

Scottish Affairs Committee

Oral evidence: Sustainable Employment in Scotland, HC 449

Tuesday 5 December 2017

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Members present: Pete Wishart (Chair); Deidre Brock; Hugh Gaffney; Christine Jardine, Ged Killen; John Lamont; Paul Masterton; Tommy Sheppard; Ross Thomson.

Questions 932 - 1007

Witnesses

I: Matthew Taylor, Chief Executive, Royal Society for the encouragement of Arts, Manufactures and Commerce.

II: Margot James MP, Minister for Small Business, Consumers and Corporate Responsibility, Chris Thompson, Director, Labour Market, Department for Business, Energy and Industrial Strategy, Damian Hinds MP, Minister of State for Employment, Phil Martin, Deputy Director, Labour Market, Department for Work and Pensions.

Examination of witness

Matthew Taylor, Chief Executive, Royal Society for the encouragement of Arts, Manufactures and Commerce.

Q932 **Chair:** Mr Taylor, welcome to the Scottish Affairs Committee. Thank you very much for attending our Scottish Affairs inquiry into sustainable employment in Scotland. We are very grateful to have you along, given that your report is still topical and has excited and interested the Committee in some of the conclusions and recommendations that you have made to Government.

Perhaps by way of an opening explain who you are, your interest in all this, why you believe you were commissioned by the Government to do this report and maybe talk us through briefly, if you do not mind—because we will come in detail to some of the issues—the main points and recommendations. Thank you very much.

Matthew Taylor: Thank you for inviting me on my birthday.

Chair: Happy birthday.

Matthew Taylor: Thank you. I was commissioned by the Prime Minister in late September or early October last year. Why I was asked to do it would probably be on the one hand my experience of public policy, having had roles, including Head of Policy within Downing Street, and also the fact that the Royal Society of Arts, the organisation that I run, has done a lot of work on things like self-employment and gig work and the future of work, so it is something that I had spoken and written about and I had that public policy background.

In terms of the review, to crush down into three minutes what is normally a longer speech that I have been doing all around the country.

Chair: You only have two minutes, by the way, sorry.

Matthew Taylor: The review starts from a recognition of the context, which is that we do pretty well on employment here—low unemployment, high employment. That flexibility is broadly a good thing. Two-thirds of people who work flexibly generally speaking say they want to work that way, but there are problems. The problem is the quality of work at the bottom end of the labour market, flat living standards and the emergence of business models, which although they have many good elements to them, threaten a race to the bottom as a consequence of the way our tax and regulatory systems work.

The way I approached the review was on the one hand to be systemic—to look at a whole variety of factors that influenced the quality of work, employment regulation, tax, employability, health and wellbeing, Industrial Strategy, various institutions—but on the other hand to adopt an approach that was broadly incremental. The way I have described it is more nudge than shove, so I resisted banning things on the whole, partly because if you look at the framework of employment regulation we have,



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sometimes there are unintended consequences. I was more interested in an approach that involved clarity in the law; that involved empowerment, so empowering individual workers by giving them better information and awareness, empowering them collectively by making it easier to get representation; and transparency, so that large companies are transparent about the labour supply chain, being transparent about workers requesting full-time work or permanent hours and incentives.

I argued for a higher minimum wage for variable hours, to try to incentivise employers to guarantee more hours. It is a variety of measures, but broadly speaking they were step-by-step incremental measures to open up a different way of thinking about work and open up future possibilities, rather than trying to pull a big lever. I did not think there were necessarily big levers that you could pull that would not have bigger adverse consequences than the benefits they would have.

Q933 Chair: I am grateful for that, and three minutes almost to the dot. We could not get better than that in response to questions. You are aware that we are looking at specifically sustainable employment in Scotland and I think everything you said there applies right across the United Kingdom. Did you manage to secure any particular evidence from differentials in Scotland employment legislation in the employment environment? Is there anything you have observed where things have been done differently in Scotland that you think is either positive or detrimental to some of the issues that you are trying to explore?

