

Scottish Affairs Committee

Oral evidence: [Sustainable employment in Scotland](#),
HC 449

Tuesday 31 October 2017

Ordered by the House of Commons to be published on 31 October 2017.

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Members present: Pete Wishart (Chair); Deidre Brock; David Duguid; Christine Jardine; Gerard Killen; John Lamont; Paul Masterton; Danielle Rowley; Tommy Sheppard; Ross Thomson.

Questions 726-818

Witnesses

I: Bryan Simpson, National Organiser, Better than Zero, and Steven Dillon, Regional Coordinating Officer, Unite.

II: Colin Borland, Head of Devolved Nations, Federation of Small Businesses, and Fraser Grieve, Regional Director, Highlands and Islands, Scottish Council for Development and Industry.



Examination of witnesses

Bryan Simpson and Steven Dillon.

Q726 **Chair:** Thanks very much for coming in at short notice. I understand that Paul is unwell, yes?

Steven Dillon: Yes, he is unwell.

Q727 **Chair:** Thanks for coming along anyway.

Bryan Simpson: Yes, this guy is my hero because it would have just been me taking questions for an hour. We could not have that at all.

Q728 **Chair:** I welcome you both to the Scottish Affairs Committee, and particularly you, Steve. I know that you have replaced Bryan at short notice for today's session, so we very much welcome and appreciate you coming down at such short notice.

This is the Scottish Affairs Committee's inquiry into sustainable employment in Scotland. It was one of our major inquiries of the last session in Parliament. The Committee has agreed that we would continue to take up this inquiry and see if we could conclude it before Christmas this year, so we are grateful for both of you coming along today.

Maybe just for the record if you could state who you are, who you represent, and if you have anything by way of a short statement. We will start with you, Mr Simpson.

Bryan Simpson: Thank you, Chair. My name is Bryan Simpson. I am the National Organiser of the Better than Zero campaign, but I am also an official for Unite, the union representing the hospitality industry. I support hospitality workers, particularly hotels, restaurants, cafés and bars across the whole of Scotland.

Q729 **Chair:** I am grateful. Mr Dillon.

Steven Dillon: I am Steven Dillon. I am the Regional Coordinating Officer for construction in Scotland. I here to talk about the construction industry and stuff that goes on in that.

Q730 **Chair:** I am grateful. Maybe just to kick things off, in the course of the last inquiry and the last session of Parliament we were hearing that the Scottish economy is increasingly reliant on low-skilled, low-paid jobs. I want to know if, in your view, this is true and if this is more of a problem in Scotland than anywhere else in the UK.

Bryan Simpson: Certainly within the hospitality industry and, speaking from a Better than Zero perspective, also the retail industry is particularly bad for low wages and low skill. It takes a lot of training to make a coffee nowadays as a barista, but unfortunately the wages do not reflect that at all. In the hospitality industry 70% earn less than the Living Wage. That is by far the worst of any industry in Scotland. It is 55% in retail and then it jumps right up to 70% in hospitality.



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In terms of precarious work—that is those that do not have minimum hours—25% of all employers within the industry use zero-hour contracts. That is three times higher than the national average. The national average is about 9% of companies using zero-hour contracts, yet it is 25% in the hospitality industry. It has gone down but it is still three times higher than the national average.

Steven Dillon: The construction industry is rife with all different types of pay scales, including employees paying their own employers' National Insurance, their company's National Insurance. Workers from across the world come to work in Scotland. Indeed, in the Forth Replacement Crossing project, we discovered workers who have been paid less than the National Minimum Wage, and we provided that evidence to Keith Brown in the Scottish Parliament. We are working alongside Acas and Mr Brown to try to resolve some of those issues on the major public contracts.

As I said exploitation is rife in the industry, especially in Scotland. It is a shame that public contracts have this. One of the issues that I believe we should always look at is, when people take public procurement processes and say they are doing this and they are doing that, nobody polices it. Who polices that when it is done is one of the critical things that is missing from construction in Scotland.

Q731 **Chair:** We will want to come around to some of the issues about the National Minimum Wage and also some of the issues with precarious employment. I am just trying to get a sense of if we have a particular problem here in Scotland. For example, we hear that we have high levels of employment but, at the same time, a lot of these jobs are dependent upon low skill, low wages. Is there a particular issue that we have to address in Scotland? Is this a problem that is maybe specific or possibly more exaggerated in Scotland? I would be interested in your views on that.

Bryan Simpson: Only looking at the density of the hospitality sector in Scotland, it is the second biggest to London. It is 9.2% of the population; 256,000 people work in the industry and 70% of them are earning less than the Living Wage. What I would deduce from that is that it is the second most precarious and the second lowest paid outwith London, in terms of the regional demographics of the hospitality industry. Because of Edinburgh, because of the Highlands and because of places like Loch Lomond, we are seeing resorts up north, for example, with huge amounts of unlawful deduction of wages. I know we will get on to that, but we know the hospitality sector is the lowest paid but, because it makes up such a large proportion of the Scottish workforce, I would say it is particularly bad.

Steven Dillon: The point I would like to make is, in working in construction, maybe they will get above the National Minimum Wage when he or she gets his or her payslip, but when all the deductions take place it shows you clearly—and we have provided that evidence to Keith



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Brown—that it is below the National Minimum Wage, including accommodation and all the rest of it, once it is deducted from the wage. That is the issue. You can put a false face on it and kid that a worker is getting x-amount of cash per week and above the National Minimum Wage, but the fact of the matter is, when the statistics are looked at, it is clear that they are not. As I said, we provided evidence to the Scottish Government on that.

Q732 Chair: Thanks for that. I know David Duguid wants to come in here but, just before I take David, one of the things that we heard in the previous evidence sessions is that those people who are working in these low-paid jobs, perhaps below the National Minimum Wage, find it very difficult to find any career progression and promotion. Is this a feature that you recognise in the fields that you are in just now?

Bryan Simpson: Absolutely. In the hospitality and retail sector, I would say, second or third to low-paying and precarious work or insecurity is the inability to progress through the company, particularly among migrant workers. What we are seeing is a huge proportion of management within the hospitality sector being Scottish-born. Of course, there is nothing wrong with that, but there is if you have a huge swathe of migrant workers who could be better skilled or whatever but are at the very bottom of the rung. We know, both anecdotally and statistically, that migrant workers find it a lot more difficult to progress through the company, whether that be because of indirect xenophobia or whether it is to do with low pay within the organisation that prevents them from getting any further. It is something that we have certainly come across.

Q733 Chair: Is it the same in the construction side of things?

Steven Dillon: It is a wee bit different in the construction side because construction workers are based usually through apprenticeships; they progress in the industry. That is why adult apprenticeships are important as well. When these public contracts are up they should be looking more at that, but most labourers are tarred with the same brush and move about from site to site. There is no progression for them because maybe they were in a different industry before they moved into the construction industry. That is why adult apprenticeships should be really looked at as well so there is a progression for those workers in the construction industry.

Q734 David Duguid: Steven, you mentioned in your introduction about some employees in the construction industry paying their own employers' National Insurance. Can you say a bit more about that, and what protections should be in place for that?

Steven Dillon: It goes way back to the status of the worker, if he is actually an employee or a worker or not, and most construction workers are what we call bogus self-employed. There are genuinely self-employed workers there as well, obviously, but the onus should be on the company to determine who is genuinely self-employed. When somebody is bogus



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self-employed or working through an umbrella company or an agency, for example, the agencies are now making those workers pay employers' National Insurance and employees' National Insurance. Technically what they are saying is that worker, who is an individual, is now a limited company. Then the Government turn around and say, "We have all these new fledgling companies starting", when in actual fact it is just a dodge to pay National Insurance.

Q735 David Duguid: Is it not the case that the Government also introduced IR35, which is Inland Revenue rule 35, which was supposed to look out for these cases? I don't know how well it has been rolled out or how well covered your representatives are, but is that something you are aware of?

Steven Dillon: That goes back to what I said earlier on about the policing of this. It is all right the Government coming up with rules, but who is policing it? Who looks after us when we are spending billions of pounds, and who goes out and checks that these companies are doing what they say they are doing in their PPQs?

Q736 Gerard Killen: Steve, on that point, is there anything more you think that perhaps HMRC or the Government could be doing to set clear guidelines as to what is a self-employed person, particularly in the construction industry? I am from this industry so I know how difficult it can be for employers sometimes to discern what is a self-employed worker and what is an employed worker and how they go between the two, depending on what they are working on. Do you think there need to be clearer guidelines in that area?

Steven Dillon: Yes. There should be clearer guidelines because some of these major projects have been lasting for two, three or four years. Why are we not employing these people full-time? Not only that, but when you are employing them full-time, they are also going to get auto-enrolment and things like that when the pensions are coming into their accounts, so you should be looking at that.

On these projects we have been dealing with the likes of the Fair Work Convention in Scotland, speaking to them about how it should be fairer and workers should have a voice in Scotland. We are doing a number of things in Scotland to try to make sure workers have a fair deal in the workplace, but at this moment in time our industry is on its knees as far as employment status is concerned. When a major contractor says that it is going to employ x-amount of people, in actual fact, of the workers on the ground, there are probably two or three employed. It is all managed by a management facility company, and then they bring in the subcontractors, and the subcontractors bring agency labour, umbrella companies and bogus self-employed. That is the problem. It needs to be policed. They are saying they are going to employ people. There was a job in Dundee—I am not going to mention the job—they said they were going to have six apprentices on it. We went to monitor the job, and it was six trainees. The problem is the monitoring.



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Q737 Chair: One of the features that did come up in the last session of Parliament was this issue about unsustainable self-employment, and this trend that seems to be pushing more and more workers into what seems to be a pretty unregulated space. There are major concerns that were raised by STUC and a number of employers. How big a feature is this of the employment market in Scotland just now, and what should we be concerned about in this Committee in looking at sustainable employment in Scotland?

Bryan Simpson: I touched upon it in the evidence in February. We represent Deliveroo riders, and there are about 400 of them throughout Scotland. That does not sound like a lot, but the proliferation in the last two or three years of what we would call bogus self-employment contracts, the lack of definition on the difference between a self-employed and a worker and an employee is allowing companies to run roughshod over that.

This is a company, Deliveroo, multi-billion pounds, American multinational, who absolutely can afford to pay the Living Wage, but instead what they do is they pay the riders £1 per delivery. They are paid per delivery. They are not guaranteed the minimum wage at all. In terms of any reasonable definition of self-employment, it would be that you have full autonomy over your role.

After the Pimlico Plumbers case, you should not be wearing the uniform of the company. The Uber case: you should not be tied to a performance management system. They are. On all of those fronts, Deliveroo is performance-managed. They have to wear the uniform. They have to provide their own bikes. Of course, the company is gaining financially because, under the Health and Safety Act, they don't have to provide PPE equipment. That is £150 that the staff member is out in their first wage, which could be £300 or £400, because they are only doing a few deliveries and they are only making £1 per delivery. The average wage of a Deliveroo rider was £4.80 an hour, so they are not making the minimum wage.

For me, the best way legislatively to tackle this is to absolutely tighten up the definition of worker. It cannot be allowed to fly that workers who are absolutely, clearly employees of a company are allowed to be regarded as self-employed. I know that there are Bills coming up in March, but we do need to do something now to tighten that up in the definition of self-employment.

Steven Dillon: As far as percentages are concerned, I can certainly give you the UK figure. In response to a Unite Freedom of Information request in July 2017, figures released by the UK Government Department for Business, Energy and Industrial Strategy identified that some 1,076,000 workers received payments through the HMRC Construction Industry Scheme, and that is the CIS as you will know it. This equates to 47% of those employed in the construction sector being categorised as self-



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employed—and, as I say, many of them are bogus self-employed—with significant experience in this sector.

