HOUSE OF COMMONS

Scottish Affairs Committee

Oral evidence: Sustainable Employment in Scotland, HC 762

Wednesday 29 March 2017

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Watch the meeting

Members present: Pete Wishart (Chair); Deirdre Brock; Mr Christopher Chope; Margaret Ferrier; Chris Law; Ian Murray; Anna Soubry; John Stevenson.

Questions 586 - 725

Witnesses

I: Lesley Smith, Director of Public Policy, Amazon, Andrew Byrne, Head of Public Policy, Uber, and Dan Warne, Managing Director, UK and Ireland, Deliveroo

II: Willie Macleod, Executive Director in Scotland, British Hospitality Association

Examination of Witnesses

Lesley Smith, Andrew Byrne and Dan Warne.

Q586 **Chair:** We welcome our guests to the Scottish Affairs Committee hearing on sustainable employment. Thank you for attending this session today. Just for our records, do you have anything to say by way of a short statement? We will start from left to right with Mr Warne.

Dan Warne: I am Daniel Warne. I am the Managing Director for Deliveroo. We are a British tech company that provides food delivery from restaurants across the country to customers at home. We work with over 10,000 restaurants across the UK and we work with 15,000 riders who deliver the food on our behalf.

Andrew Byrne: Hello. Thank you for having me here today. I am Andrew Byrne. I am from Uber, and we operate in Glasgow and Edinburgh and hold nine operator booking office licences in Scotland.

Lesley Smith: Good afternoon. I am Lesley Smith from Amazon. We have 2,500 people in Scotland spread across six different sites, and we have been in Scotland since 2004. We support around 10,000 Scottish sellers in our marketplace. I am very pleased to be here. Thank you.

Q587 **Chair:** Great, thank you. That was very concise. By way of an opening question, what we are considering is obviously sustainable employment in Scotland and what we are interested in is the range of your activities within Scotland. I think you mentioned Glasgow and Edinburgh where Uber is operating. Can you give us a sense and a flavour of where you are in Scotland, how many people you might have in your workforce? Are you looking to grow your business in terms of your approach? I think we are all intrigued by this term "the gig economy", too. I don't know if it is seen as a derogative term to you, but maybe you can talk a little bit about what type of approach you take to these employment issues so we can best understand what you are trying to achieve. We will start with you, Mr Byrne.

Andrew Byrne: Yes, sure. Uber has been in Scotland for just under two years now and operates in two major cities. We have just under 1,000 partners across Glasgow and Edinburgh, a broadly similar number in each. For those of you who might not have used it or don't know, Uber is in its simplest sense a smart phone app that allows you to push a button and a licensed private hire car normally will come and take you where you want to go.

We don't typically call ourselves part of the gig economy. When it comes to employment structure, we don't tend to think there is anything particularly novel about Uber in that sense. Taxi and private hire is the second largest self-employed occupation in the United Kingdom. When we were setting up our business, we looked at previous existing models and chose self-employment as something that was natural in the industry. Self-employment is something that is very common in our sector. I guess what is different about Uber, and how we think about our relationship to the people who work on the platform, is it is all about control.

We operate a slightly different model in the sense that we don't set shifts like a typical private hire company, nor do we penalise someone who decides not to work. There is no minimum number of hours. There is no maximum number of hours. That is something that is very much down to the control of the individual who gets to choose where and when they work. Broadly speaking, around 25% of our drivers work for fewer than 10 hours a week—so work relatively little—and they are often either fitting earning money around another job or caring for someone or whatever their other family priorities are. Another 25% work above 40 hours, so work you would call typically full-time.

Q588 **Chair:** We will get into some of the employment issues in the course of the questions that we have for you, but first, I am interested in the scale of your activities just now. Is there any particular reason that Uber, for example, is just in Glasgow and Edinburgh? Are there places where the app is applicable and places where it isn't? I am thinking that maybe you would not be looking to expand in rural areas, for example. Are you looking to expand your operations in Scotland?

Andrew Byrne: We are, but what determines our expansion is we have to get licences in every different jurisdiction that we operate in. That means in every jurisdiction in Scotland, or in the rest of the UK, you are required to have an office and a licence from the local council. That takes time and it takes investment and it also takes having people there as well. Typically, we go we go to the largest cities and then radiate outwards from there. Then you have to go through the process of getting licences in different places.

Q589 **Chair:** What about Deliveroo? Are you looking to expand business in Scotland? For example, do you have any idea of the size of your workforce and where this tends to operate within Scotland?

Dan Warne: Absolutely. Just to give some context, we entered the Scottish market two years ago when the business was quite small. Scotland was the first country outside of England that we went into. At the time I launched the first office in Edinburgh, which is where we are HQ'ed. In Edinburgh we have 12 employees. Those individuals work with the restaurants and some of the riders who we work with.

In terms of the restaurant population and market size in Scotland, we consider it to be a very big opportunity for our business. We operate across seven different markets ranging from Edinburgh, which is the largest for us, through to Perth. We work with 450 restaurants and high street operators delivering food for them to customers at home. Just for context, these are restaurants that will not have done food delivery previously. We are offering an incremental revenue stream for them and providing an addition to the economy overall in Scotland. Then we work with approximately 1,000 riders who take the food from the restaurants to the customer, and we have approximately 750 riders in Scotland who apply to work with us on a weekly basis.

Q590 **Chair:** What about you, Ms Smith? You can answer the question, too. What do you know about your workforce? Are they significantly different in Scotland from the rest of the UK?

Lesley Smith: They are not significantly different from the rest of the UK. We have been in Scotland a long time. We have been in Scotland since 2004, when we opened our Gourock fulfilment centre and we opened our technology development centre originally in Edinburgh. It was our first technology development centre outside North America, so we are very proud of that having been the first in Europe and the first outside the US. That is still very strong in Edinburgh because it works with the university and it has been very successful in attracting international talent.

We have just over 2,500 people across six different sites. It has grown recently by about 300 or so since the Christmas peak; we took on temps and we retained some of those after Christmas. That is spread across two fulfilment centres: the development centre, and our customer service centre in Edinburgh. We serve the whole of the UK from that centre and we also do testing of piloting new product launches and so on there. Then we have delivery stations in Glasgow and Edinburgh and for Prime Now in Glasgow and Edinburgh and then outside in Dundee and a temporary site in Aberdeen.

Additionally, for deliveries, we have three main forms of delivery. We have always had our contracts with external national carriers, like Royal Mail, UPS, and DPD. In addition to that, in 2012 we were concerned about capacity and adding capacity, because there was a lot of competition for delivery. We wanted to find a way of tapping into regional delivery businesses, small businesses, independent couriers, all sorts of people. We set up Amazon Logistics at that point. We have 12 delivery service agents who are independent businesses that we use around Scotland, and they engage independent drivers in turn. They have about 600 drivers on their roster.

Q591 **Chair:** Is all this activity app-based, too, then with Amazon?

Lesley Smith: It is an app-based system. We have a thing called Rabbit, which they can use on an android phone. Then we separately have Amazon Flex, which is a largely city-centre operation. It operates in Glasgow and Edinburgh and people can sign up for blocks part-time to fit in with their other job. So 60% of those people already have a permanent job of some sort.

Q592 **Chair:** I am interested in what you know so you can help this Committee about the nature of your workforce. For example, how many people would use these apps as their main source of income compared to those who might do a few light hours here and there? Do you know? Do you have figures for that?

Lesley Smith: In our case, with Flex, the majority of them don't. It is very part-time. They are typically doing less than 10 hours a week and they are not necessarily doing it every week. They can book in for whenever it suits them. We did a survey of people who were using the app—about 42% or 43% have a full-time job; about 21% have a part-time job; and others are fitting it around study or childcare or other things.

Q593 **Chair:** That is about half the people will use it as a top-up for other forms of income then?

Lesley Smith: Yes. Amazon Flex typically they are using as a top-up to other income.

Q594 **Chair:** Is this roughly the same in your line with Uber? Perhaps you could tell us.

Andrew Byrne: Our numbers would be slightly higher probably in the people who are using it as a full-time income. Our average number of hours is around 25. There are a significant number of people—probably more than half—who use it as their full, primary source of income. That said, it is possible to be—

Anna Soubry: I am so sorry, I cannot hear very well.

Chair: I know; there are helicopters in the background.

Anna Soubry: You do speak very fast, and I think we absolutely want to know and understand. For a lot of us, we have never had any experience of this sort of employment, so we need to understand exactly how many people you employ on what type of contract. It is really important so we can ask the right questions.

Chair: If you can, just speak up because we have helicopters buzzing away in the background.

Andrew Byrne: Sorry, yes, I totally understand. I will try to be as clear as I can.

Anna Soubry: Thank you so much.

Andrew Byrne: I was saying that the typical number of hours somebody works on the app in Scotland is around 25. We think more than half out of the 1,000 or so individuals who use the app are using it as their primary or main source of income. That said, it is also possible to be logged on to the Uber app—so waiting to receive trips from Uber—and also be working for other private hire companies at the same time because there is no exclusivity arrangement. You can work for multiple people at the same time.

Chair: Deliveroo?

Dan Warne: We use a contractor model, so a self-employed model, which reflects the work that those individuals who courier for us do. We have an average of 13 hours worked per week, which is unsurprising given the relative age of the fleet. In Scotland, 75% of our fleet are below the age of 25. These are individuals who are typically doing this alongside either another job or doing it alongside their studies. Through an internal survey, we understand that 85% of individuals working with us also have work elsewhere, or other commitments elsewhere, which is why the model that affords them a greater degree of flexibility is what we chose to use for the fleet both across the UK and in Scotland.

Q595 **Chris Law:** I want to ask a quick question to you, Andrew. Did you say that more than 50% of your workers work full-time? Is that correct?

Andrew Byrne: Yes, indeed.

Q596 **Chris Law:** How many of that more than 50% have a permanent contract with you?

Andrew Byrne: Every individual is self-employed.

Q597 **Chris Law:** They are working full-time for you, but they have no permanent contract or anything that would give them security of rights, is that right?

Andrew Byrne: That is correct; yes, self-employment.

Q598 **Ian Murray:** One of the key things I think you have said already is that this is a good way of bringing people back into the workforce. I wonder if you could give us a very quick exposition of what someone would do—maybe I could direct this to Uber—if they wanted to be an Uber employee or an Uber worker, in the sense that they are unemployed and they have decided to come on to your platform. What is the commitment they need to make? What checks do you do? How do you make sure if they are self-employed that they are abiding by their own responsibilities for tax and so on? What does the experience look like for them?

Andrew Byrne: Sure. It is probably easier to take one that isn't a private hire driver. We have a specific programme to help people who have not driven in private hire before. That isn't to say that lots of the individuals who use the Uber platform have not already been in minicab companies, and probably the majority previously have been in minicab companies before.