Matthew Taylor: There is a bad bit and a good bit to this. The bad bit is that, much to my regret, the election was called the day before I was going to Scotland as part of the national consultation.

Q934 Chair: Can we clarify this? I think you said something to the Clerks before you came in here. We had the Scottish Minister in front of this Committee a few weeks ago and I think there was disappointment that he was not able to feed into your report. I understand that this was because of election-related issues. Can you explain what happened there for the record and clarity?

Matthew Taylor: Yes. To be clear, we had a very open consultation and anybody could submit to that consultation. I think, although I cannot list them, some Scottish bodies contributed to the consultation. I undertook a kind of national road show and unfortunately the day—or it might have been two days—before the Scottish bit of that road show the election was called, which meant officials could not come up. It was very disappointing to me, because in some ways I was inspired by the work of the Fair Work Convention in Scotland. One of the first things I read after I had been asked to take this was the work that the Fair Work Convention had done and their definition of fair work. Obviously one is influenced by various things, but the placing of good work is at the heart of my report, and of course it was called “Good Work” and it had on page 1 the idea that every job should be fair and decent with scope for development and fulfilment—that positive definition of work, and turning the report from



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just being about negatives to being about the positive idea of good work was strongly derived from the work of the Fair Work Convention.

In terms of differences in Scotland, I have to admit that, partly because I was focused on national action, I did not spend a great deal of time looking at regional differences. One thing that would clearly be different in Scotland is there is more of a history of industrial and social partnership in Scotland as part of the tradition there. One of the things that I would hope my report would do is begin to suggest that that model of social partnership, while we are miles away from continental Europe, is part of what we need to do if we are going to improve work in the UK as a whole.

Q935 **Chair:** That is interesting. You were looking at some of the arrangements that we have in Scotland. I think we are all encouraged by what you are saying about the industrial social partnership and there seems to be an ethos in Scotland. Would you see that as something you would like to see further extended across the United Kingdom in terms of what we do here?

Matthew Taylor: Absolutely. When you contrast what happens in the UK as a whole and particularly England with what happens in continental Europe you are struck by two things. You are struck by the absence at the national level of those kinds of social dialogues, which are very much part and parcel of the scene. I was in Paris the weekend before last. It is very interesting when you talk about the Macron reforms that the employer representatives and business representatives are very intensely involved in that process. That kind of corporatist way of working is absent from our country and has been for a very long time since it got a bad name for itself in the late 1970s. Then at the micro level we do not have the same sense of partnership within the workplace either. We do not have the kind of worker boards and things that they have in Europe.

The two key ways in which I tried to address that in my report was first arguing for a very significant lowering of the threshold for people to have independent representation at work and rights to information and consultation. Currently the bar is 10% and that is 10% of employees across the entire enterprise, not just in the workplace, which is an impossibly high bar. I would suggest that it come right down to 2% to try to encourage independent representation, information and consultation as the norm in British employment.

Secondly, I argued for a significant strengthening of the role of the Low Pay Commission, for the Low Pay Commission not just to be around setting the minimum wage—and of course they really do not have that role now because it has been set for years ahead—but that they be much more proactive in working with those sectors that are going to have a lot more people on the National Living Wage. I was in Manchester yesterday looking at a Resolution Foundation presentation. They think that 15% of employees in Manchester will be on the National Living Wage in four years' time. I would like to see the Low Pay Commission being much



more proactive in exploring what we can do to improve quality of work and pathways to development.

Part of the reason that I make that argument is because the Low Pay Commission is one of the few tripartite bodies that exist in the UK institutional architecture and I think that is one of the reasons why it is a successful and respected body.

Q936 Chair: Presumably just because you have done this report and the people you have listened to in order to design and compile and make these recommendations is that Government has a whole range of levers that they could pull in order to try to make sure we put in place the sort of things that you suggest and put forward. Can you talk a little bit, and again it will have to be briefly, about what is available to Government to try to create these better working conditions and that better working environment and the good practice that you seem to espouse in your report?