If I just go into this: we put in a submission to the Taylor report and it basically says everyone should be able to gain access to decent rates at work: “The Government should extend existing rates to all those in work, not only those who qualify for employee status. This should include creating a legal presumption that everyone qualifies for a full set of employment rates, placing the onus on the employer to prove that that is not the case. There needs to be a lifting of the universal level of employment rates by extending existing rates to all those in work, not only those who qualify for employee status. This includes family-friendly rates, protection from unfair dismissal and the right for redundancy pay. As Unite has stated in the BEIS Committee inquiry on the future world of work and rights of workers, the legal default should be for all workers to have employee status, with the onus on the employer to prove a person is genuinely self-employed”.

Q738 Chair: I am grateful for that. I don’t know if we have that in this Committee as part of our submissions, but perhaps if you could circulate that so we could have a look at that and examine that further, but thank you for that.

Steven Dillon: Yes. I can hand this in. Okay. That is fine, Chair.

Q739 Deidre Brock: In terms of the problems you are mentioning about policing some of these abuses by employers, it seems to me that a lot of the powers to enforce that still lie with Westminster. I seem to recall—and, Chair, you can correct me if I am wrong—someone from the STUC coming here and suggesting they would like to see employment law in total devolved to Scotland. I just wonder what your thoughts are on that, because it seems to me that a lot of these cases or instances that you are speaking of are still reserved, so full powers to be able to address that in Scotland are difficult at this time.

Bryan Simpson: It was me that said it, and I know that colleagues in STUC have said the same. Without legislative powers—and I am not blaming everything on Westminster—to change employment law and to improve employment law, we really are stuck. What we have to do in Scotland, for example, to be honest, is circumvent those situations that exist. The point of the Better than Zero campaign, its fledging as an organisation at the very beginning—it had to do things, for example, direct action against employers who were not playing ball, and that was because of the lack of legislation that existed within Scotland. I would say it needs to be devolved because we do not have the rights that we should or the ability in Holyrood to change those things. For example, we would see a drastic change in the definition of self-employment if we had those rights to change.

Deidre Brock: Interesting.



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Steven Dillon: It is all fair and well saying this should be devolved to Scotland, but it is about what promises the Scottish Government are going to give us if it is devolved as well.

Deidre Brock: Of course.

Steven Dillon: We would not just be saying, "Aye, we are going to accept that, carte blanche", but if it makes workers' rights better and protects workers, fine, let's go for it because something needs to be done. If we want to say we are Scottish and producing better conditions for our workforce, I would just go ahead and go for that full steam ahead.

Q740 **David Duguid:** Moving on from Deidre's question—and your answer was on the devolution of employment law—I have two questions. How would that affect those that work in the construction industry that are able to work across the UK, and why would people working in the construction industry, or indeed the hospitality industry, in Scotland be in a better or worse situation than elsewhere in the UK? The other question follows on from the IR35 question I asked earlier. Do you have a feel for how many workers in either of your industries have a preference for working on a self-employed basis for whatever reason?

Bryan Simpson: In terms of how it would benefit within the hospitality industry, to be perfectly frank, the differences between the Tory-led Government in Westminster and in Holyrood, where we do have, for example, the Fair Work Convention—it is not good enough but it is certainly a darn sight better than what was going on at Westminster. It is not that I have full faith in the Scottish Government to be able to implement really progressive, radical employment changes that are needed, but the Fair Work Convention is a darn sight better than what we have in Westminster where, for example, with the Taylor report, we had the opportunity to really tighten up the self-employment definition and we failed. I am talking about the royal "we". The Government failed to do that.

On the National Minimum Wage Regulations in 2015, what you now have with people in social care who do overnights—it was perfectly legal not to pay them the minimum wage through the overnight stays. Now, of course, with the tribunal win with UNISON, that has been overturned. Time and time again over the last seven years, the Tory Government have had the opportunity to improve legislation, tighten up that definition, and have allowed companies like Uber and Deliveroo. It is no coincidence that these companies have proliferated over the last seven years, and that is because they have been allowed to by the existing legislation or lack thereof. It is not that I am saying that the Scottish Government would do everything that we need in employment law. I am just saying that the Fair Work Convention goes a lot further than what Westminster has been doing recently.

Q741 **Tommy Sheppard:** I have a quick supplementary. I detected a degree of frustration at the inability of the Scottish Government to legislate in



this area because they do not have competence at the minute. I want to clarify whether, from your point of view, you think devolution of the employment law would be something that would be favourable and help your ability to organise, and whether you see any prospects in the forthcoming Brexit process to advocate for that.

Steven Dillon: As Bryan has already pointed out, we have the Fair Work Convention in Scotland, and I have been there and I am speaking to them and all the rest of it. As far as that is concerned, they are going down the right track. It is all right having these conventions, and I keep going back to it, and I am always coming back to the same issue. We have the convention. We have the construction charters that we have introduced in five authorities in Scotland and two universities in Scotland as well. It is pointless having these things if nobody is policing and making sure that those are being carried out.

For years and years—my family has been in this industry for years—people have promised workers are going to get stuff, and it is all down on paper. When it comes to the reality of it, nobody checks it out. It needs to be checked out, policed. We are all stakeholders in Scotland. We need to make sure we are getting the best value for money. People are saying they are doing stuff. We need to make sure they are carrying the job out. Aye, that would be fine, to answer your question, if the Scottish Government could prove to us, as a trade union, that those things were going to be introduced.

Q742 **John Lamont:** I want to go back to the low levels of take-home pay, the National Living Wage. Clearly, successive UK Governments have tried to improve the situation by increasing the personal tax threshold and also by increasing the National Minimum Wage. Could you describe the impact that those two policy changes have had on low pay levels in Scotland?

Bryan Simpson: Very little. You have increased the minimum wage but, in my partisan view, that was an attempt to repackage a Living Wage, which it wasn't. £7.50 is the National Living Wage, as you call it, but it is not. You also set youth rates, which allowed people to be paid as little as £4.05 an hour. What you have done is to ensure that 16 and 17 year-olds within the hospitality industry are paid 40% less than the other workers. What that allows companies to do is to aim for younger workers to get cheaper labour. To rebrand what is effectively poverty pay as the Living Wage is so disingenuous. In my view, it has made the hospitality industry a lot lower paid. As a consequence, you have companies like the G1 Group who, in 2014 and 2015, failed to pay the minimum wage. To be honest, the only teeth that the HMRC had—because the Government were not backing it up on that—was to name and shame them, and they just continued doing it.

£45,000 was what that company was fined for not paying 2,800 staff the minimum wage. For me, that is a consequence of lack of Government action on breaches of even the minimum wage, never mind the Living Wage.



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Steven Dillon: I will keep referring to this, Chair, but it goes back to: who is policing it? You are introducing these things. They will get away with it. As a trade union, we have to take it to Employment Tribunals. Why does it have to be that way? Why do we, as a trade union, have to take all these cases to tribunals? That is whether or not the employee is legally entitled to go to tribunal, if they have a qualifying period, for example. The Government should be policing that. They should be sending people out to make sure everybody is getting the proper wages. That is the issue—and I will keep harping back to it—that nothing is being policed.

Q743 **John Lamont:** The UK Government would probably dispute that. I did some number-crunching myself. Somebody who used to be on the old minimum wage full-time contract took home £11,100 in 2013. This year the same person getting paid the new National Living Wage would be taking home £13,224. That is an increase of over £2,000.

Bryan Simpson: Sorry, John, you are talking about tax. You have given a small amount with one hand and taken away a lot more with the other one.

Q744 **John Lamont:** I was talking about increases to the minimum wage and also the changes to the tax thresholds, both of which have contributed to people at the lowest ends of the pay scales getting an increase to their take-home pay.

Bryan Simpson: I have been organising workers for seven years since 2010 when you came to power, and I have not come across one worker who has told me, on the minimum wage, that they have ended up with more money.

Q745 **John Lamont:** Nobody is getting the benefit of these policy changes?

Bryan Simpson: You have increased the tax threshold, which is a small amount. It is a few hundred pounds a year, but what I am saying—

Q746 **John Lamont:** It must be of benefit to some people.

Bryan Simpson: Yes, but what I am saying is that you have also reduced, for example, for under-25s, their wages. If you are 17 years-old, you will be 40% worse off. Even with the tax benefits—you are giving back maybe 5%—they are still 35% worse off. At the time when you came into power, they would have been 12 or 13 years-old, expecting to be on the same wages as a 25 year-old or anyone at that age, and they are not.

Q747 **John Lamont:** You oppose these changes that were made?

Bryan Simpson: No. I think anyone under less than £20,000 should not be paying tax but I also think you should be taxing the rich, and you are not. You have reduced the tax threshold for the super-rich much faster and higher than you have for the lowest-paid.



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Q748 **Chair:** Before we continue, the “you” is not referring to John Lamont?

Bryan Simpson: Absolutely, yes. It is the royal “you”.

Q749 **Chair:** It would help to clarify that when you are expressing the royal “you”.

Bryan Simpson: Yes, exactly. I would not do that.

Q750 **Christine Jardine:** Much of what I was going to ask you about—minimum wages, policing and how we improve them—you have mentioned already. You talked about the lack of a policing system. Is there a danger that we get involved in a discussion that is about a particular party’s policy, rather than the issue? Do we need to look at it a little wider than that? How do we police it long-term? Do we need some long-term approach, rather than just a particular Government in Scotland has a particular approach, a particular Government in London has a particular approach? It might switch. In five years’ time, we might have a Labour Government in the UK and a Tory-led coalition in Scotland. Devolution: is it the answer, or do we need a broader look at how we police minimum wages and the sorts of abuses you are talking about?

Bryan Simpson: We need cross-party support. Of course we do. It cannot be partisan otherwise it is not going to stand. I know that there are certain Members who are putting legislation together just now to clear up that definition of what is a worker, what is self-employed. They cannot afford to only make it partisan. It has to have cross-party support. Yes. We have to ensure that for the long run.

There will be some members of all parties who will support the idea—because even businesses support it as well—that we need to clear up what we mean by self-employment, to ensure that the problems that Steve and I have outlined are not allowed to happen. It almost needs to become a consensus that is not penetrable for future parties or powers to change or overturn, and I think we are starting to win that argument.

Q751 **Paul Masterton:** Keeping on the enforcement theme, obviously at the moment HMRC is naming and shaming the policies of various Scottish companies, particularly in the hospitality sector. Included on the recent list, disappointingly, were a couple in my constituency. Are you sensing that that has any effect in terms of behavioural shift? Is naming and shaming achieving anything? Is it perhaps catching those for whom it was a genuine mistake, or is it that the companies that do not care do not care about naming and shaming?

Bryan Simpson: It is better than no naming and shaming, obviously, but you saw a massive increase in 2016. It went from about 180 to well over 300. That was across the whole of the UK. G1 was the worst in Scotland, in terms of not paying the minimum wage. For a company like that it is clearly systematic. This isn’t a small family-run salon that, although it is still unacceptable, has failed to pay a hairdresser £300. This is £45,000 for 2,800 workers. If I am honest, through the Better than



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Zero campaign, it is a combination of that naming and shaming publicly with the direct action that we have used against them. That is entirely peaceful, direct action where we have, frankly, threatened the company with reputational damage, which is of their own making because they have not paid the minimum wage. I would say it helps, but, as I said, we need a lot more legislative teeth to be able to fine the company and to be able to, for example, remove them from funding.

The G1 Group, through the SDS scheme, Skills Development Scotland, was caught out. It effectively stole £400,000 from Skills Development Scotland in training that it did not carry out or training that it was not entitled to, and it had to pay back Skills Development Scotland £400,000. Again, this is the same company that was fined £45,000 the year before.