The first thing you would do when you wanted to use the Uber platform is we would help you go and get your licence. You are licensed by your local authority and that includes an enhanced DVS check, so your background check. That is probably the most important part. You also have a medical to check that you can drive a car and you don't have anything that is going to compromise you there. Depending on the local authority, you also go through a certain number of requirements that come from the local authority. They normally include a test to say that you know the local area relatively well, or that you have disability awareness training and things like that.

Once you have passed those tests, you come to Uber and show us your licence. We check all your documentation for your car to make sure it is roadworthy—it has to have a certain number of MOTs per year; it has meet particular requirements that are set, again, by the local authority—and also your insurance certificates and all of your relevant insurance documentation.

Q599 **Ian Murray:** We have gone through all those checks. You have approved someone. What then happens in their day to day?

Andrew Byrne: What then happens day to day is totally up to them. Unlike a traditional taxi or minicab company, where you would typically pay £250 perhaps at the start of the week as a radio fee and that will give you the privilege to receive dispatches over the course of the week over certain shifts, for Uber there is no requirement. Uber takes a commission or a service fee out of every fare. That means you can genuinely choose to work two hours a week, zero hours a week or 30 hours a week. It is totally up to you.

They are given guidance around what times the app is busiest to earn the most money, and you are given training on how to use the app itself and what that means and what the customer expectations are. There is no requirement then for certain individuals to work a certain number of hours. We find that we have a lot of people who supplement income—we have actors, medical students and lots of students who work very seasonally. As long as your documentation is up to date, it is totally up to you and you can choose exactly how you work.

Q600 **Anna Soubry:** Can I ask a question? How do you know that you have actors, students, medical students? What do you do? Do you take details of people and what their other work is?

Andrew Byrne: We don't go quite that far.

Anna Soubry: How do you know then?

Andrew Byrne: Just through talking to people.

Q601 **Anna Soubry:** Who talks to people?

Andrew Byrne: We have offices in every place that we operate and people come in and see us.

Q602 **Anna Soubry:** I don't understand how this works because this is not a traditional form of employment. Normally, if you employ people you know them and you engage with them. Do you have any human resources or equivalent of that in your organisation at all?

Andrew Byrne: For example, in Scotland there is a booking office in every place. We have a hub in Glasgow and Edinburgh where people can come and ask questions. We call it office hours, basically. Any issues they have with the app or anything they want to ask or any questions they have, they can come and talk to someone face to face.

Q603 **Deidre Brock:** What is the size of the commission that you are charging drivers?

Andrew Byrne: 25%.

Q604 **Deidre Brock:** As Mr Law referred to, there has been quite a bit of debate about the employment status of drivers who use your apps. Can I ask why you do favour a business model that relies on self-employed drivers?

Andrew Byrne: As I said before, we have effectively mirrored what was already in existence in the taxi and private hire industry. We did not look at the employment status of any individuals. Pretty much all taxi and private hire drivers have always been self-employed. The difference that we have made is to give drivers more control over how, when and where they work. Rather than a traditional minicab company, which takes a radio fee at the start and sets a certain number of hours perhaps or a certain part of the city and a certain pot of jobs that you have to take every week, Uber has made the choice to give that level of control to the drivers.

Dan Warne: In our case, it is because of the nature of the work that we offer them. That is highly flexible, insofar as they are able to log in when they wish and work for whatever duration they wish. During a given exercise, they can choose to work with another third party at the same time. If they log in to our app, they can also log into a competitor's app and choose to pick up jobs on either simultaneously, giving them flexibility there also.

Q605 **Deidre Brock:** I see. Ms Smith, it applies to you, too?

Lesley Smith: We have three different models. For our national carriers—through Royal Mail and Hermes and UPS—they will have a mixture of directly employed drivers who are directly employed all year round, and they will also have some independent couriers. Some of our business goes through them. Then we also have deliveries that are done through Amazon Logistics. Those drivers are self-employed, but they were there before we started. We created Amazon Logistics in order to have a way of relating to independent courier businesses around the country because we wanted to grow capacity. We wanted to find a way of giving them work rather than giving it all simply to a limited number of national carriers.

Then our third set is Amazon Flex, which predominantly serves Prime Now, which is same day delivery. Those people are people who, again, are self-employed. They are owner-drivers, so they have their own car. They have an android phone. We also do the same sort of background checks. Once we have done the background checks and they are registered with Amazon Flex, they can basically put in for work for the same day or the next day or days to come. They can say, "I would like to do two hours on Tuesday or four hours on Thursday" and they book it in that way.

Q606 **Deidre Brock:** Okay. We have had witnesses—and it has been well discussed in public—regarding the issue of self-employment who have made the point that by not taking them on as employees, you avoid being responsible for paying tax on their behalf. You also deprive drivers of accessing a range of employment rights. I take it you all have employment rights within the jobs that you do?

Andrew Byrne: Yes, indeed.

Lesley Smith: Yes.

Dan Warne: We do, yes.

Q607 **Deidre Brock:** You do, yes. There are many who would suggest that this is just a way of not only limiting your risks but your responsibilities just to maximise the profit of your apps. What do you say to that?

Dan Warne: I would say—as I did before—that we utilise the model because it affords the flexibility that we know the riders want. As regards some of the benefits that one might have as an employee, as long as these individuals are self-employed, this is not something where, within the existing structure of the law, we can afford them. If the Government determine that this is something that we should do, we would be very, very supportive of that. We believe for riders, particularly those who commit to more hours with us, that it is reasonable to expect that they should get something as regards benefits but, as I say, within the existing structure that is not something we can do.

Q608 **Deidre Brock:** You are talking about clarifying the status of self-employment?

Dan Warne: Clarifying the status of self-employment, yes.

Deidre Brock: You would be happy to see that happen.

Andrew Byrne: Again, I would say that we did not choose to avoid risk or to avoid tax. We chose because that is the dominant flavour of the industry at the moment. When we have surveyed people, 96% of our drivers say that the key thing they like about Uber is the genuine control they have over their time.

That said, we do recognise we have a responsibility to do as much as we possibly can and do more. That is why over the last couple of months we have announced a series of measures, which are just the start, really, for drivers. The first of those is a provision of free training for drivers, the ability for drivers to choose online courses and we will pay their certification costs. We have a link-up with a company called FutureLearn that allows drivers to train while they are working; anything from accountancy training all the way up to computational science and coding and things like that.

We also recognise that in previous history we have not delivered some of the representation features as part of self-employed drivers, so now where there are disciplinary concerns or concerns about someone doing something wrong on the app, drivers have the ability to appeal to a jury of their peers. That is an appeals panel set up by other drivers who will make a binding decision on whether someone continues to work on the app having had previous reports. We have also introduced earnings advice clinics. Individuals who are unhappy with their level of earnings or have any concerns can come and see us and again receive further training and talk to us. We will help them figure out a way forward.

This is only the start and there are a number of other issues that we plan on introducing. One of the issues with the employment law context at the moment is that there is little clarity about where the line can be drawn between the self-employment worker and the employee. Even in doing any of these things there is a concern that you tip over into that different classification, so we would appreciate greater clarity in terms of what we can and cannot do.

Q609 **Deidre Brock:** Say it is clarified to the point where you do have to start providing statutory workers' rights, what impact would that have on your business model then? Would it still be possible to operate?

Andrew Byrne: Yes, I think so. It is not something we do anywhere else, but it is something we are giving some thought to. It may compromise an element of the flexibility that can be provided to drivers. The idea that you could switch the app on at any time, at any point anywhere probably might change, but it is something we certainly believe the app could be successful with.

Q610 **Chris Law:** This is for Uber in particular—for you, Andrew—and perhaps the others could give me some reference as well. Going back to the point you were saying about more than 50% working full time, how many staff is that you were talking about who work full time for Uber as drivers?

Andrew Byrne: I would have to look into the figures specifically.

Chris Law: You don't know?

Andrew Byrne: I cannot give you a precise answer.

Chris Law: Within 100, say?

Andrew Byrne: Certainly over 500.

Q611 **Chris Law:** Over 500. I hear a lot about flexibility. Is this something that has been demanded by those who come to work for your companies or is this a cover for not employing them full time like anybody else would be? I have taxi firms in my city in Dundee who do employ their staff. Some are self-employed and part-time, I understand that, but for the full-time I am a little bit confused. What flexibility would you lose if you have full-time members of staff, or what would they lose as a result of being protected under statutory workers' rights?

Andrew Byrne: As I say, it is not something that is completely clear yet. It would depend on the terms of any judgment in an employment tribunal. The ability to turn the app on and off at any point at any time is probably something that might change.

Q612 **Chris Law:** Surely a rota would be able to resolve that issue.

Andrew Byrne: Precisely, yes, but that would be an element of flexibility that would be lost slightly even with a rota.

Q613 **Anna Soubry:** Just so I understand, you have 500 full-time Uber drivers in Scotland, is that right?

Andrew Byrne: Who work approximately full time. That means that they can—

Q614 **Anna Soubry:** Approximately. How much more would it cost Uber if they were employed as employees in the normal sense, ie not self-employed?

Andrew Byrne: I think the single largest implication would be national insurance contributions.

Q615 **Anna Soubry:** Yes, so how much would that be for you?

Andrew Byrne: That would be 30%. I am afraid I don't know what the earnings of all those individuals would be.

Q616 **Anna Soubry:** It would be an extra 30% if you employed them. I want to understand, please. Why don't you employ them as employees? Why? Why don't you do that as a company? Why don't you want to do that?

Andrew Byrne: It is not something that is typically offered in the wider sector, nor is it something that our drivers have particularly asked for. We don't have drivers coming to us saying, "Please can I become a full-time employee".

Q617 **Anna Soubry:** You say they don't ask you. Let me repeat my question to you. Why don't you suggest it to them?

Andrew Byrne: That is not something we have considered.

Q618 **Anna Soubry:** Why not?

Andrew Byrne: Because, frankly, the model that works now—and we do believe it works—delivers real, genuine benefit for drivers in terms of—

Q619 **Anna Soubry:** Sorry, Mr Wishart, but this is really important. What is the benefit for somebody who is working for you full-time being self-employed and not being employed in the normal sense? What is the benefit?

Andrew Byrne: The fact that they can be their own boss and choose their own hours, but also the fact that they can work for other people at the same time.

Q620 **Anna Soubry:** But if they are not; they are working for you full time.

Andrew Byrne: It is not necessarily the case that they are working for us full time. What I mean when I say working for or with Uber full-time is that they are logged into the app for over 35 hours a week. That does not necessarily mean that they are accepting jobs throughout all of that time.

Q621 **Anna Soubry:** Sorry, Mr Wishart, but I have one last question. It is really important; we need to know this. Can you tell us what your turnover rate is, please?

Andrew Byrne: You mean people leaving, coming and going?

Anna Soubry: Yes, what is your churn?

Andrew Byrne: I know it is relatively low. I cannot give you the precise number, but I would be very happy to write to the Committee with that information.

Chair: We would be grateful. Of course, there are the ongoing legal challenges. I know Deirdre Brock has a question about the tribunal arrangements that have been discussed recently.