Matthew Taylor: Yes. I think that the role of Government in this area, as in other areas, is leadership, so I think for the Government to assert that good work is a governmental responsibility and a national priority. I was pleased to see in the Industrial Strategy that there was that commitment to good work and to measuring good work and to ministerial accountability for the quality of work. I think saying this matters is important. When I started out on the review, the thing I was saying at the beginning of it—and it feels to me this has already changed—is that we talk very often about quantity of work. Every month there are unemployment statistics. Governments are proud when the employment statistics are going up and unemployment is down and they feel they are accountable when things are going in the other direction. We do not have a similar conversation about quality of work, so leadership is the first thing.

Secondly, there are a set of levers that can be pulled in terms of regulation and in terms of tax and employment regulation, various other rules, potentially investing in areas that might make a difference to the quality of work. Finally, there is convening, which is what we were just talking about, which is bringing together the social partners and encouraging them to work effectively to drive voluntary action. Another thing that I talked a bit about in the report is the importance of sectoral approaches.

Just to say in passing, one of the challenges that we have in this country when it comes to voluntary action, which I did not realise when I was writing the report, is that we have the lowest level of membership of business associations of any OECD country. We have a very atomised business structure here. One of the ways in which we will get better work is when sectors work together to explore the future of work, particularly the impact of technology. Some sectors, like the retail sector, have done good work in this area, but if I tell you that in social care, which is the site of many problems about poor quality work, inappropriate ways of



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designating work, 70% of social care providers are not members of any kind of trade association. There is no kind of peer effect; they do not hear about good practice; there is no sense of combined action. Leadership, regulation and convening I think are the three things.

Q937 John Lamont: You have partially answered my question already. It was about the comments from the Scottish Government's Cabinet Secretary that the Scottish Government had not had the opportunity to input into your review, but based on what you have said about the election you have partially answered that. Could you confirm whether the Scottish Government could have submitted their views to you separately to the evidence-gathering sessions that you were having around the country?

Matthew Taylor: Yes, they could. I think I was due to meet Scottish Government officials on my visit that was sadly called off. To be honest, I was completely Catholic in where I got information from. Anyone who had ideas, anyone who submitted things, that was great.

Q938 John Lamont: Perfect. The critics have pretty mixed views on the review. Bryan Simpson from Unite said he could not point to one positive thing about the review. I did question whether he had read some of the report, given the conclusions that he made. I wonder if you could respond to his comments and some of the criticisms that we have heard.

Matthew Taylor: Yes. I do not know. I think that were the Government to implement the review or the main parts of the review, it would be the most significant shift of power towards people at the bottom end of the labour market that we have seen in a generation. Furthermore, it would open up the possibilities for new things. I have to say that I worked hard during the process to engage the trade unions. I briefed the trade unions before the review so they knew what was going to be in it and I was disappointed by their response. If I had to choose one issue that I found particularly bemusing, I have yet—and I hope I am not causing controversy when I say this—to hear a trade union respond positively to the idea of making it significantly easier for workers to have representation.

I can only assume this is because the trade union view is that unless that representation is trade union representation it is worthless. I think that is a mistake. It is currently the case that fewer than one in 40 young workers in the private sector join a trade union. If we are waiting for the point at which people voluntarily choose to join trade unions as a route to industrial partnership we are going to be waiting a very long time. My view was if you make it substantially easier for people to have representation that then provides an opportunity for progressive trade unions to come to workplaces where people have representation and say, "We can support that representation. We can give you advice on things that you might challenge your management about or tell you about good practice taking place in other sectors that you might encourage in your workplace" so it is a way in.



I have always been very clear that if making it much easier for people to have representation led to those people then thinking that trade unions were the best organisation to support them that would be a good thing, but it felt that rather than forcing people, having some kind of mechanism to force people to join organisations they did not want to join, you needed to establish the principle of representation and then build on that. I have been disappointed by the trade union response. Without being indiscreet, I have been told that the public position is not quite the same as the position behind the scenes, but I will not get involved in the politics of that.