To answer your question, in some cases it is so systematic that we do need the teeth to be able to come down on them legislatively.

Q752 Paul Masterton: Do you think the current process for identifying the people that come out on these lists is catching everyone, or do you think that there is an issue that the problem is far more widespread than these 30-odd-page PDFs are suggesting?

Bryan Simpson: We have come across companies or we have been given anecdotal stories of people and have been shown payslips. There is proof that they have not been paid the minimum wage, and they are not on the list. There will be a lot of companies that fall through the net of being named and shamed. I would say, yes, there is a huge amount more of companies than have actually been named in the name and shame list.

Q753 Paul Masterton: One very last quick one. Obviously, the minimum wage is always differentiated by age. Even when I was working at university, I got paid less than someone who was over the age of 21. Is it your view that the minimum wage or the National Living Wage should not distinguish by age at all and it should just be flat from 16?

Bryan Simpson: It is age discrimination, pure and simple. It is direct age discrimination. Imagine being 19 years-old and being the manager of a pub or the bar manager. They can quite legitimately be paid less than a 26 year-old. I am 29. Me coming in off the street—

Q754 Paul Masterton: I don't think you need to enlarge on that because it has happened.

Bryan Simpson: I know. Me, coming in off the street, having never pulled a pint before, why should I be paid 40% less than that 19 year-old, when they have more skills and more experience than me? It does not make any sense, and people argue that it encourages companies to employ younger people. No, it does not. It encourages them to overwork them, to give them less money. If you are 17 or 18, of course you can have a home. You can have a family. It needs to be across the board, obviously—£10 an hour and not £7.50—but you cannot discriminate against young people.



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Steven Dillon: In response to that as well, you have talked about naming and shaming: you may have heard Chris Stephens MP on a blacklisting debate at Westminster Hall and on the position of the Scottish Government on blacklisting procurement, including the ability of the Scottish Government to prevent awarding public sector construction contracts to blacklisters. Additionally, Mr Stephens referred to the procurement legislation. We welcome that statement from them, but the fact of the matter is all these blacklisted companies were named and shamed and nothing happens to them. This goes back to: own up, pay up and clean up. Nobody has cleaned up. Is there any proof or evidence that these blacklisting companies have reemployed or took the employment of somebody who they blacklisted?

Q755 **Chair:** We are going to come on to blacklisting. We have a couple of questions.

Steven Dillon: Sorry. I just thought it was a good time to come in on that during naming and shaming.

Q756 **Chair:** Just to stick on the naming and shaming, we have quite an extensive list of some of the worst transgressors in the course of the past few years, and when you look through it it is quite staggering, some of the underpayment that went on to employees. What we also have in our notes, what we have been told before, is this is only a fraction of the companies that are involved. Other than the reputational damage that hopefully will be applied to those that are on this list, what would you suggest can be done? The Government, through HMRC, are detecting these. What do you believe should happen to those that appear in these lists? What should be a sanction?

Bryan Simpson: They need to be fined, and they need to be fined much more than what they took off staff. For example, G1 was just fined the £45,000 that it failed to pay its staff. That is absolutely no sanction for a company that made £60 million last year. I don't know what proportion is acceptable, to be honest, but I would say that it should go in ascending amounts. If you are talking about a small, family-run business—again, I am not saying it is acceptable—and you are talking about a few hundred pounds, it should be double that amount. If it is tens of thousands of pounds and they continue doing it, then you should look at millions of pounds of fines, because it needs to prevent it from happening again. This company has no problem paying the £45,000 and it will do it again, so it needs to be much higher than the money that they owe.

Steven Dillon: I think it should be a percentage of their profit margin.

Chair: That is a pretty straight answer to that question.

Q757 **Gerard Killen:** Mr Simpson, you touched earlier on the high prevalence of zero-hour contracts in the hospitality industry. Just to go back to that, in both of your experiences, how prevalent are zero-hour contracts across Scotland and is it a concern?



Bryan Simpson: A massive concern. As I say, it is second only to low pay and insecurity or unsecure work. That is the number two concern among the hospitality and retail industries. 25% of employers within the industry use zero-hour contracts. That is a lot but it does not sound like a lot because you think, "Well, 75% aren't", but that does not mean that 75% aren't. It means that that is 25% of companies that solely use zero-hour contracts. As I said, that is three times higher than the national average.

Particularly in Scotland, probably outwith London, it is the most prevalent because of our dependency on the hospitality industry and the tourism industry. We are seeing hotels, particularly. The median income in the hotel industry is £7 an hour. The median income is 50 pence less than what I would regard as the minimum wage. You know what "median" means. That means that there are a huge amount of people who are paid a lot less than that. That means either they are breaching the minimum wage regulations or they are only employing young people on £4 and £5 an hour.

The precarity in the hospitality and retail industry, particularly in Scotland, is a serious concern and it is only getting worse because you are seeing companies that see the advantage. Of course, even if they are not on zero-hour contracts, they move people on to four and five-hour contracts, which can be just as bad. With that, a lot of workers don't know that they are entitled to holidays and sick pay, for example.

One of the things that Better than Zero does is we get out and educate young workers about their rights. The amount of young people that I have spoken to who did not know that they were entitled to holidays and sick pay because of those zero-hour contracts, not to mention the fact that with zero-hours or short-hours contracts, if a manager does not like you, they do not need to sack you. They can just give you no hours. It is almost like a form of subtle unfair dismissal. I have had many people come to me and say, "I wasn't sacked. I was just not given hours again and asked not to come back", even though they are still on the books, so at Christmastime they can bring them back whenever they want.

Steven Dillon: Zero-hours: it is not new to us in the construction industry. Zero-hours may seem maybe 10 years old when people speak about it, but it has been in the construction industry for years. That is where it started, through agencies and all this stuff. What has happened is these employers are catching on to it. It is starting to spread right throughout the whole of the country. We have been used to it for years under all sorts of guises, CIS4 and everything, so you would be used to the zero-hours. That is how construction operates.

Q758 **Gerard Killen:** Do you want to see zero-hour contracts banned, or can they be reformed in some way, or should they be reformed in some way?

Bryan Simpson: They need to be banned. The idea that you can differentiate between an exploitative and a non-exploitative zero-hour



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contract is just a false dichotomy. If the relationship between the employer and the employee was a flat relationship, if it was a fair relationship, then I would argue that there are certain industries in which you should have that flexibility, but I don't know any industry in which the employer is on a level playing field with the employee. We have just got rid of tribunal fees, but the access to justice is so lacking that there is not that flat playing field. So, no, I think we have to ban them.

There are certain industries, like education, where some argue that you should be allowed to have more flexible contracts, but they can be defined other than zero-hour contracts. We have to be quite clear in banning them outright.

Q759 Gerard Killen: You touched on that already. You do accept that there are cases where both the employer and the employee would like a flexible approach, but you would like the playing field to be more even. How do you think that should be approached? Is it by some other sort of contract that puts that in place?

Bryan Simpson: Yes. Access to justice needs to be absolute. Just because we got rid of tribunal fees does not mean, for example, that a pregnant woman who has been sacked because she is pregnant has a clear access to justice. To be honest, ideologically, I don't know if we are ever going to achieve a flat playing field between the employer and the employee, but it can certainly be improved by better legislation, for example, with regard to access to justice and the ability to take your employer to task for huge failures and breaches of the Equality Act, for example, discrimination and failure to pay the minimum wage; that, combined with banning zero-hour contracts and—I am still to define this in my own head—preventing short-hour contracts. I don't know how you would do that because there are some students that I have met who would want to work 12 hours. I would say 12 hours is the minimum that you really need to live. That is about £500 to £600 a month if you are on the minimum wage. How can you possibly live on less than that? I would say something like 12 hours, minimum, and then of course you can opt out of that if you want. So, giving people minimum-hour contracts within the industry, and throughout the Scottish economy, and allowing them an opt-out clause on hours defined by that worker. That would be how I would do it.

Chair: Thank you for that. I am keen to move on. I have three supplementaries that I am quite keen to take on this issue because I know it has piqued a bit of interest. We have Ross Thomson, Danielle Rowley and Paul Masterton. If we can make the contributions and responses shortish at this point it would be very helpful too, given the time constraints.

Q760 Ross Thomson: I am interested in your answer on whether zero-hour contracts should be banned. I come from the hospitality and retail industry—that is my background—and I have worked with people who chose specifically in the retail sector to have a zero-hour contract. They



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were maybe retired and only wanted to pick up work when they chose to, and did not want to be tied into a part-time or full-time contract. They were either students who, depending on their course, would only pick up work when they chose and wanted to, or mums who were looking to re-enter the workplace but did not want a full-time or part-time contract, who would pick up work during sales and the Christmas period, and that was their choice. If you ban it, are you not taking away flexibility and choice from workers?

Bryan Simpson: I have just said that they can opt out of that. I have met hundreds of workers on zero-hour contracts, and I genuinely—this is not just to support my argument—have never met one zero-hours worker who says to me that they like it.

Ross Thomson: I can introduce you to some.

Bryan Simpson: You are right, in the sense that people think they will like zero-hour contracts because they assume that there will be flexibility, but my point, Ross, is that there isn't flexibility, because how can you say there is flexibility when the employer can tell you, despite you being on zero-hours? You should be able to choose your hours. I think we can agree on that. You should be able to say, "This week I can only do 12, but this week I could do 40 for you". I don't know people in the hospitality industry who can only do 12 hours. My point is that they are doing 40 hours, but they are on zero-hours for the very reason that the employer does not need to give them all the benefits that those hours would allow.

I have heard that argument dozens of times but I can honestly tell you that I have not met a zero-hours worker who says to me, "Yes, I quite like it because I like the flexibility". They will say to me, "I thought I would enjoy working in the hospitality industry because I thought I could choose my hours", but they don't.

The argument about temporary workers: I have represented workers in Amazon, I have represented workers in the retail sector who work during that Christmas period, and they are dropped like a stone. They do not get the breaks that they are entitled to. They do not get the holidays that they are entitled to during those three months because they are worked to the bone, from going through Black Friday all the way to January, where they are just dumped like a stone. I just do not buy the argument that they are somehow enjoying that flexibility when there isn't any.

Steven Dillon: In response to that, they should be at liberty to opt out; simple.

Ross Thomson: As we are taking evidence, that having been my bread and butter for a long time—I know it is anecdotal evidence, and it will be anecdotal evidence from me too—absolutely, if people could choose, that was their decision, that is what they wanted, it suited their needs and circumstances—maybe we can take some evidence from those who are



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on zero-hour contracts who want to speak to this Committee. It would maybe be quite helpful.

Q761 **Danielle Rowley:** You have both already touched on it, but what has already been done perhaps by unions to tackle exploitation, and what more can be done? What can Government do to further tackle exploitation?

Bryan Simpson: In Unite, we launched the Fair Hospitality campaign in February of this year. We look at the density of the trade union movement and the hospitality industry. It is 4%. I am not entirely blaming the Government for the lack of support in the hospitality industry. The trade union movement has dropped the ball on the hospitality industry and we need to reinvigorate that.

We have set up the Fair Hospitality campaign, which seeks to support and organise café, restaurant, bar and hotel workers, particularly, to grow a collective bargaining framework, which can then hold companies and effectively political policy to account, and do that through support, giving them the skills and knowledge and confidence to challenge exploitative employers, where they exist. Maybe some of you would not, but I am sure some of you would agree that the best way to do that is through a collective voice and a trade union, so that is what we are trying to do to rebuild that framework.

We have a charter, which I would encourage you all to look at. It is called the Fair Hospitality Charter, and that is a charter of reforms. It was not me that put it together. It was bar and restaurant workers who put that together as reforms, not particularly radical reforms. Things like the Living Wage, things like getting the breaks that you are entitled to under the Working Time Directive. They put that together, and that is what they are trying to fight for within the hospitality industry.