Q622 **Deidre Brock:** Yes. The tribunal that was held recently concluded that a number of Uber workers were, in fact, employees.

Andrew Byrne: Workers rather than employees, sorry.

Deidre Brock: Were in fact employees, yes. Can you go into that a little bit further in terms of your reaction to those who suggested that? Are you able to? I understand this is under appeal, is that right? Uber is appealing it?

Andrew Byrne: It is indeed, yes. While not being able to discuss the case directly, I don't believe, two individual Uber drivers have received the judgment of the Employment Appeals Tribunal in the first instance and that is something we are appealing. We expect that to be heard probably over the summer with a judgment before the end of the year. What I would emphasise is that, again, it is a very, very small number of individuals, and, as far as we can tell from all the drivers or most of the drivers that come and talk to us about it, those feelings are not reflected in the wider driver population.

Q623 **Deidre Brock:** Can you tell us how people get paid? I mean the amounts they are paid per hour, for example. How does that work?

Andrew Byrne: Yes, sure. An individual is paid every week. They are paid on a weekly basis. The average hourly rate in Scotland is £15 an hour, and that is after Uber has taken its commission fee out of that.

Q624 **Anna Soubry:** £15 an hour?

Andrew Byrne: Yes.

Anna Soubry: After commission?

Andrew Byrne: Yes.

Q625 **Chair:** Can we stick with the tribunal-based issue just now? I am keen to explore this properly because it was quite a significant announcement and I know that there is obviously an appeal. It is not just Uber. There seem to be issues with Deliveroo, isn't there? There are a couple of ongoing tribunals. I don't know if you want to talk about this and your response to employees coming forward and claiming employment rights.

Dan Warne: These particular issues have come out through a union and come out through the press but have not actually come to us yet. We don't have any specific details as to the nature of their case. Once we do, we can write to the Committee to give further information.

Q626 **Chair:** You would be resisting any tribunal arrangement, for example, if people were coming forward and trying to assert employment rights and holiday pay?

Dan Warne: For us, we know that the flexibility afforded by being self-employed is very important to the fleet. Even those in the fleet who work more hours than others, and unlike other businesses, as I said previously, typically on average you have people working fewer hours, so on average 13 hours a week—

Q627 **Chair:** Yes, I know all that. What I am trying to get to is this suggestion that we are hearing from you that this is a voluntary arrangement that works in the best interests of your company and works for them. It clearly does not for a number of people, because we have seen the tribunal arrangement with Uber and obviously challenges to Deliveroo. Obviously, there are people who have taken great objection to the position they find themselves in as self-employed. Will you always resist if people come forward and challenge this?

Dan Warne: The resistance that we have to an employment model is not resistance to the benefits that that affords; it is resistance to having to pay a guaranteed minimum wage for every hour worked for every rider. That is because it is incongruous with a model that allows an individual to log in whenever they want, to work for whatever duration they like, and to work for others simultaneously if they wish. Typically, in other industries—as I believe someone else said—you would work them to a shift. They would have a specific pattern and they would have to show up. They would not be able to change that shift with a moment's notice. With our app, you will log in and work immediately if you wish. You can log out when you want to as well. That flexibility is why the fleet want to work with us.

If we moved to a pure employment model, then we would have a scenario where we would not be able to attract the numbers of riders that we attract each week—10,000 riders every week across the UK. That would present a significant issue to those riders who want to work with us but it would also prevent us from providing the significant incremental revenue to the hospitality sector.

Chair: You have excited a little bit of interest from our colleagues at the right. I know Margaret Ferrier was keen to ask a question.

Q628 **Margaret Ferrier:** Could you tell me how much an hour? What is the hourly rate for these people?

Dan Warne: The average hourly rate across the UK is £9.

Q629 **Deidre Brock:** What is it in Scotland?

Dan Warne: In Scotland I believe it is the same. Unfortunately, I don't have that with me. I will have to write to the Committee if that is okay.

Deidre Brock: Thank you.

Q630 **Margaret Ferrier:** The other question I want to ask is: you spoke about rather than a shift people logging in when they want to work. Is it not worked out on an hourly rate? Do people log in and only get paid for half an hour? How does that work if they work an hour and a half rather than two hours?

Dan Warne: With that model where you log in whenever you like, you would be paid on a per delivery basis. For example, in Glasgow our riders are paid £3.75 per delivery and they will log in when they choose for whatever duration they choose.

Q631 **Margaret Ferrier:** What is the average delivery that a lot of people would do to make enough money to make it worthwhile for them?

Dan Warne: We would not run that model in a market where we don't have at least a certain number of deliveries on average in an hour. Once a market gets to that level that is when we would consider utilising that model. The expected earnings per hour on that model across the UK—so this is an average figure from the last month—is £10.50 per hour. That is higher than the average that riders earn across the platform as a whole.

There is a second model that we use, which is what we call availability matching, which is where riders will advise us when they are available and we will then match that to consumer demand. They can tell us when they are available at a moment's notice and tell us if—despite telling us they were available on a given day—they are no longer available. If they cannot show up, they can do that immediately in a way that you would not be able to do if you were an employee. It still affords a large amount of flexibility.

Q632 **Margaret Ferrier:** Sorry, the £3.75 per delivery, what is the average? Would people do three of them an hour or would it depend on how far they are going?

Dan Warne: Let me do the maths on this. The average across the UK was £10.50 per hour. That is approximately just under three deliveries. If you are a motorcyclist, we would pay for petrol as well on top of that.

Q633 **Deidre Brock:** Getting back to what you were saying, Mr Warne, can I ask what evidence you have that suggests that you would not be able to attract staff and operate your business without offering folk minimum numbers of hours and employment rights? What proof do you have to back that up?

Dan Warne: The proof we have is, first, we have an internal survey that we conducted that told us that 85% of riders use Deliveroo as an ancillary revenue stream alongside something else. We have not only the evidence from that survey but numerous examples of individual riders who do that. Just to give a personal example of that, my brother works for a start-up in London. In order to top up his income—because he does not make enough to live in London—he does Deliveroo jobs in the evening. It is highly flexible. He would not be able to do that if it were an employment model. He would not be able to run both concurrently and would not have the flexibility to choose when he wants to work.

We have also run further surveys. We worked with Gallup on an external survey, which also showed us that by far the majority of our riders value flexibility beyond anything else. I believe that is consistent with a survey that was done entirely independently by the Chartered Institute of Personnel and Development—which I believe some of the Committee may be familiar with—which said that 75% of gig economy workers are using that gig economy job as something alongside a core income stream.

Q634 **Deidre Brock:** Just one quick last one. I want to ask about the development of your labour force. What opportunities are there for some of your drivers to eventually move on to, say, jobs such as you hold? Are there opportunities within Deliveroo or Uber or Amazon for that to happen?

Dan Warne: There are certainly always opportunities. To put that into context, Deliveroo is only four years old and we have grown exponentially during that period, not just in terms of our employee base—we have 650 employees across the UK and, as I said, 12 in Scotland—but also with the huge amount of incremental trade that we are bringing to the hospitality industry. Over the last year, it is estimated that we have brought £200 million in additional revenue to that industry and a significant number of additional jobs to that industry and to the whole supply chain around that. If you are a rider, you interact very regularly with restaurants, just as you may regularly interact with customers, so often there are opportunities to work with restaurants in a way that might be somewhat different from being a rider into the future. To say there is anything structured in place, at this point there isn't. But to go back to—

Q635 **Deidre Brock:** Is it something you are considering?

Dan Warne: To go back to Andrew's point, this is an area where it begins to get a little bit close to looking like employment. Would we want to be able to develop clearer career pathways for riders? Absolutely, but again it is where the law is a little bit blurry. I have one example of that.

Chair: I am keen to move on to the next question.

Deidre Brock: Sure.

Q636 **Mr Chope:** A lot of the questions seem to have been rather negative about this. From my perspective, I think this is brilliant because this is demonstrating the flexibility of the UK labour market. I think that is a good thing. It seems to be working very well for both the people who work for you and the people who you are looking after, whether they be restaurants or people who wish to have food delivered to their home or their workplace at what would otherwise be inconvenient hours. Having said that, you have these very large numbers of people—particularly with Deliveroo—on your books. You talk about 10,000 of them on your books?

Dan Warne: 15,000.

Q637 **Mr Chope:** Is that number reducing each week by 1,000 and being replaced by 2,000 new ones? What is happening? Is there a big turnover among those people?

Dan Warne: Inherently, because of the nature of work, yes, there is a high turnover. As I said before, the figures are an average of 13 hours worked each week, with 75% under the age of 25, many of whom are doing this alongside their studies, so it is not a surprise that we do experience that turnover. The reason we are able to absorb that as a business, and the reason we are able to attract the types of volumes we attract, is that the barrier to entry for this kind of work is very, very low. All you need is a bicycle. We then provide you with lights and a helmet for free and ensure that you are road safe and able to go out and do those deliveries. Beyond that, the cost of being a delivery rider day to day is negligible. What you earn is essentially the net, so it is a good opportunity for anyone to make some good money.

Q638 **Mr Chope:** Do people sometimes give you a piece of their mind as to why they are no longer going to work for you?

Dan Warne: As in any job, you may have situations where individuals have had a situation that they did not like for whatever reason, but it is very, very rare. I believe the stat from the aforementioned Gallup survey is 84% of riders are very happy collaborating with Deliveroo, so by far the majority of the fleet.

Q639 **Mr Chope:** These are people who have chosen this flexibility?

Dan Warne: They have chosen it.

Q640 **Mr Chope:** They want to be self-employed with all that goes with that?

Dan Warne: Yes.

Q641 **Mr Chope:** Do you check up on whether they understand how to meet their tax responsibilities and so on?

Dan Warne: It is not for us to tell them how they should be filling in their tax. What I can say is we have legitimised what otherwise was an industry that was something akin to the Wild, Wild West. If you think of what food delivery is outside of the structured platforms, like Deliveroo, it would be a takeaway on the high street where perhaps that delivery courier is not an individual with maybe even the right to work in the UK or any tax repercussions for doing that kind of work. What we ensure we do is keep a record of what we pay to all of our riders and, we believe, legitimise the economy in that way.

Q642 **Mr Chope:** This is to all three of you. Do you think there are other areas of the UK economy that could benefit from this type of business model and the flexibility that it delivers?

Andrew Byrne: Just to go back to your previous point, we do provide free accountancy consultations for drivers with an online accountancy firm. In other places around Europe—in Estonia, for example—we are about to provide a seamless integration with their equivalent of HMRC. You will be able to click a button, effectively, in your app that will say, "Pay your tax" and things like that. That is something we are always keen to explore in different markets so you have the opportunity to do that.

I would not say that everything in the British economy should be reformulated around the gig, but I would say that there is a clear trend within people in the growth of self-employment to want extra control and choice about how they live their lives. Hopefully, we can start providing that to people.