Q939 Ross Thomson: Mr Taylor, your review concluded that there was a need to take action to tackle exploitation and increase the clarity of employment law to ensure that workers are better informed about how to enforce their rights. What were the main problems that your review identified as requiring a remedy?

Matthew Taylor: The first issue here is lack of clarity. Does a week go by when we don't have another court case, another judgment? These judgments are soundly based, in a sense. By the way, we will always rely on the courts. Every system in the world relies on the courts, because employment is complex and you have to do it on a case by case basis. Nevertheless, it felt to us that the courts are doing too much of the work and law is not doing enough and that we should explore whether or not we could bring greater clarity to the law.

As I say, it is important to manage expectations here. This is not about saying that there is anything that could be written in statute that means that people will not continue to go to employment tribunal or will not continue to have cases. Lack of clarity is one issue, and the scope for exploitation and gaming as a consequence of that lack of clarity. Quite a lot of what goes wrong goes wrong because people genuinely do not know what the right thing to do is. The vast majority of SMEs in this country do not have HR departments nor do they even buy into HR services, so a lot of people end up in employment tribunal. It is accidental and they do not know what the law is.

When you have that lack of clarity it does also provide scope for exploitation. It was clear to me that there is gaming going on in the system, that people are portraying people as self-employed when arguably it would be more rational to employ them as workers or more realistic to classify them as workers. People of course are doing that for two reasons. They are partly doing that to evade responsibility for employment rights, like holiday pay and sick pay. However, more they are doing it to evade their responsibility for employment-related taxes, National Insurance contributions. The real danger here is a race to the bottom, so if you look at the construction sector and what has happened to it over the last 25 or 30 years, it has become highly casualised, highly atomised. You could argue that there is a justification for some of that in construction because of the nature of construction activities, that when



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you build something you have one group of people at the beginning, one group in the middle and one group at the end, but I am not so clear that it should be happening in areas like distribution and road haulage.

I have heard, although I have not seen statistics on this, that increasingly people who run road haulage firms want to portray lorry drivers as self-employed. It saves them National Insurance; you do not have to give them their employment rights. If you are working in the road haulage industry, which is highly competitive, and you are competing for 1% or 2% margins, if you have a competitor who is able to avoid 13.8% National Insurance payments, you are sunk. One of the things I want to emphasise in all of my work is that this is not very often an issue of workers on the one hand versus managers on the other. It is an issue of employers who have a business model that I think is sustainable and in line with public expectations finding it hard to compete with businesses that have a different model that I do not think is sustainable and I do not think is in line with public expectations.

Q940 Ross Thomson: Thank you for that answer. As you said, employment is very complex and hence the need for greater clarity in law. Would you agree that there is a risk that devolving employment law to the Scottish Parliament and in effect having separate sets of workers' rights in Scotland, in England and in Wales could hinder efforts to make it more clear to workers what their rights are and how those could be enforced, and therefore it does not help tackle that issue of exploitation that you just highlighted in your answer?

Matthew Taylor: Of course, all other things being equal, you would want consistency. We will not, I am sure, be talking about Brexit, but I understand the argument that economic markets are improved if there is consistency and part of that consistency is regulatory consistency so that people are competing on a level playing field. Indeed, my argument is that we want businesses to be winning business because they are productive and creative and innovative, not because they found ways of arbitraging the tax system or evading their employment responsibilities.

The broader question of whether, notwithstanding the benefits of consistency, Scotland wants to take a different direction because it wants to, for example, put a stronger emphasis on workers' rights, I do not think that is useful for me to comment on. There is an argument for consistency, but there are also of course arguments to respect the fact that countries might want to go down different routes. It was clear to me—I did not go to Scotland, sadly—when I went to Wales that there was a different set of expectations about good practice than might exist in parts of England.

Q941 Paul Masterton: Your review called for the right to a written statement of terms and conditions to be extended, but are there any other steps that you think should be taken to ensure that workers are aware of their rights and know what to do if those rights are being impinged or not respected?