For example, we are growing membership within the hotel sector, gaining recognition agreements to be able to negotiate with employers for the Living Wage, so that they can get the breaks they are entitled to and improve the conditions that we are talking about.

Q762 **Paul Masterton:** A very quick one. I think you mentioned it in your answer earlier but, presumably, the danger with going to a full ban on zero-hour contracts is that then everyone just moves everyone on to a one-hour contract, for example. Are we not really here dealing with specific cases of exploitative employers, rather than this being necessarily endemic, belonging to every single employer that exists in the UK, and should we not be looking at more targeted action that deals with the specific instances? For example, you have raised the G1 Group. There are plenty of other hospitality employers across the west coast of Scotland who do not engage in anything like that behaviour and are very good, supportive employers. Is there not a danger that we tar employers in an industry with one brush?



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Bryan Simpson: If you are an employer that prolifically uses zero-hour contracts by definition you are exploitative. Banning it is about preventing that exploitation. I did not say that every employer was out to exploit workers, absolutely not. But within the hospitality industry it has the highest number of zero-hours. It has the lowest-paid workers within the industry. It has the unhappiest workers in the industry. It has the workers with the highest mental health problems. All of those things point towards the most exploitative employers within the Scottish economy.

Bringing in the Living Wage, getting rid of youth rates and getting rid of zero-hour contracts is not about tarring good companies because, of course, those good companies would not use them in the first place.

Chair: Thank you. We will have to move on from that.

Q763 **Tommy Sheppard:** I want to turn now to the question of blacklisting, which you were beginning to talk about, Steve. In the 2010 parliamentary session this Committee had an inquiry into that. It was before my time but you may be familiar with it. They made a number of recommendations to employers and took evidence about the state of blacklisting at that time. Could you take this opportunity to update us on what you think the extent of the problem of blacklisting still is in the Scottish economy, whether you think employers are responding adequately to the problem and, if not, what recommendations you might ask us to consider in terms of improving the situation?

Steven Dillon: As far as we are concerned as a trade union, blacklisting is still out there, clearly. We were recently at the new Dumfries Hospital and we could not even get access to speak to the workers there. That is a form of blacklisting itself.

We are going to have a day of action on blacklisting very soon. We have had workers who have been given awards from companies that have had out-of-court settlements as well. As I said earlier on, during the blacklisting process they said they were going to own up, pay up and clean up. There is no evidence whatsoever, anywhere, on any of these blacklisting companies that are all named. Everybody can check their names.

One of the problems for these blacklisted workers is getting back to their employment status. They cannot legally take the case to the Employment Tribunal because of their status. What we are saying is that the company itself should be looking at that and looking at the status of their workers. Blacklisting, as I said, is endemic.

Q764 **Tommy Sheppard:** Sorry. Are you saying it is as bad as it ever was?

Steven Dillon: It is as bad as it ever was. Where is the proof that any company in Scotland has taken on a blacklisted worker, somebody they blacklisted? All these blacklisted workers still cannot get jobs. It is not just in Scotland but England as well. They go for work. They are



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blacklisted. There are secret blacklists somewhere where these workers cannot get jobs.

They are not even letting trade unions on to a publicly funded job in Scotland to speak freely to the workforce. What they are basically saying is, "You can come in" and somebody will send a manager into the room; somebody can come in, a guy to look at it. It is not good enough. It is public funds. We want on to the jobs. We want on to these public jobs to speak to those workers. The Fair Work Convention is saying, "It is a fair voice for the workers. They have a fair say and employment status". Is there a reason why they don't want us on there? Are they hiding stuff? Is there exploitation going on?

When I was in Aberdeen, an officer for seven and a half years, the AWPR job was going on. I went to a house where there were 40 Senegalese workers staying in the same house. There were gangmasters operating on that job in Scotland. It is a disgrace.

Q765 Tommy Sheppard: I sense we don't have time today, but if you could provide us with some details of the evidence of this we could feed it into the inquiry report.

Steven Dillon: Yes.

Q766 Tommy Sheppard: I also want to ask Bryan. I was taken by what you said about the fact that management will use zero-hour contracts. They won't get rid of somebody. They are just not given the shifts. I understand what you are saying. Is that a similar problem to blacklisting? Is there any evidence that people might be refused shifts because they are agitating against zero-hour contracts or for a Living Wage?

Bryan Simpson: Yes. For example, I organise in the Macdonald Hotels group. There are 16 hotels in Scotland. The biggest resort is in Aviemore, over 200 workers. Again it is entirely anecdotal, but I heard from a number of workers separately, independent of one another, that they had been told by their general manager, absolutely, they were not to join a trade union and if they were to join a trade union they would not be encouraged to do so.

There was a recent incident with a chef who we represent up there, who came to us with an issue—we are now raising a grievance on it—about unpaid overtime. He regularly works 70 to 75 hours a week, five or six days a week, 14 hours a day. He is only paid for 48 of those hours. His contract only says that he gets 48 hours. He thinks he is getting £22,000 a year, but he is getting less than the minimum wage because of the hours he works. We raised that as a grievance and he was told categorically, before I stepped in of course, that if he was to raise that grievance and it was to be under the trade union, he would be out the door and he had been there for over a year.

I have seen it across the hospitality sector. We are starting to make inroads. We have recruited well over 400 people in the hospitality



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industry just since February. There is a fear within management or senior management within the hospitality industry that trade unions are going to come in and start changing things for the workers. We are seeing hospitality bosses coming down hard on those, and that is a form of blacklisting, because if you are prevented or even discouraged from joining a trade union then that is a form of blacklisting.

Yes, I would say it is getting a lot worse. Because the hospitality industry has not been used to trade union organising it is starting to proliferate.

John Lamont: Just a point of clarification. Mr Simpson has made some very serious accusations against Macdonald Hotels based on a very small sample of people, and I wonder if the Committee should be writing to Macdonald Hotels to get some clarification on these accusations. Similarly, Mr Dillon mentioned a hospital. I think NHS Dumfries and Galloway or indeed the Scottish Government should be allowed to clarify the position on that too.

Q767 **Chair:** I am glad you have raised this, Mr Lamont. We will be doing that, in the normal course of conversations that we have. If there are any allegations that are made against individuals or employers or organisations, we will invite them to give a response to that. I don't want to discuss it any further, Mr Simpson.

Bryan Simpson: I will provide the written evidence as well for you.

Chair: We will be getting in touch with them. We have already had Mr Macdonald in front of this Committee. He gave evidence in the last session concerning some of the issues that Mr Simpson has raised, but that is a fair point to raise and we will make sure that we get in touch with them. Thank you for that.

Q768 **Christine Jardine:** You touched on this before. In the last Parliament, the Committee took evidence from Deliveroo in relation to the so-called gig economy and accusations of false self-employment. Has it moved on at all in the last six months?

Bryan Simpson: No. It has moved on but not progressed, as in it has not gotten any better. By the way I should say that, at the same time as you guys were corresponding with them, we also put a collective grievance in to the company and were told that Unite was not recognised by Deliveroo and they were not workers, so their response to our collective grievance of over 45 staff was that not only are we not recognised, which is fair enough, but that they are not workers and, therefore, they are not entitled to put in a collective grievance. That shows you their response and I can share that email from the managing director with you guys. Their response to a serious issue of underpayment and failure to pay the minimum wage was, "By the way, you are not workers, so we are entitled to do that". It is about status and their failure to put them on a proper status.



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Sorry. I should say of course they did put them on new contracts, which, for example, increased the amount they get per drop. A drop is a delivery. That still does not ensure the minimum wage for some staff. If you look at the areas in London and Leeds, where they did improve the contracts, it was because of direct action and protests and reputational damage that was caused in those regions.

Q769 Christine Jardine: During the general election I was approached by some employees of Deliveroo, who said, for example, that they have to pay their own insurance and provide their own uniform. Is that still the case?

Bryan Simpson: Yes. I was saying earlier on, Christine, that they pay their own; under the Health and Safety Act 1974, every worker, every employee, has to get protective equipment paid by the company. They don't, so they have to pay £150 out of their own first wage. That is not, in my view, very protective equipment. They have to pay for a bag that advertises Deliveroo the company. They have to pay for a jacket that advertises Deliveroo the company. Looking at the Pimlico Plumbers case, I would say that is absolutely not self-employment.

Christine Jardine: Thank you.

Chair: You need to be very quick, Gerard.

Q770 Gerard Killen: I will be very quick, Chair. It was just on that. Obviously there is more than just Deliveroo in this issue and we talked about the gig economy, but on that specifically do you think there should be any onus on the businesses that are making use of these services? I am talking about the supplier that is making use of Deliveroo's service to get their product to the customers. Do you think there needs to be an onus on them in this regard?

Bryan Simpson: Yes, absolutely. One of the first things we did after supporting the Deliveroo workers was make sure that they were also delivering leaflets to the cafés and restaurants and bars that they were serving to and delivering from because that, for us, not only proliferated the idea of using or getting involved in the trade union, but also started to make the links between the self-employment and the zero-hour contracts. It is almost part of that reputational aspect that those companies have to think, "Right, who do we want to be associated with?" The same goes for Uber or UberEATS as they are now. If a company is serious about being a progressive employer, it should not be using Deliveroo as its delivery option. We would encourage decent employers not to use them.

Q771 David Duguid: I was going to ask a supplementary but I will include it in my next question. The STUC has stated that the UK has one of the least stringently regulated labour markets in the developed world. In your view, in what areas are labour markets in other countries better regulated and what benefits does that end up showing for workers?



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Bryan Simpson: For example, following a big campaign, New Zealand got rid of zero-hour contracts. What you have seen is a massive increase in job security; obviously people are staying in the job longer. There was a big strike in McDonald's in New Zealand in the fast-food industry. That was what persuaded the Government to get rid of zero-hour contracts. What you have seen is a huge reduction in turnover within the fast-food industry. As I would hope, if you have a shared interest that people should stay in the job longer, then that is a huge benefit for me. Also, the workers themselves earned more, were able to support their families and contribute more to the New Zealand economy.

Q772 **David Duguid:** Mr Dillon, anything on the construction side?

Steven Dillon: It all depends. It goes back to the start, as I said. The workers in Australia have a very good model there, where the trade unions fly their own flags on the sites as well. That is the CFMEU, which obviously started with two Scotsmen as well. They have a good model where it is full employment, full-time employment. There are unionised sites as well, most of them, so that is a good model.

Q773 **David Duguid:** You have mentioned all through this discussion and all through your evidence the need for better policing or the absence of policing.

Steven Dillon: Yes, the absence of it.

David Duguid: All the time I have been listening today, I have been thinking back to my own experience in the oil and gas industry in health and safety. I am sure in your industries as well you will both be exposed to Control of Substances Hazardous to Health, for example, COSHH, where there is an onus on the companies to provide assurance that they are complying with the rules. Is that something that could be better improved so that basically you don't get to operate unless you can show that you are complying with the rules, rather than having to chase people down and name and shame?

Steven Dillon: Obviously, you have the Health and Safety at Work Act, as Bryan has already pointed out. The construction industry is the most deadly industry in Great Britain. Unfortunately, last year, before Workers' Memorial Day, and the year before that, they lost somebody on this new Forth Crossing. There was also a death on the day of Workers' Memorial Day. That legislation—any legislation—should help to improve the industry. That includes after the recent tragedy at Grenfell and the fiasco at Edinburgh schools. As a union, we will be calling for legislation in the industry, not just in Scotland but across the whole of the UK. It needs to be legislated and that includes the supply of materials. Hopefully that legislation will lead to the proper status for workers being fully employed, fully trained and all the rest of it.