Lesley Smith: I think we would agree with that. The bulk of our interactions with people that work for us are permanent staff. Across the UK, there are 19,000 permanent full-time staff; across Scotland more than 2,500. I think people like to work in different ways. We want to give people the opportunity. There are people who have long careers with us. There are people who have short careers with us. We do a lot of training. For example, we offer a thing called career choice in all our fulfilment centres where you can take a nationally recognised vocational course. We will pay up to £2,000 a year in tuition fees and you can do that for up to four years. That can be something that will either advance your career in Amazon or, if you have a burning desire to leave and become a plumber or a hairdresser or a nurse—I think we have someone training to be a vet at the moment—we will support you in doing that. There is a lot of career opportunity, but there is also opportunity to advance within your own career.

For a lot of the drivers, we have always had national carriers who have directly employed people, but we needed to find a way of getting extra capacity. We wanted to give capacity to businesses that were already there. Those businesses did not come to us and say, "Please take us over” because they had their own businesses. What they wanted was the capacity to grow their businesses. Some of our regional delivery service agents basically started off as owner-drivers themselves. They have grown into running 15 to 20 independent drivers themselves. They have been able to grow their business and they very often deliver for other companies as well as for Amazon.

Q643 **Mr Chope:** Do you think a lot of the opposition to your business models is inspired by unions? Trade unions traditionally have hated the self-employed. I speak as somebody who was a barrister and was self-employed. It has always been my feeling that those who benefit from organised labour always want to have labour organised, and self-employment is quite the reverse of that. Do you have trouble with the unions?

Lesley Smith: No, we don’t. I think a lot of it is exaggerated. We spend a great deal of time and effort on listening to our employees, working with our employees, seeing that they have a great place to work, whether they work with us directly or indirectly. We have audits of our delivery service providers to ensure that the delivery service providers pay drivers a day rate and they check their hours. They have to ensure they are not going over the hours they are allowed to drive and they take the right breaks. We basically require them to pay a rate that ensures they get at least the equivalent of the national living wage after their expenses.

In our workplaces we have associate forums. We have daily surveys. We call it a pulse survey where every single day everyone in the business gets a question. That may be about the way you do your work or it may be about your workplace or how you are managed. All that information is fed back on a monthly basis for every workplace, and everybody knows how they are being treated and what is being done to put things right if they have concerns. We want to make this a great place to work where people are proud to work. The best test is if they go down to the pub on a Friday night and say, “I work for Amazon” and people say, “God, that must be great”. That is success. That is what you want.

Andrew Byrne: We probably recognise that it is not just an issue of the new business model or the newness of the business model. There is more that we can do to help people in terms of feeling secure, to feel their position is valued and to feel that they have an ability to represent themselves to the business, an ability to train to progress and to do more with themselves and also to be safe and valued by the business.

Lots of the individuals who join Uber for the first time join for different reasons not related to employment rights. They join because it is a cashless service. That makes you feel safer when you are driving around late at night. Or they drive because everything is tracked, so again people think they are safer because as for an individual who gets in the car, we always know who they are and have their bank details, so you typically find high standards of behaviour and things like that. The business has grown on the back of lots of small innovations in those sorts of places, but there is more that we can do to make sure that our responsibilities to the people who partner with us is delivered effectively.

Q644 **Chris Law:** I hear a lot of nice things about people wanting to be self-employed and flexible and flexibility. What evidence do you have to support that and do you have any evidence you can offer the Committee on these matters from each of you?

Andrew Byrne: We have an independent survey we conducted in November last year that goes to these issues. It says that 96% of people want to be their own boss and things like that.

Chris Law: Rather than being employed?

Andrew Byrne: As to the question of employment I believe the number is certainly over 75%.

Q645 **Chris Law:** Can we have that, please?

Andrew Byrne: Of course, we will supply that to you.

Q646 **Chris Law:** One last thought: how would you respond to evidence we have received in this Committee, "The vast majority of people in the gig economy want a proper contract of employment". That is for all three of you, please. What are your thoughts on that? That is given in evidence.

Lesley Smith: Sorry, I did not hear the beginning.

Q647 **Chris Law:** I will read that to you again. Evidence was given in this Committee. I am asking how you would respond to evidence that we have received saying, "The vast majority of people in the gig economy want a proper contract of employment".

Lesley Smith: Is that a survey?

Q648 **Chris Law:** That is evidence that was submitted to this panel. Does that fly in the face of evidence that you have counter to that?

Lesley Smith: We don't see Amazon as being part of the gig economy in that way. We offer people as many choices as we can in how they work with us. We have lots of different ways of working with us and lots of different forms of employment in Scotland as we do in the UK. For example, we have people in our customer service centre who are virtual workers. They work from home doing customer service because they want flexibility, so we know that flexibility is something a lot of people want, whether they are directly employed or self-employed.

In our case before we created Amazon Logistics those people were couriers anyway. We have not gone out and said, "Did you want us to take you over?" We said to them, "Do you want to take on this work?" and people did want to take on this work. In most cases they were driving for lots of other different organisations and they still do, so we created that model because we needed capacity.

But there are lots of ways of being a driver. We provide a great deal of volume to Royal Mail, UPS, and BPD, to the national carriers and also to the regional carriers, to these very small businesses at a local level. We want to be able to offer that choice. We want to be able to offer people as many different ways to work with us as suits them.

Andrew Byrne: That is not our experience, and we will provide our evidence to the contrary in writing. What strikes me often in these sorts of conversations is that we talk a lot about flexibility and we are at risk of ruining the term, almost. For us it is about control, so it is about an individual having the power over their individual lives to change. So, a zero-hour contract could be flexible. Any typical arrangement could be flexible. The difference we believe with Uber is the control sits in the hands of the people who are the drivers, and that is the biggest and main difference.

Chair: A quick one now because we have to move on.

Q649 **Anna Soubry:** A question to all of you: would you accept that there is a big difference between somebody who is a sole trader—either they have a very small shop or they might be a plumber or an electrician, and they are classed as being self-employed because, if they are a sole trader, as an electrician they will have lots and lots of customers who they would then bill, and they pay their tax on that and so on and so forth—so that style of self-employment and the people who work for Deliveroo and Uber. Would you accept that there is a distinction?

Dan Warne: There are consistencies specifically around flexibility and being able to work when you want, which if you are a sole trader clearly is something you can do.

Q650 **Anna Soubry:** Can I interrupt you on that? This is really important, Mr Wishart. I accept that there are some people who might want to work part-time but if you are an electrician—be you male or female but you are probably male—you are going to want to work at least 40 hours a week. This is your income. This is your business. This is your livelihood, so you are not interested in flexibility and picking and choosing because if you are not working you are not earning. Can you see the difference there?

Dan Warne: As I said earlier, we are very supportive of some of the provisions that one would give to an employee for those who work multiple hours for us. Within the current confines of the law many of those provisions are not things we can offer, but we would be very supportive of any change in legislation that would allow us to offer some of those benefits.

Going back to the prior question, when individuals talk about wanting a proper contract—often I believe without having seen this evidence—they are talking about some of the benefits that one would be afforded, rather than a restriction on the flexibility they get from being self-employed. We believe there could be a world in which both can marry up and some of those benefits exist alongside that same flexibility. So we are certainly not averse to that.

Q651 **Anna Soubry:** What are the benefits that Deliveroo want to give to these people that you say the law precludes you from giving? What are these benefits?

Dan Warne: I don't profess to know how to write legislation. That would be for—

Q652 **Anna Soubry:** What are the benefits that you want to give? Do you want to give maternity leave? What are these benefits you want to give that you say you cannot give because the current law stops you? What are they?

Dan Warne: Again, I don't feel in the right position to answer that question thoroughly.

Q653 **Anna Soubry:** You don't know, do you?

Dan Warne: Benefits around security and anything that would fall into that category could well be appropriate.

Q654 **Anna Soubry:** Do you know? Can you tell this Committee what benefits Deliveroo want to confer on its people that it is precluded from doing by law? What are these benefits you want to give but the law stops you?

Dan Warne: As I say, I don't feel qualified to answer that. I think that would be for Government to say.

Q655 **Anna Soubry:** I am sorry, no. You say, "I want to give people certain benefits but I cannot because the law will not allow me". So what are the benefits you want to give? What are these benefits?

Dan Warne: To give an example, if you were to offer insurance contributions for a rider so if they were injured, for whatever reason, you would not be able to do that within existing employment law without their being risked as classified as employees.

Q656 **Chair:** I am interested in this definition too. We know that people are classified in the gig economy as self-employed. Would a better definition not be flexibly uncontracted employment? Ms Soubry is on to a point here. Our common assumptions about people who work in self-employment are small businesses who work in all the communities people are familiar with. This does not seem like that at all and it seems almost like—I would not say—an abuse of the term self-employed but certainly not one that we are familiar with. Would a term like flexible uncontracted employment be an appropriate term to describe what is happening in the gig economy?

Andrew Byrne: Possibly "contractors" might be a more accurate way of describing it. I would say that there is a difference between sole traders and people who work as self-employed going through intermediaries. I would say that people who work as a self-employed person through an intermediary, whether it is a hairdresser, whether it is a typical private hire firm or whether it is a construction company, that is something that is a very significant part of the self-employed mix in the UK and has been for a long time. So yes, while the typical idea of a self-employed person might be an architect and things like that, we would urge the Committee not to ignore the large number of people who already work through intermediaries as self-employed.

Q657 **Chair:** We know that Matthew Taylor has been tasked by Government to have a look at all this, to try to come up with new definitions and to try to describe to us what is happening here and hopefully you are positively feeding in to what is happening in terms of this inquiry. I see Ms Smith shaking her head here, so I suspect we might be able to move on and get a clearer definition about what is happening in the gig economy. This is what I am getting to in this line of questioning.

Lesley Smith: That is right. We have 10,000 people in Scotland who sell on Amazon Marketplace. Some of those will have shops that are their full-time job and they are selling some additional stuff on Marketplace. For some of them it will be their full-time job selling on Marketplace. We don't have a way of knowing that. Most of those people will be classed as self-employed but the degree of self-employment, the degree of occupation we have no way of knowing.

Q658 **Chair:** We are hearing more and more just now, and what we have heard in the course of this inquiry is concerns about the new self-employment that has emerged. More and more people who now find themselves self-employed are finding themselves in this grey area of self-employment. As we have heard in these questions, it tends to be unsustainable, fragile employment, where there is no holiday pay, there is no national insurance, and there are not all the other things you would associate with employment. We need to clarify exactly what we are talking about when we are coming to the practices in your sector. Would you welcome something like that? Are we moving closer to this with the work that has been done in the Government in Lord Hall's inquiry?

Andrew Byrne: We have certainly engaged with Matthew Taylor, and our No. 1 ask on all of this is for exactly that: clarity about definitional points, whether that is between sectors or whether it is between types of employment contract, things like that. That is the single thing we have asked for.

