Working from home we save a lot on commuting, et cetera, but we have the bills. In the office they are not paying for lots of rented space. It will be interesting to see how it pans out and where the balance of costs and benefits lies.

**Lord Hain:** A number of parliamentarians in our different legislatures have been able to claim extra allowances for working from home, for heating and stuff. Should this be a right for home-workers, for platform workers, working from home?

**Kate Bell:** At the risk of sounding like a broken record, this will be an issue for bargaining. At the moment, these are issues that are bargained. Whether you get London weighting, commuting costs, or help with your childcare costs, these are decisions that are best made collectively. One reason why it is so important that those decisions get made collectively is because it can help to avoid some of the two-tier workforce issues that I think are a real risk. For example, it is very difficult for cleaning staff to work at home, whereas it is much easier for office-based staff to have that flexibility. There will have to be workplace-by-workplace

conversations, and they have to be conversations that take into account the whole workforce and the differing needs.

**Lord Hain:** What about the vast majority of workers who are not in unions, which is, regrettably, the case?

**Kate Bell:** That is definitely the case. There are collective consultation mechanisms as well. They have become slightly easier this year with the threshold for collective consultation being lowered in April. That is why we have for a long time argued for the potential for minimum standards to be set across sectors, through bargaining, as the Low Pay Commission does, for example, perhaps at a sectoral level. It will be difficult to see this as more than a collective negotiation on a workplace-by-workplace, sector-by-sector level.

**The Chair:** Does anybody have anything else that they would like to ask our witnesses, who have been so helpful? I am so conscious that this is such a nuanced and multilayered area of our inquiry. You have been very careful to point out that although we are all sitting in our offices—and I think I can speak for my colleagues when I say that we are all lucky enough to have a good space to work—half the population are not working from home, and even the people who are often are struggling. We need to ensure that in the future the best possible working environment is created.

I am very conscious that we are building that now, as you quite rightly say, Jamie. We will endeavour in our inquiry to ensure that we put the best building blocks in place. I am sure that I speak for my colleagues when I say you have all been so helpful and thought provoking. It has been a really interesting session. I certainly took away a lot of nuance, sophistication and complexity from what you are saying, which we will try to reflect.