Q774 **David Duguid:** Moving on to my next question, which is about the Matthew Taylor review—which the Government has just published—about employment practices in the modern economy. If you are familiar with it,



what do you think of this report and would its recommendations improve the rights of workers, in your view?

Bryan Simpson: The Taylor review is one of the biggest missed opportunities within employment law in my time involved in employment law. It had the opportunity to tighten up what we see as worker status; it had the opportunity, even if it did not ban zero-hour contracts, to make clear when giving someone no hours is unacceptable, particularly when they are always working more than 40 hours. Honestly, the Taylor report, it was such a frustration to me as a trade unionist and also a worker, because it failed on so many points to clear up and prevent the worst examples of exploitation.

For example, it could have clearly defined what we mean by a self-employed person, what we mean by a worker and what we mean by an employee; it could have made clear the Agency Workers Regulations. It did not even recommend getting rid of Employment Tribunal fees, which I think everybody was assuming. Maybe that was not in its remit. I cannot point to one positive. It was after exclusivity clauses, wasn't it? They had already been got rid of. Honestly, it really frustrates me because it was an opportunity. It was an independent review. It was not a party political review, so he did have the opportunity to change things and he did not, the report did not.

Steven Dillon: Yes, I have read Taylor and I will leave the response for you. It is our view that the legal default should be for all workers to have employed status and the onus to be on the employer to prove that the person is genuinely self-employed.

Q775 **Danielle Rowley:** I want to ask about something that we have not touched on, which I am very conscious we have not talked about—and it has been in the news a lot recently—and that is sexual harassment. Can you tell me if sexual harassment is a big issue for workers and if you think it is something we should consider as a Committee when looking at employment?

Bryan Simpson: The hospitality industry, honestly, I have never come across a more upsetting industry when it comes to sexual harassment, everything from words, verbal abuse of women, all the way to sexual assault and rape within the hospitality industry. I have just met with a worker in the casino industry. She works Thursday, Friday and Saturday, constantly dealing with drunken customers. She will be verbally abused, called all sorts of misogynist names on a daily basis, every single shift. She will also be groped and she will be sexually assaulted. She has reported that several times to her management and was told by one very senior manager, "Well, that is par for the course here. That is your job. That is what you are paid the minimum wage for".

I know we do not have time, Chair, but I have one really emotional piece from a chef. It is really upsetting. She says, "At the age of 17, I was groped and verbally abused by the chefs 10 years older than me. I



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reported it to my boss and was told that I was easily replaced and they weren't, so I learned to give cheek back, as no one would listen. I had my top pulled down, my bum slapped and squeezed. I was cornered in a kitchen cupboard alone by one of the chefs and had to kick him to escape. At 21, I became a chef, and for the next six years, I was harassed on a near daily basis. When I was training in college, I burnt my hand very badly and went into shock. My college lecturer came in to help me, held my hand under the cold tap, and I was hysterical, crying. He told me if I didn't stop crying he would put his penis in my mouth to shut me up. My first job as a chef was in a major hotel chain. In my first week I was physically abused so many times that my sous chef found me crying in the walk-in". There are about three pages, but that is the extent of it.

It is anecdotal, but we have done surveys. For example, there was a St Andrews supported survey by *The Saint*, which is their magazine at St Andrews University. It found upwards of 70% of women within the hospitality industry had experienced everything from verbal to full physical sexual assault.

Q776 Chair: I am grateful. That is very concerning and I think the Committee would like to see that evidence.

Bryan Simpson: I can provide evidence, yes.

Chair: I know it is not part of the initial inquiry that was set up but, given what we have heard, and certainly some of the evidence that you have presented today, if there are any further issues or evidence that we have, we can maybe look at this a bit further generally to be fully acquainted with some of these issues, particularly in the hospitality sector. I know we have asked you for a couple of bits of supporting evidence in the course of our conversation this morning, which I am pretty certain you will be able to forward to the Committee in due course. Can I say thank you both very much—and particularly yourself, Mr Dillon—for coming along at short notice to give your evidence this morning?

Examination of witnesses

Colin Borland and Fraser Grieve.

Q777 Chair: Good morning, gentlemen. Sorry about the late start to this session. Both of you are familiar with this Committee. We heard from Mr Borland just a few weeks ago in Edinburgh and thank you for that. Just for the record, could you say who you are, who you represent and anything by way of a short opening statement? We will start with you, Mr Borland.

Colin Borland: Thanks very much. It is lovely to be back.

Chair: It is lovely to have you back, too, as always.



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Colin Borland: If I am here any more often, I will be paying business rates. I am Colin Borland; I am Head of Devolved Nations for the FSB. In preparing for today's session I had a chance to reread our original submission to the inquiry that you began in the last session. I was struck by how much of that focused on the practicalities, about how particularly small employers can fit in with some of the very high-minded, very laudable policy aims and rhetoric that surround this debate. Looking at the remit for this inquiry, and indeed your public statements about it, it looks like that is where the focus is going to be, so we very much welcome that.

Just by way of context, there is no doubt that in the last years and decades there have been significant changes, both in society and in the labour market. We have seen globalisation. We have seen technology. We are getting rid of whole layers of management and administration. There has been a meteoric rise in the self-employed, which is up something like 66% since the year 2000. More people in Scotland are now self-employed than work in the NHS or work in local government. In the face of all of that, small businesses have stepped up and they have continued to do their bit. They have continued to create jobs, where their larger counterparts, medium and large businesses, have shed jobs, to the extent that, of course, we now have historically low levels of unemployment—we are a little bit better than the UK average—and higher levels of employment.

What we need to remember is that every time a small business takes on a member of staff, they are putting an awful lot on the line because you can have your house, your savings, your family's wellbeing, your business, everything can be tied up in that business. If you make a poor recruitment decision, then it can have very serious consequences for your business. You can imagine how it feels to those business owners when they have taken those big risks and they have made those tireless efforts and then they get dismissed as, "Oh, they are so terrible. They are low-paid jobs, it is always zero-hour contracts" and so on and it doesn't really count. It is quite upsetting; it is quite offensive to them.

This is going to be an interesting session and I am looking forward to exploring some of the issues, unpacking some of this stuff around wages, self-employment, cost pressures and some of the grey areas around where the lines are in employed and self-employed status.

Just for a bit of context, and particularly in light of the previous session, when you think about all these big numbers that we are dealing with and the big changes that they are looking at, we need to remember that only about 2% of the Scottish workforce are on zero-hour contracts and two-thirds of them like it; 60% do not want any more hours. When you compare those figures to some of the bigger challenges we are dealing with and when you consider some of the abuses, like exclusivity, have now been outlawed, there might be perhaps a bigger prize on offer than particularly going that route.



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Fraser Grieve: Fraser Grieve, Regional Director with SCDI for the Highlands and Islands. It is great to be in front of the Committee again.

The issue of sustainable employment is hugely important. We are undergoing a huge period of change. Increased automation, changes in business models, positive high levels of employment and low levels of unemployment are putting a lot of challenges on businesses and on employment. At this period of change, looking at the whole is important, given the new business models, new ways of working versus heavy premise-intensive businesses and how business rates impact on them, like the Apprenticeship Levy. How we tax businesses and how we look at it in the round, rather than simply the employer/employee relationship, is really important because it is very hard to keep up, given the changing trends and what consumers are after and what businesses want. It is something that will constantly need to be looked at. Certainly, from the Taylor review and other things, we need to try to get ahead of the game to make sure that we get the balance right between employer and employee needs.

Q778 Chair: I am grateful. Everybody this morning has obviously said—and we all welcome the fact—that we have the highest-ever employment rates in Scotland and low unemployment. That is good, but how much of that is down to an increase in low-wage, low-skilled jobs in Scotland? In your understanding, does there seem to be more of these types of jobs available just now and what impact is that having on the whole sector in Scotland? Mr Borland.

Colin Borland: The first thing to recognise is that, at the very bottom end of the wage distribution spectrum, there has been an increase. That is thanks to increases in the National Minimum Wage and then the National Living Wage, which is about 12% from 2015 to the present day. Above that, yes, there has been an issue about real-time wages for full-time employees. There have been a number of factors at play there, whether it is rising overheads elsewhere or other costs that people have had to meet. There have been a lot of calls on people's time. We will see it in their turnover because, whereas we have seen turnover relatively steady, until about six months or so ago people were staying in profit, largely because of other lower input prices. If we have seen the impact of those input prices rising, then we have seen profitability really stretched. That is undoubtedly putting small employers under pressure.

That said there is very little evidence that small employers are using some of the more exotic employment practices that we heard so much about earlier this morning. Over 90% of our members have no zero-hour contracts whatever. We err on the side of caution when it comes to employment, especially our members who benefit from that 24/7 free legal advice on employment law. If there is an issue there, it may be the larger multinationals that have the resources to perhaps take a gamble.

Q779 Chair: Are you trying to say there is not an issue with low wage, low skill with the members that you represent? It is quite a fundamental question,



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the suggestion that somehow Scotland is suffering from low wages, low skills. Are you saying that there is not a problem or an issue?

Colin Borland: Obviously, there are particular issues in particular sectors. We heard a lot about hospitality.

Q780 **Chair:** Could you help us on which ones they are, where we should be looking at then, if there is?

Colin Borland: Yes, hospitality and tourism, for example. The shape of the Scottish economy is that we are particularly reliant on hospitality and tourism. When you get to Fraser's part of the world, it is almost the only private sector game in town. Of course if those industries have particular issues, then that is going to be more of a pronounced problem in those areas. I do think, though, that we have to make a distinction between entry-level jobs—which we need more of in the private sector if we are serious about getting long-term unemployed back to work and other harder to reach groups—and dead-end jobs. There is nothing wrong with an entry-level job, if it leads on to something better, because we still need people to do those jobs. The Joseph Rowntree Foundation has a good report on this. It said that too many of those entry-level jobs do not have pathways out and that is the problem. If we are looking to crack this issue, I would suggest that that is where we can focus some of our efforts.

Q781 **Chair:** We will come to that. In the meantime, I am interested in Mr Grieve's view about the suggestion that we have more low-paid, low-skilled jobs in Scotland.

Fraser Grieve: There has been a real issue about wages being suppressed. Prices have gone up for companies through rising minimum wage, auto-enrolment, those kinds of costs, as well as input costs, but yet they have not been able to raise their prices. Their profits have been squeezed and, therefore, there has been a limit placed on wages growth across pretty much every sector. There has also been an issue that, as the downturn came in, some employees were simply offshored, taken off the books and taken on as self-employed labour to reduce some of those costs as well. There is an issue over: how do we get the balance right between ensuring there is flexibility for workers and the sustainability and assurance that full-time contracts can give?

With some sectors—professional services and finance—we are seeing more of the middle management roles coming out, partly through automation and changing habits, and those are not being replaced by new businesses. There is that gap, so it is becoming higher earners versus lower-wage roles, simply because automation has not made sense there.

Q782 **John Lamont:** I want to look at creating employment opportunities in Scotland. Clearly we have the City Deals and we have the Borderlands Growth Deal. What do you see as the opportunities from those deals and the growth deals to create new jobs and what do you think the challenges



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are?

Fraser Grieve: The City Deals have been very positive in terms of getting joint working across the public sector and with the Government, in terms of trying to look at what the right solutions are for their areas. There is an issue about: what do we do around rural Scotland and making sure that that has its own solution, in addition to the City Deals? It is positive, in that it enables each area to look at what the right answers are for them and to provide a bit of stability and foresight for businesses in terms of when investment is likely to happen and have that sort of agreement. It is really positive in terms of businesses having a bit of assurance over what developments and infrastructure is going to come about that will help them grow.

Q783 **John Lamont:** Will that lead to job creation?

Fraser Grieve: Yes. Given the other elements of uncertainty, it is important that businesses see that infrastructure investment in other parts of city region deals in terms of being able to plan out, be it housing developments or whatever, to meet some of challenges.