Q659 **Chair:** I am keen to know—and it is one of the things that I have not grasped from any of the answers we have heard—how do you secure your value from your operations? I can understand a bit more in Amazon. There is a good that has to be delivered. That is delivered and that obviously has a price and a value. What do you bring to these arrangements? Again, you mentioned private taxi firms. We know they provide that fare and they pay for the—I know you provide the app and you talk about other—but where do you take your cut and what do you secure? Obviously, you are a very profitable, successful company. We have seen how well you do. What is your income? Who does it derive from and how do you build your own business models as a company?

Andrew Byrne: I have to say we are not very profitable. You have seen us lose about £2 billion this year. The difference is we perform a very similar function to a traditional mini-cab firm but we do it in a way that is more efficient, allows a more pleasant experience for the person who is driving and does it in a way that removes some of the issues that were common in the industry, whether that was preferential dispatch to friends or bribing of dispatch people to give them long airport jobs. We have brought extra safety and checkability to drivers in terms of the accountability measures that we have brought and also, for cities and customers, we bring a more efficient, cheaper fare and hopefully the ability to enable shared car usage, and things like that, to enable people to get around more efficiently and more cost-effectively.

Q660 **Chair:** How do you acquire your value in Deliveroo?

Dan Warne: Lots of different areas, so first, let us consider how we provide value and then how we make money. We came into the industry four years ago when it was very different. So traditional takeaway: if you wanted an Indian or a Chinese or a pizza you would typically phone up to get that, perhaps pay a driver when they arrived at your house. Back then, it was hard to get back restaurant-quality food at home, so we worked on a model where we would approach high quality restaurants, premium restaurants and deliver from those restaurants to customers at home. Those could be restaurants like Gaucho's, so very high-end steak, through to chains that we will all be very familiar with, like Pizza Express or Wagamama's, through to—

Q661 **Chair:** I know who you work for; I am trying to find out where you secure your cut from this process of the restaurant to delivery to the house. Is it from the driver or is it from the restaurant?

Dan Warne: Forgive me. It is from predominantly the restaurant, so there is a commission that we take from the sale online. We also charge the customer a delivery fee which is £2.50.

Q662 **Margaret Ferrier:** Can I ask about—and obviously, Dan and Andrew, this would be relevant to both of you—the employer's liability insurance for the vehicles? Is that left to the individual to pay again?

Dan Warne: The individual would pay the insurance, yes.

Andrew Byrne: It is the same for us, but we do maintain an umbrella insurance policy as well.

Anna Soubry: Can I just ask one?

Chair: Yes, please.

Q663 **Anna Soubry:** I understand that you have people rather working for you who are often students, yes? Lots of students work in pubs, shops, all sorts of jobs where they are on the staff. They have their national insurance paid. They get certain benefits that they accrue because they are what I am going to call "properly employed". They don't register as self-employed if they are working for Boots. So why do you see yourselves as being different from any other employer that employs students or others on that part-time basis? Why would you say you are different?

Dan Warne: Understood, and I can answer that question as someone that did a lot of bar work and even worked as a janitor when I was at university. The core difference is you would have to subscribe to a certain shift in a given week, so the frustration for me at university was I knew I had to work in the bar Thursday, Friday and Sunday night. Something at short notice would come up—an essay deadline or whatever—and I would still have to go to work. The difference with Deliveroo is I don't need to do anything other than log in at the time when I am available. I don't need to in advance.

Q664 **Anna Soubry:** Is that not the case, though? The cities where you work—particularly in Scotland, which is different obviously from London, which is open 24 hours a day—surely the restaurants that you have as your customers are not having people ringing up all the time. There is going to be a fixed time when, as a delivery driver, you are going to be the most busy, which will be between 6pm and 10pm, whenever the kitchen closes.

Dan Warne: Yes, of course, we still have peaks. We would typically operate between 12 noon and 11pm when the restaurants operate, with lunch and dinner being the predominant time when they see orders. However, through seven days of the week, as a student, I can choose to log in at any one of those peaks or between the peaks. Of course, between the peaks you will not make as much money but, nevertheless, you could say, "Okay, I finished my essay at 7 pm. I have two hours. I am going to log into the app and make a bit of money". Traditionally, working within the restaurant sector, you would not be able to do that. You would have to tell me in advance when you can work, which is why it is incredibly popular with students because it really does fit in nicely with the way they do their studies.

Chair: Concise questions and answers would be helpful.

Q665 **Chris Law:** I want to return to wages in the gig economy. All three of you have been at the Work and Pensions Committee quite recently, at which you stated that your rates meant people, "Can or do on average earn at least the national living wage". Does that mean that some of your drivers earn less than the minimum wage when they are working and, if so, do you think that is acceptable?

Andrew Byrne: I alluded to earlier one of the ways that any driver who has any problem with their earnings come and talk to us about that, and we see about extra training and get resolution on that. Any driver that is not happy with their earnings is absolutely a problem and we will seek to help them resolve it.

Lesley Smith: We require our delivery service providers to set a day rate where people will get at least the National Living Wage, after they have cleared their insurance and vehicle hire, and we audit on a regular basis. On our Amazon Flex rates, where people are working for short-term blocks, people are earning £12 to £15 an hour so they are certainly clearing the National Living Wage.

Q666 **Chris Law:** How about Deliveroo? I want to also ask the question: how can you guarantee the national living wage when, for example, you turn up at a restaurant and the food is not ready and it might take an hour to get ready?

Dan Warne: Absolutely, a very valid question. The first thing I should say is the average earnings are £9 an hour across the UK.

Q667 **Chris Law:** How is that measured? Do you have independent analysis to prove that?

Dan Warne: That is measured internally.

Q668 **Chris Law:** Can we get that evidence, if that is possible?

Dan Warne: We can get the Committee the data, absolutely. However, as I said earlier, in order to guarantee for every hour worked, for every individual who rides with us, a minimum wage is incompatible with the idea—as you just put it—that you can log in whenever you like and receive jobs at any time.

Q669 **Chris Law:** Can I stop there? Did you say the minimum wage is incompatible with your current system?

Dan Warne: It is incompatible with our fee-per-delivery model, which is where riders will log in and work when they wish. For example—and I will use the restaurant industry as an example as one you will be most familiar with—you would typically work your staff to a shift pattern. You would say, "At lunch there is a peak, so we need X number of heads at lunchtime. At dinner there is a peak, so we will need some more". Then the period between lunch and dinner you might cut your staff numbers a little bit. Those individuals may well choose to go somewhere else and have a coffee or something and then come back in the evening.

Q670 **Chris Law:** I appreciate what you have just said, so are you telling me, therefore, that this is the only system that works to get around the law, because if the law states a minimum national minimum wage is X amount, and you cannot deliver on that, is that why your model is the way it is?

Dan Warne: We could deliver on that but, if we delivered on that, we would need to work all of our riders to a specific schedule. If we were to do that, we would restrict a lot of the flexibility that we know they want. A model, where they work when they wish to, is true flexibility, and with the example I just gave of students it works very well for them.

Q671 **Chris Law:** I hear absolutely what you are saying, Dan, but what you are saying specifically is, because of the model that you run, you cannot guarantee a national minimum wage for your staff. Is that correct?

Dan Warne: We would need to change the model in order to do that, yes, correct.

Q672 **Chris Law:** Do you not feel if not a legal requirement then a moral requirement to do so?

Dan Warne: We have a moral requirement to ensure that our riders earn a good wage. As I say, on average that wage is £9 an hour or more. We have a moral requirement and we have a business requirement for that, because it is a highly competitive space. We require 10,000 or more riders to apply to work with us weekly. If it is not attractive, if they don't earn good money it becomes a very, very expensive business model to run.

Q673 **Chris Law:** I appreciate your answer but I want to move to Andrew very shortly. You said earlier that a very small number of your drivers earn an average wage of £15 an hour. Is that correct?

Andrew Byrne: Yes, after the commission.

Q674 **Chris Law:** There was an employment tribunal last October where 19 drivers claimed they should be regarded as employees and they did it successfully; not two but 19, and they should be paid a national living wage, sick pay and overtime. The point is the drivers said they were earning as little as £5 an hour. The judge found in their favour and accused Uber of resorting to fictions and twisted language in court. Do you accept that?

Andrew Byrne: I think, in the specific case we are talking about here, the two individuals whose evidence was taken—

Chris Law: I have 19.

Andrew Byrne: Out of the 19. What happened is that of the two individuals, whose evidence was taken as test cases out of the 19, one of the individuals said that he had worked for 90 hours over the course of a week and had earned around £5 an hour. What we found, when we looked at the data, was that what happens when you are driving around is you get a request basically and you have the ability to say "Yes" or "No" to every single trip, and he had only accepted 18% of the requests over that 90-hour period. So the typical number of accepted requests is between 85% and 90%, and in our view there was a very clear difference between whether he was working for all of that 90 hours and the ability to calculate 90 hours divided by his earnings as his hourly rate. That is something that will continue to be contested in the appeal.

Q675 **Margaret Ferrier:** I am going to come to Lesley because earlier you said you wanted people to go home on a Friday night and think that Amazon is a great place to work. There have been several concerning reports about the terms and conditions of workers at your Fulfilment Centre in Dunfermline, specifically including workers being penalised for taking sick leave and being forced to opt out of the Working Time Directive. How have Amazon responded to the issues that were highlighted?

Lesley Smith: No one is penalised for taking sick leave. I think there was a misunderstanding, and there has been a misunderstanding in the press about how we have an attendance management—everybody, most employers have an attendance measurement or attendance management system—which is a points system and there is a point for each period of absence. So it might be one day, it might be five days but there is a point written down for that. It is not a punitive point or it is not a value judgment. It is simply a notation that someone has been absent.

In the case of the paper report, it related to temporary workers. Temporary workers over the Christmas period will typically work with us anywhere between three weeks, on average four to five weeks, but anywhere between two or three and 13 weeks. If you accrue points, you would expect your manager to say, "Well, Lesley, you have been off every Monday for the last three weeks. Is there a reason? Is there a problem? Is the bus not coming? What is the issue?" It is not a question of this triggers an investigation or it triggers a reaction, but you would expect good management at some stage to have a conversation with somebody. It is not a value judgment. It is simply a way of recording absence.

Q676 **Margaret Ferrier:** It seems strange that there have been several reports and how it ended up in the press, then, if it was—

Lesley Smith: Yes, I agree. I think that is disappointing. We have made a lot of effort to make sure that everybody understands that it is not a value judgment. People should not be nervous about it. We have made a lot of effort to communicate; people understand that. I don't think there is any employer that does not have some sort of system of recording absence because you expect that and, to be honest, you would not be a very good employer if you did not notice if your employees were persistently sick or something of that sort. We have had lots of people who have accrued many, many points over a period, for a long period, and it does not trigger a particular intervention other than to say, "Is everything all right? Is there anything we can do to help?"

Q677 **Margaret Ferrier:** And the question about the Working Time Directive?