Matthew Taylor: On your first point, I do think that in public policy if you can find relatively straightforward things that might have a big effect then this is gold dust. I think that the simple recommendation that every employee, every worker—and potentially self-employed people, although that is more complex—gets a simple statement of terms and conditions on day one, any deductions they are going to suffer, would have an enormous impact. It would require employers to specify at the outset what people's employment status was, which would require them to think about that and try to make sure they had it right. I think that is the single biggest thing that would make a difference.

Part of the reason I also argued for clarity in the law is that would hopefully make it easier for workers to understand their situation. Again, I think if you had representation at work then in those companies, within their labour supply chains and their labour practices, there would be representation of workers to question whether or not what was being undertaken was realistic. Finally, we did argue for a set of measures around employment tribunals and particularly for the possibility for people to gain a judgment on their employment status before they committed to taking a case in an employment tribunal. We published before the Supreme Court decision, so that rather changed that situation.

We also argued the Government should continue their work on developing an online tool that people could use to determine their employment status, but employment lawyers tell me that even with the incredible sophistication of AI we are still quite a long way away from a robot that is able to tell you what your employment status is with great accuracy.

Q942 **Chair:** Looking at the seven broad steps that you put in your report about what you would expect Government to do in achieving some of these tests, you say that, "The Government should produce a clearer outline of the tests for employment status setting out the key principles in primary legislation." Are you talking about the Government legislating in these areas and could you tell us a little about how that might be achieved and what you have in mind with that?

Matthew Taylor: I would not for a moment want to underestimate the complexity of this. While I strongly advocate for many of the measures in my review, I understand that in relation to this question of employment law there is a genuine and legitimate difference of opinion. My view, and the view of the officials that advised us, was that there was a case ultimately for trying to better define in law the basis for employment status. In particular, there were a couple of directions you might want to go in. The first was the emphasis should be on supervision and control, which is, by the way, the criteria used by HMRC. Of course one of the things that we argued is that over the medium term the Government ought to try to achieve better alignment at the boundary between self-employment and employment for tax purposes and self-employment and worker status for employment regulation. At the moment you can be self-



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employed for tax status and a worker for employment rights and vice versa, which is unhelpful.

Supervision and control emphasis would help us towards that. I also felt that we should be clear that substitution clauses are not sufficient as a basis for arguing that somebody is self-employed. This is one of those areas where the courts seem to be slightly unclear as to which direction they are going in. Substitution is a factor, but it felt to me as though there were companies who were basically managing people in a fairly conventional way, but because that person had a notional right to get their uncle to do their round once a month were saying, "Well, that means they are self-employed" and that did not seem reasonable to me.

Q943 Chair: Just on that, we will ask some questions about the so-called gig economy. This Committee has heard from representatives from that brand of employment, but one of the things we have heard on this Committee repeatedly is this idea of a bogus self-employment beyond what we have in the gig economy, where people seem to be parked in the self-employment status to ensure that, as you have mentioned, things like National Insurance and pension contributions are not going to be a feature of their package in terms of remuneration. Is this something that you recognise? "Bogus self-employment", is that a term you would readily use to describe what is happening just now? Your views about parking people in self-employment just now, and how we might be able to address that.

Matthew Taylor: There are two things here. One is bogus self-employment in a sense that were that case to be taken to court, the court would probably find that the person was not appropriately classified as self-employment. There is that form of bogus self-employment, which is really around whether the law is being enforced. The other side of it is where you can make a case in law that the person is self-employed, but my view is that it is bogus self-employment in terms of what the public would understand self-employment to be or the public would understand the purpose of self-employment would be.

We heard about this when we were in Belfast, an example of social care workers being encouraged to set themselves up as sole traders and then put on a uniform and go into a hospital and look after somebody. This seemed to me to be an entirely inappropriate use of the idea of self-employment or sole trading, because these people were clearly working for an agency, under control of that agency. Apart from anything else, it leads to confusion around where accountability lies if anything goes wrong.

Q944 Chair: I am struggling when I look at your report and your comments there to see where that matches some of the recommendations you made. Is there anything specifically that you have detailed about how Government might be able to tackle this definition of bogus self-employment?