Colin Borland: Yes, if there is going to be that investment then that generates the economic activity and, by definition, there are going to be opportunities in there. The challenge for the City Deals is to make sure it is delivering the right sorts of projects that the local business community want, not what maybe somebody sitting further away thinks would be jolly good for that particular area. Overall, the role of these initiatives is to create the framework and the opportunity for smaller businesses to spot the opportunity and go in and exploit it. We cannot take them through it hand in hand, and businesses should not expect that to be done for them, but as long as they get a fair crack at the whip then, absolutely, there are opportunities there.

Q784 **Paul Masterton:** In terms of the employment opportunities that are coming forward, we have heard in the past CBI and FSB talking about skills shortages in Scotland. Are you satisfied that our young people particularly are leaving school, college and university with the skills that businesses are looking for right now, or is there more work to be done around that to equip young men and women to be having the skills that businesses need?

Colin Borland: There is always a lot to be done there. If we had a particular problem with a particular set of technical skills that we had to address, in a sense that would be easier to sort out because we could just look at the labour market needs and we could go and do it. The issue that our members report, year after year after year, is about the general work readiness skills: the ability to negotiate, the ability to close a sale and the ability to run a meeting or to talk to a customer. The decline in the basics at one end of the market as well has also been an issue, particularly expressing themselves in written English. We are ready to do our bit in terms of training people up. We put a lot into training people and getting



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them ready for the role, but businesses have a legitimate expectation for the raw materials that they go on then and work with.

Q785 Paul Masterton: Does that in turn impact on starting levels of pay? As an employer, if you are having to do so much extra work to bring somebody up to what you would have expected them to be coming in the door with, does that mean that employers are less likely to pay a premium if they are not confident that the applicants or individuals they are getting in are going to be job ready?

Colin Borland: I do not have any specific data on that. We have not asked that specific question but you would assume that would be logical. That you will pay more for somebody who is completely ready to slot into the job on day one, versus somebody who lacks the skills and the experience that you are going to need to invest a bit of time in. That stands to reason, but I cannot back that up with any independent evidence.

Q786 Ross Thomson: When I was in the Scottish Parliament and on the Education Committee, we took a lot of evidence around skills, in particular through SDS but also the college sector. You will be aware that the Scottish Government have cut college places by 125,000. The evidence clearly shows that has had a disproportionate effect on those over the age of 25, and also women. In this context, how can we properly ensure access to training for people to take on those modern and increasing high-skilled jobs in Scotland?

Colin Borland: There is a whole other inquiry in there about how small businesses particularly access the apprenticeship system in Scotland. There is a lot to unpack there about how small businesses access the skills and training opportunities available, particularly around modern apprentices, because when you talk to small businesses and you say, "Do you think an apprentice would be good for your business?" "Yes, absolutely." "Is it the right thing to do?" "Yes, of course it is." "Would this make business sense?" "Yes, it would." "Okay. Why don't you have one?" There are issues about how we interact with that system and how accessible it is. I can certainly provide you with some extensive evidence on that from one of our policy specialists if you would like.

The point about the over-25s is interesting because we had—absolutely correctly—this focus on youth unemployment in the credit crunch and the recession. That was the big worry. People who just missed the cut-off for all that extra support have gone through. There are people who tell me that they are worried about this sort of lost generation that are now progressing through the labour market. Again, that is probably something that we need to have some cognisance of as we are looking at designing policy solutions.

Q787 Chair: That is another huge piece of work that needs to be investigated and examined, which unfortunately is not within the remit of this particular inquiry.



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Fraser Grieve: Just to come in on that, there are a couple of things: there was obviously our focus on youth unemployment. Youth unemployment was not an issue across the country, so whether that was the right focus for every part of Scotland, I am not sure. There is a challenge because there is a growing change and pace of change, automation and other ways of working, and universities and colleges keeping up with that is always going to be a challenge, but the evidence suggests that they are pretty good at putting on the courses.

There is probably still an issue over access to part-time courses in terms of upskilling. Colin will know far more that small businesses often do not need one person to do one job but one person to do three or four, particularly in rural areas. So making sure that they have access to the courses to enable them to take on the additional skills and tasks that were not necessarily written into their first job description is really important.

Q788 **Christine Jardine:** We have heard a lot this morning about flexible labour markets and the impression that perhaps employers favour a more flexible labour market with low costs, like zero-hour contracts, while employees want security of employment and wages. Do you think the employment law currently provides the right balance between that flexibility for employers or does there need to be more protection for workers?

Fraser Grieve: We are in an evolutionary point around that. One of the challenges is that large employers are continually facing increasing costs, because other tax measures are not keeping pace, so business rates are still very much focused on property-intensive businesses rather than the number of employees they have. There is the Apprenticeship Levy, which is an additional burden. It is becoming more and more expensive for larger employers. At the smaller business end, the VAT threshold is still a barrier to growth, so they are squeezed at both ends. It is about making sure that, as much as possible, companies take on staff with security to meet their average needs, but also have the flexibility to take on staff on other contract models to deal with the peaks and troughs that they go through. There is no one contract or way of employment that is perfect. It is about making sure that, as much as possible, employees have access to the contract that meets their lifestyle needs and requirements, and that employers are not burdened or there is no barrier to their growth through imposing particular styles of contract on them.

Colin Borland: That is a really good question in terms of where we are. On the one hand, of course, we don't want a completely unregulated market because that is just simply a cowboy's charter where everybody is cutting each other's throats and rates right to the bottom. At the same time, if we are interested in driving social mobility and economic growth, we probably don't want an over-regulated market, for example, as you see in France, with the issues that they have there, and they are desperately trying to unpick that.



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Do we have the balance right at the moment? One of the issues for us is not so much the content of employment law but the fact that it is so rule-based and formal. In a sense, the issue about Employment Tribunals is a side issue because the vast, vast majority of employers will never end up anywhere near an Employment Tribunal. The real problem is when you are with a tribunal and you have to spend weeks and weeks away from the business, preparing statements and getting your case together, and worry that you may have fallen over on a point of procedure possibly. It is more what we can do to have that informal dialogue in the workplace, which to an extent happens anyway in a small business. I can understand why in a large, hierarchical organisation you need those sorts of important structures but, if there are three of you in the business, then surely you should be able to talk among each other and have that sort of discussion.

As Fraser said, the reality of it—a job in a small business—you probably do have about six jobs and it could be a member of your family. If you ask your brother to go and do something it is unlikely he is going to turn around and say, “That is not in my contract of employment. I am not doing that. That is somebody else’s job”, so the more commonsense that we can bring to that process, and the more that we can reflect what the reality of doing business in a very small workplace is like, then the better that is going to be for all concerned.

Q789 Christine Jardine: What do you think the likely impact would be, though, on Scottish businesses—particularly small businesses—if zero-hour contracts were to be completely outlawed in the hospitality industry; for example, if they just weren’t to exist anymore?

Colin Borland: It would depend what you replace them with. If you replace them with a one-hour contract, it is probably next to nothing. If you replaced it with mandatory 40-hour contracts, then of course that is going to have an impact. Where we are with banning some of the exploitative use things, like exclusivity clauses, there was no justification for that and I think it is right that they have gone. As I said, the vast majority of our members, 90% plus, do not use them at all. It is 2% of the Scottish labour market, so what impact would it have? For those who are on them and those who like them, for those who use them as a way to get back into the labour market, they may have been off for a while, for those who are students, who are doing other stuff, people who are semi-retired and maybe their pension is not quite coming up to the mark or they just want to get back in among people, then all of these things, for them it is probably appropriate. A complete blanket ban without anything to put in its place is obviously going to cause problems, and indeed, not just for us, the big users like the universities and the NHS, all the rest. There are a lot of employers, not just hospitality.

Q790 Chair: Ms Jardine’s questions are very interesting and philosophical, which really gets to the heart of the matter. I remember when the idea of the flexible market sort of emerged during the Tony Blair Government,



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where a number of policy changes were put in place, which were a relatively new concept in all this. I am just wondering, did it always go on before this or are we witnessing something new when it comes to how we now approach the whole issue of business employment?

Colin Borland: That is a fair point. A lot of the stuff that we are talking about is stuff that has happened informally for generations, particularly in smaller environments, where you maybe pick up bits of work here and there, when people may have three or four different things that they do. Maybe it is just we are talking a bit more about it now.

Q791 **Christine Jardine:** The only other thing I was going to say, and it follows on from that, did it always exist? I was a freelance journalist for years, but is it now much more larger employers who are using it than being confined to, like you said, people perhaps in rural communities having two or three jobs or people doing two or three part-time jobs and it has become much more prevalent?

Colin Borland: If we leave the zero-hour contracts to one side, in the sense of the relatively small number, and look at something like self-employment, now, we have a proud history in this country of self-employed individuals, entrepreneurs, and as you say, freelancers such as yourself. We have seen in recent years some big companies with differing approaches to employment law and that has brought it to the fore. But it is not a new thing. The lawyers around the table will remember studying tax cases 20 or 30 years ago this thick talking about whether someone was an employee or not. It is not as if you wake up in the morning and decide, "I can't be bothered with all this employment law and all these employees' National Insurance contributions. Right, that is it. The entire staff are self-employed now". The Revenue is hot on this sort of stuff and there is existing legal precedent.

It is in the public eye, partly because the law is in some sort of flux at the moment, and that is probably not a bad thing, because it may be overdue for a little bit of clarification on exactly what does count and does not count. That would help us divorce these two questions: first, what is the reality like being a self-employed freelancer or an entrepreneur in Scotland today, and secondly, what is it like if you are in some sort of bogus self-employment?

Q792 **Deidre Brock:** We have been spending quite a lot of time looking at the new business models that are coming through, including those particularly in the gig economy. I just wanted to ask what has changed for your members in terms of employment practices as a result of those and then also of course the knock-on effect for their employees.

Colin Borland: I can answer that very quickly. For us, very little effect, because we do not use those sorts of the more exotic staffing arrangements in terms of talking about the zero-hour contracts. We tend to still stick to the traditional employment model.

Q793 **Deidre Brock:** So automation is not something that you are preparing



for, not something that your members use particularly?

Colin Borland: We did a report on this, about: what is the next big disruptor that is going to come along? Because I don't think anyone saw, for example, Uber coming. That was an industry that was, some might argue, ripe for a shock but certainly it was not ready for it. I suppose, if you start looking at things like the number of jobs that are based around driving and the impact of driverless cars—if they become a reality—that is going to be a big shock to that sector. To be honest, at the moment, most people will be thinking about keeping their head above water, paying the bills and making sure their staff get paid and so on. That sort of exciting horizon-scanning is probably more Fraser's bag than mine.

Fraser Grieve: Deliveroo and Uber and things are really shaking things up and in most respects it is very positive. Deliveroo is providing a delivery service for many small businesses, restaurants and so on, who otherwise would not be able to do that because they would not take on their own drivers for that kind of thing. It is about using technology. Automation and disruptive business models will come to every sector and impact on every business. Every business needs to prepare for that. It all depends to what extent. We are very reliant in the tourism and hospitality sectors on a migrant labour force, and it is how that will be impacted by developments and how businesses of all sizes adapt to deal with that.

Automation is simply about improving your processes and doing more with less people, and every business needs to look at that. It is everything from booking systems, delivery driving. It is going to impact on the automation of cars, on transport, on everything. Every business has to look at how they adapt to it. At the moment, all our businesses simply are not investing enough to improve their processes.

Q794 **Deidre Brock:** What can your organisation do to help them with that then? Because it is coming, from the evidence we have received. It is not just on the horizon anymore. It is very close.