Lesley Smith: We typically recruit a lot of extra people in the peak Christmas period. People tend to come to us because they want to work a lot of hours over that period and they want to have overtime over that period. In that short period, when we are recruiting over that period we will ask people if they are willing to opt out of the Working Time Directive. If they don't want to, it is not obligatory and it is their choice. Having opted out you can opt back in again if you wish to do so. As is well known, we have our busiest period over the year—like all retailers—

at Christmas, so for that period there are opportunities to do overtime, go over the hours, the standard hours that people do. But people can opt back in again.

Also, you don't have to do compulsory overtime. There is an exception process. We try to tell you as far in advance as we can. We tell you in October what weeks the busy weeks will be and when we expect overtime, and then we give people the actual shift patterns in November. If people cannot do those there is an exception process. They can notify us and apply for an exception and 98% of those applications were granted in 2016.

Q678 **Margaret Ferrier:** If they do opt out of the Working Time Directive, on average, how many hours would you say these people that opt out would do?

Lesley Smith: The working week is typically 40 hours a week anyway, so through the year it is mostly 40 hours a week and we do four long days and then three; four days on, three day off. We consulted our associate board and people felt that that was a practical option for them. We did a long consultation on how we would introduce that. During really busy peak weeks—and that is a limited number of weeks—there is the option to work either 50 hours or more than 50 hours, and we pay time and a half for 50 hours and double time for more than 50—double time for—yes, sorry, time and half for over 40 and 40 to 50, and double time for over 50. But there are a very limited number of weeks in which that is required.

Q679 **Margaret Ferrier:** Does Amazon take responsibility for the welfare of its workforce, whether they are directly employed or employed via an agency?

Lesley Smith: Absolutely, yes.

Q680 **Margaret Ferrier:** How do the terms and conditions differ between agency workers to those of your permanent employees?

Lesley Smith: They don't. The associates that come to us and work over Christmas will be working alongside our permanent associates. They will have an induction. What we do have are agency coaches on the floor, because I think the difference in the way people work is it is easier if you have been there six months or two years than if you have been there a week. So we do have agency coaches that are there to support people because people have just arrived, and they have arrived at the busiest time of year so it is hard to get up to speed. We do have agency coaches available but they have the same training. They have pretty much the same conditions and they have the same access to subsidised canteens and so on. We want it to be—and it is—a very fun workplace over Christmas. It is hard work but there is a lot of entertainment and a lot of enjoyment.

Q681 **Chair:** My son worked in the Amazon Fulfilment Centre three years ago and I have never seen an example of such erratic, insecure employment than when he was working with Amazon. To try to suggest that this was a pleasant or fun environment to work in is certainly not the impression that I secured from my son and his many friends and colleagues who were working in the Fulfilment Centre in Dunfermline. I don't know if you are still on the zero-hour contract arrangements. I am presuming that that is now—

Lesley Smith: We don't have zero-hour contracts. I am sorry, but I don't know where this has come from. We don't have zero-hour contracts. Our agencies are required to have contracts where, even if we have no work for them, if somebody is under contract, they get at least 20 hours anyway, whether there is work or not. But the vast majority of them, more than 95% of people are on 40 hours a week at least.

Chair: All I can say is I remember observing the arrangements that were put in place and it was—

Lesley Smith: I hope you will come back and see. I am surprised at that and I am very sorry about that experience, but if you would like to come back and see, I would be very happy to arrange that.

Chair: Anyway, we are at the end of the time and we are very grateful for your attendance today. There are requests for further information and evidence, and if we can have that we would be very grateful, but thank you for your attendance this afternoon.

Examination of Witnesses

Willie Macleod

Q682 **Chair:** For the record, could you say who you are, who you represent and anything by way of a short introductory statement?

Willie Macleod: I am Willie Macleod. I am the director in Scotland for the British Hospitality Association, which is a UK-wide body that represents—I think it is—46,000 hospitality establishments, primarily hotels and restaurants, but also visitor attractions and other forms of holiday accommodation. My main activity is looking after the interests of our members in Scotland, who comprise independent hotels, primarily restaurants and also Scottish-based chain hotels and most of the national and international hotels that have a presence throughout the UK.

Q683 **Chair:** I am grateful. I think all of us around the table have vast tourist interests. We are all very keen to ensure that we drive all these visitors to our constituencies to enjoy the pleasures of our various localities. But we are concerned about some of the terms and conditions that we see within the tourist sector. I have most of rural Perthshire and the city of Perth, and we are very dependent upon the tourist sector to drive our economy. What we have found is there does still seem to be this issue of sustainable employment, things like zero-hour contracts. Are there any reasons why there is still a predominance of zero-hour contracts with the hospitality sector just now?

Willie Macleod: I think the figure is that around about 11% of employees in hospitality are on zero-hour contracts of some form or another. In Scotland that would be 11% of 245,000 people, so we are maybe talking about something north of 25,000. We have a number of employers—I could not put a figure on it—that do not use zero-hour contracts, or don't like them, and use other means of staffing to cope with the vagaries of demand. That could be part-time contracts. It could be time-limited contracts. It could be casual contracts, where there might be a guarantee of a certain amount of hours.

There is a need on both sides, the employer and employee side, where the flexibility—we have been hearing a lot about flexibility this afternoon—of a zero-hour contract can suit both parties. Typically, it may be about 30% of our employees who are aged under 30, so for students and others who want to be doing other things, the flexibility of a zero-hour contract can be attractive. It can also be attractive to some employers. Long before they were outlawed, we were not in favour of exclusivity clauses within zero-hour contracts and, obviously, people on a zero-hour contract are paid at least the minimum of the Living Wage and the normal PAYE requirements are complied with.

Q684 **Chair:** We did note in your written evidence that you have said that zero-hour contracts have fallen by half since 2014, for which we want to congratulate you on doing that. What is behind this? Is there any reason why you had that—we will call it—success?

Willie Macleod: It would be supposition on my part, but it could well be that they were more prevalent, as businesses were seeking to cope with the pressures of the economic recession from 2008 through until maybe 2011. It could be because business levels have reached a stage where people need permanent part-time or full-time staff.

Q685 **Chair:** What we have detected—when we visited Dumfries, we saw this too—is that employment in the tourism sector seems to be quite transient. People tend to come in and out and it is maybe a first-time job. Are there any opportunities that you could detect where people have that chance to develop their skills, perhaps look at a long-term career within the tourism and hospitality sector? Is there anything that you are putting in place to try to assist and provide that?

Willie Macleod: Yes, the industry has a transient proportion to its employment. That may be as much as 25% churn in a year. That could be people moving between employers or it could be people leaving the industry altogether. It has been of that order since I first became involved in the industry. That churn probably takes place at the more entry level or elementary level of employment. I think, as people gain more experience, more qualifications and enter into senior roles, the churn is less. The industry is often characterised—perhaps wrongly—by lower-skilled jobs in food and beverage preparation and service.

It is important to bear in mind that we offer a lot of jobs at senior level, supervisory levels, management jobs, but also in a wide range of professional disciplines that you would find in any other industry, from HR, IT, finance, administration and marketing. We offer a wide range of jobs and probably, in some of the more technical and professional roles, the turnover will be much less.

Chair: I am grateful. Just to let colleagues know, we are looking at a vote possibly at 15:42. I don't know if that is what other colleagues have managed to secure, so if the bell goes, Mr Macleod—

Willie Macleod: I am off the hook.

Chair: —and we are running off, we will come back to you, don't worry about that.

Willie Macleod: You did mention what are we doing to offer careers and training and skills. I think most of our employers have a strongly-vested interest in recruiting the right people, treating them well, retaining them and avoiding the cost of unnecessary recruitment through unnecessary churn. There is a lot of activity and there is a lot of evidence of us providing training to our staff and offering them long-term careers. Some examples may be that the figure of hospitality apprentices is around about 3,000 per annum.

We have industry-based initiatives, like the Scottish apprenticeship in hospitality, which is sponsored by companies as varied as Gleneagles, Macdonald Hotels, Apex Hotels, where school leavers, typically 17 year-olds, are taken on by these companies and given a three-year apprenticeship and paid—the figure I have, the starting figure was £12,500 a year—while they go through that training and receiving qualifications through a properly supervised and managed apprenticeship. Then hopefully they will go on to roles in the companies involved.

Just looking through the trade papers, last week Di Maggio Restaurant Group in Glasgow has appointed 35 apprentices over its 18-restaurant chain. The Scottish Apprentice of the Year two years ago in 2015, I think, was a young lady in Dundee, who ended up as the events marketing, event sales co-ordinator at the DoubleTree Hilton in Dundee; a similar situation at the Chester Hotel in Aberdeen, where again a young lady who had completed a two and a half year management training programme has moved into a junior management post. There are examples like that where our industry is working to deliver careers.

Chair: We will see if we can have a chance to revisit some of these things, because obviously we are looking for the good examples and examples of where people are being brought on like that.

Q686 **Margaret Ferrier:** The £12,500 per annum, what role was that for?

Willie Macleod: That was an apprentice role on this industry-sponsored Scottish apprenticeship in hospitality, which is an initiative sponsored by seven or eight hotel companies, some of which I just mentioned.

Q687 **Margaret Ferrier:** Would that be different roles then as that apprentice goes—

Willie Macleod: They move through different roles over the apprenticeship. They also go on learning journeys and they go to experience parts of the industry as part of learning journeys. That supplements the experience they are gaining and the training they are gaining on the role.

Q688 **John Stevenson:** The hospitality industry perception, I think the reality is it is a low-wage sector. Why do you think that is?

Willie Macleod: Some of it has to do with the structure of the industry. In Scotland, 75% of hospitality businesses employ 10 or fewer people, so they are fairly labour intensive, high service and relatively low-margin businesses. These businesses are probably paying what they can afford to pay. Of course, they are governed by the national minimum and national living wage. Often local labour market circumstances will dictate that businesses have to pay higher than these rates to get staff, but it is a question of balancing revenues with costs and the ability to pay—

Q689 **John Stevenson:** Quite simply, do you think the industry is not profitable enough?

Willie Macleod: The margins are tight. The cost structure, for example, in—

Q690 **John Stevenson:** The margins are tight. Why is that?

Willie Macleod: Because of the cost structure. The typical wage bill in a three-star market town hotel would be about 35% of turnover after VAT.

Q691 **John Stevenson:** Are you basically saying then that the consumer is not willing to pay more?

Willie Macleod: It would be very difficult for the industry as a whole to significantly increase its prices, and that is a view that I think has been taken by our businesses. If I may give you an example, two years ago I did some research when the Scottish Government was looking closely at what is called the real living wage or living wage accreditation. Doing a survey of a cross-section of our businesses—our members at that time—to introduce the real living wage would put 10% on to payroll. The businesses that gave me information in the survey, if they maintained differentials with other staff who were paid higher and occupied senior level jobs, the increase in payroll would be 17%. If I remember correctly, that would take, respectively, 30% to perhaps 60% away from operational profitability, so there is a high sensitivity to wages.