Fraser Grieve: It is vital that businesses do look ahead, that they come up with investment plans, in terms of their assets and how they are going to adapt, how they are going to upskill their workers and how they are going to cope with changes that are coming about. For the most part, all of these offer real opportunities as well. It relies on a lot of infrastructure in terms of transport and digital to enable them to reach their markets. But in many ways, it is about businesses looking at themselves and saying, "How do we do things better? How do we adapt to changes? How do we build our resilience and do more with the workforce we have?"

Q795 **Deidre Brock:** Returning to the further education sector, which Mr Thomson rather derided before, do you think the sector is doing enough to prepare its students for this work, going out into the workforce? Is there more that can be done? What more could the Scottish Government be doing, potentially, and what could your organisation be adding to that



mix?

Fraser Grieve: It is getting there. One of the real changes is that the job landscape will alter quite drastically over the coming decades. That is about building a longer-term relationship between educational institutes and employers to make sure that they can help grow the staff together and upskilling that. Particularly around some sectors, be it computing and others, the amount of time lecturers and college staff have to spend upskilling themselves, in order to be able to pass that on, is probably not done sufficiently at the moment.

Q796 **Deidre Brock:** So more of that. Just very quickly—well, it is a big piece of work—the Matthew Taylor report, I would be interested to hear your thoughts on that. The former panellists or our witnesses expressed a lot of frustration at it as a major lost opportunity. I would be interested to hear your thoughts about that. How would the changes that they have recommended potentially affect your members, good or bad? What are your thoughts?

Colin Borland: I thought that was maybe a bit harsh. There are 50 recommendations in the Taylor report and some of them do try to—in quite a sensible way—unpick things like people working for platform-based operators, like Deliveroo and Uber, and this idea of classing them as this dependent contractor classification. If we can get something like that in the wording, then it becomes a lot clearer for everyone. At the moment, as I said in a previous answer, we are picking through reams of judgments, and everyone is keenly awaiting the next judgment to see exactly what that tells us about what the law is. If we could clear that up that would be incredibly helpful, and then it lets us get on with the debate about how do you make things easier for the genuinely self-employed, the 240,000-odd people in Scotland who are self-employed? How do we recognise that hard work; how do we make life a bit easier for them? That would help that.

Some of the more onerous reporting, like reporting on your company structure and your employment structure and stuff like that, small businesses are going to be exempt from that. Again, as you would expect, that makes sense. He is also talking about avoiding increasing taxes on what he calls the genuinely self-employed, which again is something because we are still not at the stage where we are getting the same level of benefits and security and everything else. To an extent, that is commonsense.

Q797 **Deidre Brock:** It is broadly welcome, but we have to see whether all of those recommendations are implemented, of course.

Colin Borland: Of course but, as a package, it does try to tackle some of the difficult issues but in a sensible way.

Deidre Brock: Mr Grieve, you are nodding.



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Fraser Grieve: Yes, I agree with that. There are many recommendations in it that are positive and I think it is about: how do we adapt to the changing economy? Because change is happening and we have to be able to be flexible and to adjust things to meet that change.

Chair: I am grateful. We do have Matthew Taylor appearing before this Committee in the next few weeks, so I am pretty sure his ears will be burning with the previous answers to the questions that we had about that, but thank you for that.

Q798 **Danielle Rowley:** I want to focus on wages. The Committee has previously heard that, by increasing the minimum wage, it could turn employers off from investing in people. There is of course the counter-argument that, by paying workers more, productivity could increase, and if people are paid more they will spend more and it is better for the economy. What do you think the relationship is between higher wages and job creation and how is it for business overall?

Fraser Grieve: Rising minimum wages is positive. It is important that we look at how do we support and enable more wage inflation to come through. There is a challenge that businesses have not been able to pass on many of the rising costs and we need to do something about addressing that. HIE did its business panel recently, where 74% of businesses were optimistic for the future but less than half were thinking of investing. You are kind of going, "If you can't invest when you are feeling optimistic when are you likely to do so?" There is a challenge about how we enable businesses and encourage them to invest more, because only through increased profits are we really able to see sustainable wage growth come through. That is for everyone's benefit.

Q799 **Danielle Rowley:** Is there anything specific? You mentioned how we can encourage that. Is there anything that Government can do to encourage higher wages?

Fraser Grieve: Obviously the Scottish Government have the Business Pledge, which I think is positive in terms of getting businesses to come forward as part of their corporate social responsibility. It is about trying, as much as possible, to give them confidence that pieces of infrastructure and other bits of investment to support their growth are coming through, so that they can feel more confident and see opportunities and try to adjust to deal with those.

Colin Borland: I would hesitate to generalise because, obviously, every business is different and there are different pressures and factors to take into account. But in terms of the top-level figures, over half of all small employers already pay all of their staff above the voluntary or real Living Wage. If you look at the accredited Living Wage employers in Scotland, three-quarters of those in the private sector are small businesses, so there are parts of the small business landscape where pay is not an issue, pay is incredibly generous and will continue to be so.



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In areas where there are a lot of things coming together at once, whether it is rises for people at the very bottom end of the pay distribution, auto-enrolment, the impact of the low pound on import costs and so on, there are lots of pressures, combined with shaky consumers or cautious consumers, for whom every pound is a prisoner and they are really buying on price. Then while they want to pay people more—and of course they absolutely understand all the benefits that you are talking about—they are looking about and saying, “Where is this money going to come from?” We did everything we possibly could in the recession to hang on to staff. That is why we did not see the expected spike in unemployment, because we know how valuable they are.

There is still a bit of excess capacity in businesses now, which we are beginning to increase with giving people extra hours and that sort of thing, but at some point we are going to have to make a decision about: if wage costs are going to increase it is going to be at the expense of something else, and there is very little fat to trim. Maybe it is time that we saw things going up. I remember after the Living Wage announcement, not a small business, but one of the large hotel chains said, “This is absolutely going to wreck our business model”. I remember getting home that night and seeing an e-mail from them saying, “Come and stay with us for £35 a night” and I thought, “Really, £35 for a hotel room?” Is it time that, as consumers, we now need to pay the real price for things if, as a society, what we want to see is a significant increase in wages?

Q800 Ross Thomson: It was just to pick up on the point made by Mr Grieve around the rising costs and trying to encourage business investment. Business investment in Scotland is down 7.6% in the last year, and in quarter one of this year it fell by a further 3%. We have seen additional costs added on to businesses in my part of the world, in Aberdeen, in the north-east of Scotland, business rates in particular, where they have seen a 300% increase in rates, with some businesses not only letting people go but physically knocking down their buildings because they cannot pay the rates. The Large Business Supplement went up from 1.3% to 2.6%. Is this high tax environment having an impact on business investment and do you agree that the Scottish Government should rule out tax rises on businesses?

Fraser Grieve: With some of those, the Barclay review around business rates recommended some positive things, particularly around new assets being installed in premises, gaps around that and around caps on some areas and trying to get the balance. Business rates, along with all other types of business taxation, need to be reviewed—because there is a falling business base, but yet the revenue is there—along with many other types of taxation. As electric vehicles come in, what happens around fuel duty and how does Government adapt to changes around how we live and work? That needs to be constantly done.



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Around business investment, we probably need more investment on infrastructure in some areas; for example, around roads. The R100 broadband scheme is very positive but how do we make sure that properly deals with rural areas in terms of the impact that has there? Businesses are not necessarily put off by high tax if they see a benefit to it. There probably needs to be more of a joined-up approach around how businesses see it. For instance, the Apprenticeship Levy, there is a bit of a disconnect around how that works for businesses in terms of what they get back too.

Colin Borland: One of the bright spots, among some quite unsettling comments about confidence there from our members, has been in recent years that capital investment intentions have held up relatively strongly. That is obviously quite good if you want an investment-led recovery and if you are in the shop-fitting business or whatever. One of the highlights of Barclay is that it recommends that we remove this disincentive to improve your premises, where, as soon as you put on a nice conservatory at the back of a restaurant or a new market at the car park or whatever, around comes the assessor, who increases your rates. That has to be encouraging.

We have also seen the figures around access to finance steadily improving as well, albeit from a poor base, but we have seen those getting better. The evidence is still there that people are ready to invest in businesses. The other thing that has happened in that time as well is obviously the changes to capital allowances, which were brought in—how many years ago now? It is several years ago—by the previous Chancellor, which obviously had some sort of effect there as well.

Q801 Ross Thomson: Just out of interest, I know Scotland-wide the picture is quite different, but in the north-east there has been a particularly disproportionate effect with rate rises and business taxes. Have you found that through your own membership?

Colin Borland: Yes. There are pockets, geographic and sectoral. We need to remember around half of small businesses in Scotland do not have any premises at all. They are operating out of their van or whatever. Of those who remain, about half of them who are our members will not pay any rates because of the small business rates relief. For those who remain, then yes, absolutely, it is, particularly if you are in an area that is judged to be economically buoyant or if you are in a sector that is judged to be doing particularly well. Some of the stuff in Barclay, around improving that customer experience and improving some of the transparency, can maybe help ameliorate some of those issues.

Q802 Deidre Brock: Quickly returning to the point Mr Grieve made about the Scottish Business Pledge that the Scottish Government created, that is designed to encourage employers to take on best practice. Mr Borland, do you know how many of your members have signed up to that pledge? Do you think that that pledge is doing as it said, and the employers are taking that up and adopting these best practice models?



Colin Borland: I know 402 have signed up across Scotland. I don't know how many of them are FSB members.

Q803 **Chair:** What is your total membership?

Colin Borland: The total membership in Scotland is about 16,000 or 17,000 at the moment. If you extrapolate the 402 is 1% of the business base, so maybe if you take that as a representative sample—

Q804 **Deidre Brock:** Early days, okay. You think the model is a good one; it is one to be encouraged, the business practices?

Colin Borland: Where I struggle with this is, it is all perfectly well-meaning but it does run the risk of creating a tick-box culture that divides businesses up into good businesses and bad businesses. It does not recognise that, for a small business that is ticking off boxes to go into the good business pile, it is much more difficult than for a large multinational because we cannot do things like cross-subsidise bits of the business to make wage levels. We will not have a CSR policy. We might not be able to engage with the apprenticeship and it might not be practical to recognise a trade union.

Speaking hypothetically, you get to the situation where you could have somebody who is involved in defence manufacture or defence contracting—and I make no judgment about that industry, but some people regard that as morally questionable—and very high levels of pay. They will be exporting to all sorts of places across the world, again, possibly controversially. They may well recognise a trade union. They might have all sorts of investment in skills and all the rest of it, but they get the box to tick to say, "You are a good business". Whereas one of my members, who is a window cleaner in the east end of Glasgow, who takes on local young people who are at risk of getting into drugs and gangs or whatever, cannot tick enough of those boxes.

Q805 **Deidre Brock:** So there are two different levels?

Colin Borland: Yes. It is a mechanical process. One of the things that might be quite interesting as this inquiry develops is: can we get towards a working definition of what a good job looks like, which does not take us down this sort of rigid mechanical tick-box approach? That is where things like the Business Pledge—the fear is that is where they are going to take us.

Fraser Grieve: There is always a danger over the, "What is a good job and what is a bad job?" A good job is one that meets the needs of the employee, enables them to take a wage that they can afford to live on and they contribute towards our economic growth. The elements in the Business Pledge are positive but, in many ways, it is only the businesses that have the time to sign up to that that are probably already regarded as good businesses in that kind of sense that will add on to it.

Q806 **Deidre Brock:** Maybe it helps to raise awareness, though, of the sorts of



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things that are considered good practice.

Fraser Grieve: But there are many businesses that will do most of those elements but simply will not sign up to the pledge, because they might feel it is too constraining in terms of how they might work. They might not be fully aware of it.

Colin Borland: There is an argument as well that, if you are doing business and you are doing business within the law and you are paying your taxes and you are employing people legally, then that is a good thing to do. That is inherently a social good, particularly for small employers who will be employing people who are further from the labour market and in areas of the country where, maybe, the employment opportunities are not as wide.

Q807 **Deidre Brock:** Surely there are fundamentals that every business should be able to sign up to in terms of its treatment of employees?

Colin Borland: You have to abide by the law. That is the law.

Q808 **Deidre Brock:** Yes, okay. I suppose the Business Pledge goes even further than that. I want to ask some questions about productivity because there are some that suggest that that is an underlying factor behind the stagnant wage growth that we have seen. What are your thoughts on that? We have some good news on productivity in Scotland recently, of course, but what further levers do you think are required so that we can improve productivity and, therefore, wages potentially?

Colin Borland: One of the features I mentioned briefly earlier, of the last of the financial crash and the subsequent recession, is that we did not see the spike that we expected in unemployment. That was because small businesses, in particular, did not shed staff or shed staff to the extent that you would expect. We tried really, really hard to retain staff. That is why we all took a cut in wages and reduced our hours, just to keep the business going and keep those people on. What you are seeing now, as things are beginning to pick up, is that there is still a bit of slack in the system. As things get better then we would pick up some of that slack. That is part of why you could argue that businesses are a bit over-staffed in terms of headcount and it has an impact on productivity.

I read a figure the other week. There was something like a 20% fall in productivity now compared to pre-crash levels. That is significant and I do think we have to look. You are right about technology and investment. I also read that two-thirds of the take-up of R&D tax credits is in London, in the south-east. Now, I don't think that two-thirds of the nation's innovative people are living in London in the south-east, so I would be really interested to work out why that would be the case. Is there something with how the system is designed or is it just a question of awareness or what?

The other thing that would help is the sort of general business issues, things like tackling late payments. Something like 28% of payments in



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Scotland are late. People are waiting seven weeks to get paid for work that they have already done. If you can do that and you are guaranteed about getting that money in, it is much more efficient because you are spending the time that you normally spend in chasing debts doing the job or out there winning new business.

Deidre Brock: Yes, of course. Mr Grieve.

Fraser Grieve: The point about R&D spend is a good one. We simply need to do far more to encourage businesses to see opportunities, to plan ahead as to what changes they can make to improve their business. It could be simple things like changing accounting software to be more automated, booking processes and managing rotas. All of those kinds of elements can help. Some of it you particularly see around hospitality. There might be quite a lot of lifestyle businesses where they do not particularly see the need to do that because, for them, it is just a lifestyle element. They would have a far better lifestyle if they could do all the work they currently do in four days instead of four and a half. How do we help drive up some of those things? I think it is about infrastructure and digital, around transport, to help balance that.

We see faster economic growth in London and the south-east than other cities in the UK. We see faster growth in cities than in rural areas, so there is a sucking-up effect into urban areas. We have to look at: how do we make sure the economy meets the needs of every area and the businesses are not disadvantaged by where they are? Sometimes, particularly in outlying bits, they simply do not have the knowledge or access to the skills that would help them break through the barriers they face, be it VAT thresholds or anything like that.

Q809 **Deidre Brock:** Lastly, Chair, one of our witnesses, Rob McAlpine, said that, in other countries with higher labour costs, employers structure the way that they do their business to get the value from the people they are paying wages for. That is an interesting concept. The increase in the minimum wage, which has made lower-paid workers more expensive, do you think that has encouraged employers to make better use of these workers? Is that something that you sense from your members, Mr Borland?

Colin Borland: It is not something that we have specific figures on.

Q810 **Deidre Brock:** Rather than having a lot of churn of staff, for example. It was almost as if those workers were cheaper commodities that could be thrown aside was the suggestion made and does this encourage them to—

Colin Borland: The other side of Robert's point is that, if you go to places like France and go around a supermarket, you will see next to no staff. They are very heavily automated there. People are reluctant to take on staff if they feel that the labour market is too regulated, and if you make a bad choice then you are stuck with it. There is nothing that I could point to, which we have gathered from the members, that would



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suggest whether or not that has had that attitudinal shift as yet, but I am more than happy to go and find out if there is anything in the archives.

Deidre Brock: Yes, that would be very helpful.

Fraser Grieve: It has impacted in some areas. For instance, it has reduced the gap between those in the care sector, in terms of access to people to staff care homes in terms of what they are paid. They are simply not able to increase their costs to local authorities and, therefore, would an employee go into what is quite an intensive highly emotional type of job versus working in a supermarket? Supermarkets obviously have increased automation through automatic checkpoints and so on. There is definitely something that you can adapt and upskill your staff to get the most out of them for the wages, but higher wages also drive increasing—

Chair: I am conscious of time, so I am grateful for that. I know we have a couple of questions that are pretty big questions too.

Q811 **Gerard Killen:** Over two thirds of Scotland's small and medium-sized enterprises have no employees. Are these individuals working on a self-employed basis and what kind of businesses do these enterprises cover?

Colin Borland: The vast majority will be and it covers every aspect of the economy. We have a really proud tradition of the self-employed entrepreneur, what we erroneously call sole traders. It is very, very difficult to generalise because there are so many of them. There are 240,000-odd in Scotland today, so you can imagine they will be covering the entire spectrum. Some will be very well-paid freelancers. Others will be people who are picking up bits of work here and there to maybe supplement another income or maybe they have three or four income streams. As I was saying earlier, the challenge around self-employment is we need to get this distinction between those who are genuinely making a go of it from people who are being exploited by a large multinational employer. We also have to challenge the idea that poverty is some sort of driver towards self-employment.

If you look at our self-employment in towns research from earlier this year—and, again, I am happy to share that with you—that shows that the towns with the highest rates of self-employment are the towns that are the wealthiest, have the most other jobs and the most levels of economic activity. Indeed, that report also found that generally people who are self-employed are quite happy to make the trade between maybe that higher guaranteed income, they are happy to trade some of that off to get the flexibility. It is an interesting picture. You see things like poverty, for example, being a barrier to self-employment rather than a driver. Again, that challenges perhaps some of that orthodox narrative that we have been used to in the last couple of years.

Given the size of the group of people we are talking about, I don't think we can generalise but there is definitely work to be done to get a better picture of what that life is actually like.



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Q812 **Chair:** Have you done any of that work at all in your organisation?

Colin Borland: Yes, we have a report, the self-employment in towns report, which was February this year, I believe. That has some interesting figures in there. I also believe that has income data as well.

Q813 **Chair:** Could we get a copy of that?

Colin Borland: Yes.

Chair: That is fine. Thank you for that.

Q814 **Gerard Killen:** A supplementary to that. You have anticipated that in talking about poverty being a barrier to self-employment. The last Committee had concerns about people entering self-employment and not having the necessary skills and finance. Is that a legitimate concern—as you touched on already for finance—and how can we support people looking to become self-employed a bit more?

Colin Borland: Yes, absolutely. You do not need a massive amount of money to start a business but you do need a little bit behind you. It is very difficult if you have absolutely no financial wherewithal whatever. How would we do it? A two-word answer to that: Business Gateway. They do a very good job and they are open to everyone. Their website is there for anyone to log on to and they are specifically focused on that volume start-up end of the market. As far as I am concerned, I would recommend to anyone who is thinking about that to get along to Business Gateway and then go and take out an FSB Business Creation membership.

Fraser Grieve: There are many positives around high levels of self-employment, but one of the concerns we would have is that areas with high self-employment generally have lower than average wages. That, to me, raises a slight concern over the quality of some of the roles. Do these people simply have to do three or four jobs because there isn't an employer who is able to give them enough hours for them to survive on their own? Are they genuinely self-employed or are they just under-employed by a number of people and businesses? I would have a slight concern that areas with the very highest levels of self-employment are also areas with lower than average wages.

Q815 **Gerard Killen:** Returning to the idea of skills and starting in self-employment, is there an issue with skills for small businesses that are operating just now and as they grow? I am thinking of my own experience in things like the Business Pledge, well-meaning policies—which I am not criticising at all—that come from the Government. In my experience, quite often these kinds of things pass by a lot of small businesses because they simply do not have the time or the skills to keep up with these sorts of changes. Is there more that we can do to support people and small businesses in that?

Fraser Grieve: Business Gateway is very positive, but how do we make sure that it can do more signposting to support there? There have been



real pressures on what some levels of business support can do through local government finance in terms of the budget allocated to them, and there probably needs to be more of a connect between them and the enterprise agencies, around how to ensure that businesses have access and knowledge and as much support available as possible.

Q816 John Lamont: One of the additional challenges that businesses operating in a rural context face is connectivity, whether that is from a transport perspective or from a digital perspective. How much of a barrier is that to economic growth?

Fraser Grieve: We often don't compare things in the right way. In rural areas the impact of a road closure doesn't necessarily mean a two or three-minute diversion. It could be 100, 120 miles or it means you simply cannot go to where you want to. We are having huge investment in next-generation broadband, which is fantastic in terms of bringing up that whole infrastructure to change and increase the speeds available, but raising the speeds for urban areas from 15 megabytes, which they might get, up to 30, 40, 50 is very different to raising the speeds in a rural area from possibly 1 megabyte up to 30. That is transformational. The others are a good improvement for urban areas but in rural areas that is transformational. That enables them to do things that they simply could not do before because they are simply not on a high street. They do not have access to—

Chair: Mr Borland is dying to get in. I will take two supplementary questions and maybe you could reply to them. We have one from Mr Duguid.

Q817 David Duguid: Following on from John's question, I want to raise the connectivity issue/challenge, and not just the traditional connectivity needs for businesses, such as telephones, e-mails, even enterprise resource planning, which sounds like a relatively new technology but it has been around for 20 years or so. You mentioned earlier, Mr Grieve, the increasing digitalisation of the wider economy. We hear a lot about the Fourth Industrial Revolution. What particular challenges do you think Scotland faces as a whole, in particular rural Scotland, if we don't have that broadband or we do not have the 5G yet?

Fraser Grieve: Broadband and mobile is vital and we need to do much more to bring down the costs of having mobile operations, in terms of masts and infrastructure. Opening up public sector land, Network Rail land for use of masts is hugely important. While digital is desperately needed, you simply cannot get away from the importance of roads and transport infrastructure and much more investment is needed in local roads, in particular.

Q818 Christine Jardine: Very last question. Some years ago I worked for Highlands and Islands Enterprise and one of the barriers they identified to economic growth—in the Highlands specifically—was connectivity, but also the fact that there was nothing to keep young people in the north. In



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terms of improved connectivity and improved opportunity now, with the University of the Highlands and Islands, has there been any progress in that area or are those still major barriers?

Fraser Grieve: Attracting and retaining youth across all of rural Scotland is an issue. It is something that we are about to be embarking on a lot of work around. It often comes back to transport, housing and core issues. If young people cannot afford housing in an area, how can they stay there? How do we make sure that they know about the job opportunities? UHI is a fantastic game-changer in that aspect.

Chair: I know Mr Borland is just bursting to give a response, so I will give you the last word.

Colin Borland: Very quickly, on the Scottish Government stats, three-quarters of Scottish firms say that digital is vital for their growth. We welcome the Scottish Government's universal programme; we welcome the UK Government's USO pledge. If someone can tell me how the two of them are going to fit together you are doing better than I am, but it is not just about broadband, it is about 4G. It is also about not just big shiny trunk roads and motorways: if you want to improve small business productivity get the local roads sorted out, because that is where the bottleneck starts.

Chair: I am grateful. We will be undertaking an inquiry into connectivity in Scotland and we will be inviting both of you to make a submission to that, so we will hear more of your views on that particular issue, Mr Borland. Can I thank you both for turning up today and for your evidence? If there is anything further that you feel you could usefully contribute to this inquiry, please make sure you give it to our Committee. Thank you.