Q692 **John Stevenson:** Effectively, what you are saying is the consumer is not willing to pay more?

Willie Macleod: That is the feedback we have from members, that there is a high resistance to increased prices.

Q693 **John Stevenson:** On the spending side—ie the staffing side—you have pressures on there and that is why your margins are so narrow?

Willie Macleod: Certainly, wages are the highest single cost.

Q694 **John Stevenson:** Yes, but yet it is a low-wage sector.

Willie Macleod: At certain levels, at entry and elementary level, but as people gain skills and show aptitude, the opportunity for advancement is there and it can be pretty rapid.

Q695 **John Stevenson:** Therefore, following on, you have the consumer and you have your costs base. What can Government do to help? You have corporation tax, you have VAT, you have business rates, you have NI and you have regulation. What can Government do to help the industry to make it sustainable and, hopefully, drive up wages?

Willie Macleod: To take some of these things in turn, corporation tax I think would only benefit the largest employers and those that are corporations or limited companies. As I said, in Scotland the vast majority of hospitality businesses employ fewer than 10 people. They are likely to be run by sole traders or a partnership, so they would only benefit from a reduction in normal income tax rather than corporation tax.

On national insurance contributions: there has been a reduction for under-21s. If we were to see a reduction in national insurance contributions extended to those under 25—given the age structure of our employment—that could be a very attractive benefit.

We have long been campaigning for a reduction in VAT to make us competitive with our European competitors. There is research that shows where there was a reduction in VAT on tourism services in other countries, the rate of pass-through of that reduction is fairly high and the reduction would be distributed between reinvestment in the business, increased wages, increased staff training and reduced prices to the customer.

Business rates is a matter very dear to my heart. I have been working very closely on this with the Scottish Assessors Association and the Scottish Government since last July. I think there is something flawed and arcane about the system of applying rateable values to hospitality businesses. There is a mixture of turnover information used in reaching the rateable value, but to my mind there is also some very unrepresentative and fairly flimsy evidence of hotel rental levels that are factored into this. I may not be able to understand everything in life, but there are elements of the process for reaching rateable values for hotel premises in Scotland that I just don't understand.

Q696 **John Stevenson:** Do you think there is room for Government to intervene in terms of VAT levels and, also, the way the rates are structured?

Willie Macleod: Absolutely, yes. We await the outcome of the Barclay review of business rates in Scotland, but—

Q697 **John Stevenson:** You think this would have a direct link to making the industry more sustainable and therefore employment more sustainable?

Willie Macleod: It is down to sustainability of business and removing some of the uncertainty and making businesses more sustainable. I have yet to hear a BHA member in Scotland say they want to pay their staff less. Their argument is: if the business was more sustainable and some of the costs were reduced, then the first thing they would do is increase wages.

Q698 **Ian Murray:** I want to follow up some of Mr Stevenson's questions, because I think you used the example there of a three-star average-sized premises and business. Is it a level playing field across the industry or are you battling against some of the bigger boys who are in the industry?

Willie Macleod: In what respect might we be battling?

Q699 **Ian Murray:** In terms of driving down wages. It is quite clear that over the course of the increase of zero-hour contracts, there is a direct correlation between a transfer of business risk from the business to the employee or worker. If margins are being tightened all the time, it would seem that risk is being transferred in a greater or lesser extent to the employee or to the worker, given the depression of wages and the uncertainty around employment. Is there a direct correlation between the kinds of members that you have or is it right across the board? Is everyone affected by the same thing or are some of your three-star hoteliers suffering from the fact that some of the big, big chains have come in and depressed the price that they are able to charge?

Willie Macleod: I don't think it is so much the chains that are depressing prices. I think one of the factors that we are coming to terms with in our industry is the online travel agents that we all use. The rate of commission paid to online travel agents can be as high as over 20%. It probably averages between 13% and 15% of the published room rate. There has been a depression of room rates and a drive by hotel businesses to secure bookings through their own website rather than through a third party.

There are also rate parity clauses in the agreements with online travel agents, which prevent a hotel from offering a rate lower than the one that is offered through the online travel agents that they have contracted with. I think all of our businesses are experiencing the same issues.

Structurally, the industry is probably changing where the mid-market three-star hotel that I have quoted is probably—

Q700 **Chair:** When you talk about "online", are you talking about like Expedia?

Willie Macleod: Expedia, Booking.com.

Q701 **Chair:** All these places. You are saying to this Committee that they are a factor in increasing overheads?

Willie Macleod: They are a factor in the cost structure. Typically, 12% to 15% of accommodation sales would be accounted for by commission to online travel agencies.

Q702 **Chair:** Just to follow-up on a question from Mr Stevenson, we know the concerns about VAT and we have heard from colleagues in previous sessions that there are ongoing costs that concern the hospitality sector. We know from experience in the past two months, with the rates review that was going through and local authorities were taking decisions about rate burdens on particularly the hospitality sector. Were you relatively satisfied with the way all this worked out? Is there still a concern that your rate burden is causing you difficulties?

Willie Macleod: We are satisfied with the temporary respite that the Finance Secretary, Derek Mackay, has provided through placing a cap of 12.5% on the increase that hospitality and some other businesses will pay for the current financial year. The fact is that the increased rateable values payable due from 1 April, these will stand and the transitional arrangement that has been put in place is temporary. We remain concerned about the method of valuing the businesses. We have given written and oral evidence to the Barclay Committee and we have had direct meetings with Mr Mackay and Mr Brown.

I don't think anything permanent by way of change will happen until after the Barclay review. We remain concerned that, come the turn of this year, we may find ourselves in the same position as we were at the end of 2016. We really need a permanent solution to what we think is an unfair way of rating our businesses.

Even if Barclay is sympathetic to that, it could well be, assuming primary legislation is required to make a change, we could find that we have a year or two before a permanent change is there, if there is a will to make one. During that time, I don't think our businesses will be able to sustain the increases in rates. If I may give an example: last July, when I engaged with the Scottish Assessors Association about the new valuations coming forward, I was forecasting a 30% to 50% increase in rateable values. That effectively means a 30% to 50% increase in rates payable. The increases that I have seen across a cross-section of hotels in Scotland range from 10% to 259%. With the average across the hotels I have looked at, it is 70%. These increases are simply not sustainable. I think that is what led to the Scottish Government placing a cap on the increase, to give us some breathing space in the hope of getting a permanent solution before too long.

Q703 **Chair:** I presume that you are feeding into the Barclay review and you are obviously working closely with them and giving evidence?

Willie Macleod: At every available opportunity.

Q704 **Chair:** I would imagine you would. I know that you will be sceptical about how this is all going to work out, but are you confident that we will eventually get there and that the hospitality sector and businesses that work within the hospitality sector will be properly rated in the future?

Willie Macleod: Somebody in my job, dealing with politicians, is never confident about anything. I think we have been heard by the Barclay review and we have certainly been heard by the Cabinet Secretary for Finance. I suspect that come October, November, December this year, I will be having a similar conversation with Mr Mackay about rates payable from 1 April 2018.

Q705 **Chris Law:** I want to return a little bit to the low-wage sector, which I totally understand. My first career was in hospitality and it is a fine profession to be in, but one of the great benefits or one of the additional benefits you got from working in hospitality was tips. I worked in various different places and they were distributed depending on what the rules of the place were. We have heard some very disturbing information, very recently in our evidence, that some of the staff are now no longer receiving any of the tips that are given. People give tips for the good care and attention they have had in terms of service, but it is not being picked up by the staff. In other cases, there has been a tip tax that has been introduced, therefore X amount of pounds is earned in tips per month, but a section of that is kept by the employers. What is your view on that and have you come across that yourself in the hospitality sector?

Willie Macleod: I haven't come across a tip tax, personally. It may exist within the industry, but it is not something I am aware of. Like you, I started my working life in hospitality, probably longer ago than you did, but I think our position—I don't think, I know our position—on tips is at the moment we very much support the voluntary code that was entered into with the Government and the trade unions in 2009. Effectively, that says that businesses should be absolutely clear this is a voluntary code. It should be clear to customers and staff, effectively, what the policy is in dealing with tips.

Over the last 18 months or so, there have been consultations by the Westminster Government on tips. Our view is quite clear: that the voluntary code should be made statutory and there should be a compulsion on businesses to make it absolutely clear, to staff and to customers, what happens with tips—both cash tips and non-cash tips or credit card tips or service charges—for example, where we put the tip on our debit or credit card rather than leaving it in cash.

Q706 **Chris Law:** To be clear, Willie, just for a second, so what you would like to see made statutory is that all tips go to the staff, sort of distributed among the staff or a percentage is kept by the employer?

Willie Macleod: I think the policy should be clear. The legal position, I think under European law, is that service charges and tips that are paid on credit or debit cards technically belong to the establishment. Distribution of these is on a voluntary arrangement between the establishment and the staff. A cash tip goes to the individual member of staff, and it is up to them to make their peace with HMRC on the additional income they receive through tips. If tips are distributed by the business, if there are services charges and non-cash tips, they are subject to PAYE. There is a third method of distribution, where tips are independently managed by a troncmaster. That arrangement has to be independent of the business and there is a clear arrangement for distributing tips to staff and these tips are subject to income tax, but not National Insurance.

Our position has been that we are saying that the business should be clear. By making the voluntary code of practice compulsory, there should be clarity over what happens to tips. Some establishments agree with the staff that all cash tips will be pooled, others say, "If you get a tip, you keep it yourself". In the case of non-cash tips on to credit cards or service charges on the bill, then the establishment will have to come to an arrangement with staff about distribution of these. There is the ability for the business to deduct any costs directly associated with the distribution of tips, for example, PAYE processing or credit card commissions.

Q707 **Chris Law:** I guess that, if you are a customer who has just had a lovely meal or has spent a lovely night in accommodation, the best way to tip—if they want to make sure it goes to staff—will be a cash tip. Am I right in saying that?

Willie Macleod: Yes. That would be my view.

Q708 **Chair:** Just on tipping, I have been in this House for 16 years. We have had various inquiries and Select Committee reports on tipping and we still don't have this resolved. Surely it must be the easiest thing possible, like if you are satisfied with a meal, you leave something behind for the staff to enjoy. Why can't we get this right and why are we still looking for some sort of solution all these years later?

Willie Macleod: It is complicated by the fact that there are non-cash tips as well as cash tips. We have made our position clear to Sajid Javid, who was the Minister at the time. We await the Government's response.

Q709 **Chair:** Do you think legislation is going to be required in order to resolve this finally?

Willie Macleod: I think some form of legislation would be required to make the voluntary code of practice compulsory and binding on businesses.

Q710 **Chair:** We are coming back to this because obviously it is such a feature in terms of the income for people who are working in the service sector. I think everybody who leaves a tip would always like to think that it would going to these people who helped make it—

Willie Macleod: The customer wants clarity, and I think most customers expect that a tip will go to the member of staff.

Q711 **John Stevenson:** Just on that point, do you have any evidence as to how that increases the wage or the income of an individual?

Willie Macleod: No. There may be some figures, but I don't have them. We will check, and if we have anything, we will submit it to the Committee.

Chair: That would be helpful, thank you.

Q712 **Margaret Ferrier:** We hear that several companies in Scotland's hospitality sector have breached minimum wage legislation and I believe HMRC has a policy now of naming and shaming, which is great. I agree with that. Looking at some of the evidence we have received, there is a café in Edinburgh underpaid almost £400 to one worker and another organisation—a hotel somewhere else—underpaid almost £300 to one worker again. To me, that is outrageous. These employees have worked hard, so they deserve to be paid in full for any work carried out. Are any of the companies who have been named and shamed members of the BHA?

Willie Macleod: Not in the most recent round, they were not members of the BHA. My colleagues have checked. Not in Scotland I would say. I think there were some members of the BHA named, and in these instances they were clerical errors rather than a deliberate attempt to underpay. I am aware of one hotel group in Scotland that was previously named for underpaying six people. That also was a clerical error. This is a company that employs several thousand people and I think to underpay six was an error and it was rectified.

Q713 **Margaret Ferrier:** What role do industry bodies, such as the BHA, have when it comes to trying to keep the house in order with regards to things surrounding compliance with minimum wage legislation?

Willie Macleod: We publicise changes in legislation on our website and through social media and newsletters to members. There is a legal helpline available to members as part of their membership package, so there are mechanisms for making sure that we promote changes. The increase in National Living and minimum wage taking place on 1 April, we will have promoted to our members. If members are in any doubt, in Scotland they would contact me, in the rest of the UK our London office, and that information can be made available to them. Our position is that we would really not condone and we wouldn't support any business that deliberately flouted the minimum or Living Wage regulations.

Q714 **Margaret Ferrier:** Is that a case that you are in an advisory role or an encouraging role rather than being able to enforce anything?

Willie Macleod: We are not an enforcing body. We are a business representative body, but part of that role is providing advice to our members on changes in legislation. We are doing that all the time. Last week or the week before I was putting information out on the changes, the transitional arrangements that are coming in, in terms of the rates cap. When the food waste regulations came in, in Scotland, we were communicating that to our members. So we have a responsibility to do that; that is part of the package of membership benefits.

Q715 **Margaret Ferrier:** How would you know if someone was flouting these requirements? Would it be because HMRC got hold of them or is there another way that you would find out if that was happening?

Willie Macleod: We have no direct way. We don't monitor all of the businesses in our membership. I suppose, because they are members of a trade association, they tend to be more reputable businesses. As I say, we will give advice, but it is really up to the different regulatory bodies to monitor the regulations they are responsible for.

Q716 **Ian Murray:** I have a question about trade union density, but I wonder if I can ask you just before that if you had any figures or any matrix you could show us of: if someone paid £100 for a hotel room, how that would break down in terms of tax, rates, average rents, wages, those kinds of issues? Do you have something you could maybe submit to us on that basis?

Willie Macleod: There is some information available on subscription to businesses that I may be able to obtain. If I don't obtain that, I can probably pull together something that be perhaps a bit more subjective, but would give an indication of where each pound of revenue goes coming down the line until you reach the sort of net operating profit before tax or EBITDA. I could put something together.

Ian Murray: That would be useful, Chair, if we could request that.

Chair: Yes, it would be very useful.

Q717 **Ian Murray:** My main question was about trade union density. Do you have an idea of how dense trade union membership is within your member organisations?

Willie Macleod: I don't know about trade union membership, because that is a matter for individuals to be a member of a union or not. I can speak probably with authority in relation to Scotland. As far as trade union recognition within businesses is concerned, the density is probably fairly low. I think one of the reasons for that—again, I would come back to the predominance of small businesses where the proprietor is the primary interface with their staff—is they deal with their staff on a daily basis. They agree terms and conditions and the owner, the operator, the manager is very visible. If there were a request and an individual wanted to join a trade union that would be a matter for them. A request for trade union recognition would go through the normal legal channels for that to happen.

I would say maybe in partial answer to your question that in five and a half years working for the BHA in Scotland, this is not an issue that has come up to me from our membership. It is not an issue that has been raised or placed on the agenda of the BHA Scotland committee. I would say that the vast majority of businesses manage their relationships with their employees on a reasonably satisfactory basis. I have no way of measuring that, but hospitality businesses have a daily interface with their customers. They have no interest in discontented, unhappy staff dealing with customers, because that is going to be counterproductive to the nature of the business.

Q718 **Ian Murray:** Trade union representative came to speak to us last month and said, with regards to the hotel industry, that the British Hospitality Association were going out of their way to rid trade union density and trade union collective bargaining agreements from the sector. That is something you don't recognise?

Willie Macleod: I don't recognise that. I have discussed that with our chief executive and she doesn't either.

Q719 **Deidre Brock:** Getting back to the collective bargaining point that Mr Murray just made, what are your views on collective bargaining? Unite the Union submitted some written evidence to us and it says that only 5.4% of all hotel and restaurant workers' terms and conditions are negotiated collectively, and that is one of the lowest in all of the countries of the EU. I would be interested to hear your thoughts on collective bargaining, how you think it might work in that sector and how useful you think employers find it, to be able to reach collective agreements with their workers.

Willie Macleod: I am not an expert on trade union relationships with employers. I think the BHA perspective would be that this is very much a matter for the individual business. If there were a request or a desire for trade union recognition and collective bargaining, that would be up to individual businesses to pursue that. As I said earlier, I think one of the reasons it is not so prevalent in our industry is certainly in Scotland and in the rest of the UK is the predominance of small businesses that probably would not perceive there to be a need. At the larger group level, then it would be a matter to be dealt with if the issue arose, either because of a high and growing number of individual trade union members within their employment or there was a formal request from a trade union for recognition.

Q720 **Deidre Brock:** Are you aware of any of your members that have entered into collective agreements with their workers?

Willie Macleod: I can only really speak with authority for the businesses and membership in Scotland. As far as I am aware, no. I did ask this of one or two national chains that are represented in Scotland and they have no collective bargaining arrangement within their structure. That would apply to a number of the smaller Scottish-based chains that I have also spoken to. There is no recognition, no collective bargaining.

Q721 **Deidre Brock:** Is there any best practice that you share as a body with members as to how employers might engage with their workers on this, particularly on pay and conditions?

Willie Macleod: Through good management practice. Most employers will have various mechanisms for engaging with their staff, whether these are formal and informal meetings, consultations, surveys to engage with their staff, to communicate with their staff. There will be regular surveys in some businesses over employee satisfaction and, where there is dissatisfaction, the reason for this. Good people and good business management would dictate that businesses are communicating in a variety of ways on an ongoing basis with their staff, two-way communication.

Q722 **Deidre Brock:** But that is not something you would promote yourself or go out actively to your members and try to encourage?

Willie Macleod: It is a matter for individual businesses. If we were approached and we had information, we could disseminate that to businesses. I don't know if that is something we hold and would make available to businesses, but we can check that and come back to the Committee.

Q723 **Chair:** On the day that we are now on our way out of the European Union, I want to turn to the EU nationals who are employed within the hospitality sector in Scotland. According to your own figures, you have said that 18% of those employed in the sector are EU nationals out of 44,000. With 27,000 of them being from EU countries, this is going to have a massive impact on your sector, isn't it?

Willie Macleod: It could be significant if we lost that access to that labour market. I think the converse is that, if we have 18%—I hate the word "migrant workers" but let us call them that—migrant workers, we have 82% who are not. In fairness, the figure of migrant workers, whether from the EU or non-EEA countries, is probably higher in the cities and I think that could be as high as 50% in some of the city centre hotels. But there is no denying that EU workers have been very important to us, and very important in fulfilling some of the growth in employment that we have seen in Scottish hospitality over the last five years.

Q724 **Chair:** I am not entirely sure that chimes with my experience as a Member of Parliament for Highland Perthshire. When I go around Aberfeldy, Dunkeld, Pitlochry and go into some of the hotels, it is almost exclusively Eastern European workers, because it is hard to find people prepared to work in small rural communities like Pitlochry and Aberfeldy to do this type of work. Again, I am intrigued by your evidence, when you cite the Migration Observatory at Oxford University, which estimate that 96% of the EU nationals who work in hospitality wouldn't be able to enter the UK under the existing immigration rules for non-EU nationals. I wonder—maybe my experience is unusual with the part of the country that I represent—where are you going to find a lot of these people. Are you expecting just to soak this up from local communities and people to come forward and be prepared to work in the hospitality sector?

Willie Macleod: We have a fairly long-term task ahead of us to make our industry attractive to the indigenous workforce. In fact, we have a report that has been prepared by KPMG that we are launching on Friday, and, with great prescience, I have arranged for members of the Committee to receive a copy on that on Friday. If freedom of movement disappears and we can no longer rely on EU workers being available to us, we are going to have to build on the efforts we are already making.

We are taking efforts to make our industry a lot more attractive to the Scottish and the UK workforce. Since 2012-13, BHA has been engaged with a thing called the Big Hospitality Conversation, which is a platform—we have had three of these events in Scotland—that brings young people together with employers. Over that three to four-year period, we have secured 67,000 work experience placements, jobs for young people and apprenticeships. Three of those events have been held in Scotland.

We work on a regular basis with the Department for Work and Pensions, throughout the UK, on a programme called Hospitality Works. That is aimed, among other things, at giving DWP staff information and experience of our industry, so they can better explain the opportunities to their client base. We are working on a number of initiatives with other industry organisations: Springboard, which is a careers organisation within our industry; in Scotland, the Hospitality Industry Trust, which provides bursaries and scholarships; the Tennent's Training Academy, which is sponsored by Tennent's Brewery; Diageo Learning for Life, which is programmed at youngsters and giving them experience in our industry. So we are engaged with and support a large number of initiatives that are giving youngsters experience of our industry. We would like to see that extended to older people and people returning to the workplace.

Q725 **Chair:** We wish you well with that. Again, my own constituency experience, I have seen some of these projects in action and I know that there is ability to recruit from local populations. As we go through the process of leaving the European Union, is there anything that the British Hospitality Association—whether Scotland or UK-based—is doing to express to the UK Government concern about immigration-related issues and the possible inclusion of EU nationals to come and work in the hospitality sector?

Willie Macleod: I think you will see a lot more of that on Friday.

Chair: Good. We will have to leave it there. We are very grateful to you, Mr Macleod, for coming along. That has been really helpful to the Committee to better understand what is going on in the hospitality sector.

Willie Macleod: Thank you for the opportunity.

Chair: It is a critical part of all of our constituencies and we really do value the work that you do for us, and you can pass that on to your membership. Thank you very much for coming. I think we have asked you for a couple of little bits of clarification.

Willie Macleod: We will follow up on it.