Matthew Taylor: Yes. To go back to what I said at the beginning about my method, there were people saying, for example, we should just abolish worker status and only have two statuses in law. There were people saying we should abolish zero-hours contracts and so on. What I plumped for was a combination of measures that together would have the difference. In my recommendations, let us talk about that social care provider. They would get a statement on day one that would say, "These are your terms and conditions. These are your deductions. By the way, you are classified as self-employed", which might at the very first day make them think, "That is odd. That doesn't fit for me." Hopefully if we did clarify the law we would make it pretty clear that the level of supervision and control that that social care assistant was under would be enough to guide the courts to the idea that they were a worker or were indeed even a full employee.

Clarity in the law, information to the individual, these are the key tools that I would have wanted to use, plus, as I said, some elements around the employment tribunal and enforcement process that would make it easier for people to understand what their status was and to act on their status.

Q945 **Ged Killen:** We have received mixed evidence about zero-hours contracts, with trade unions saying they are exploitative and employers saying that people like them because of the flexibility that they provide. What conclusions did your review come to about the desirability of zero-hours contracts?

Matthew Taylor: Surveys suggest that about two-thirds to three-quarters of people on zero-hours contracts say that is the way they choose to work. You can also see areas of work where there is a strong justification for that form of work. I am a chief executive of the RSA in a very beautiful building on the Strand. You are all welcome to come and visit it any time. We have weddings every few weeks. We bring in people to serve at those weddings. We could not employ staff to work at weddings because we have weddings every three or four weeks and the staff do not want to work weekends, so it is entirely appropriate, I think, for us to say to people who are very happy to work that they can come in and earn a decent wage to do a day's service at a wedding. I think that is all fine. I also think that zero-hours work and platform-based work as well does provide people with flexibility who, because they are studying or because they are caring or because they are after pension age, do not want to make a commitment to work day in and day out.

On the other hand, it is very clear to me that there is a serious issue about people being kept on zero-hours work for a lengthy period of time in environments where the only reason they are being asked to do zero-hours work or very low hours of work—not just zero hours, there are also people on two or three-hour a week contracts—is so that the enterprise or organisation can transfer risk on to the shoulders of that worker, rather than the organisation itself, providing greater security.



This is the distinction in my report between two-way flexibility, which I think is a good thing, and one-way flexibility, which I don't think is. Broadly speaking, most people on zero hours like it. There are strong justifications for it, but it is used in too many cases in a lazy or exploitative way. That is why I argued for a higher minimum wage for variable hours, partly to put more money into the pocket of poorer workers, but mainly to encourage those organisations to think a bit harder about whether or not they can guarantee more hours.

It is interesting that McDonald's, for example, all their workers are on variable-hours contracts. They asked their workers, "Would you like fixed hours?" and 20% said yes. That tells you something about whether people want variable hours. McDonald's were able to meet that demand from their workers, that 20% of them have fixed hours. The intention there was to encourage employers to think a bit harder. If you want fixed hours and you do not have them it is harder to get a mortgage, it is harder to get a loan and you just suffer a higher level of insecurity. You also worry that if you ever say boo to a goose at the workplace you will lose the hours that you desperately need.

Q946 Ged Killen: On that point about if you want guaranteed hours, your review also recommended the Government create the right to request a contract for guaranteed hours, looking at the previous 12 months. Is there a risk then in those circumstances that employers just would not keep people on zero-hours contracts beyond 12 months?

Matthew Taylor: That is a very good point. That is why I resisted the recommendation that was suggested to me by the people that there be a statutory right that people would get after 12 months and they would be able to get fixed hours based upon the average hours that they had been doing. I resisted that, because I worried that it would lead to zero-hours work disappearing. I also worried that it would, as we have seen in other areas like the Swedish derogation, lead to gaming of the system, where people would be laid off after 11 months so that they were not able to reach that 12-month threshold.

It is important in terms of the right to request it is not just the right to request, but also firms would be required to disclose publicly how many requests they had had and how many they had acceded to. My view would be that if you instigated this system and you were to find that what was happening across the economy was that thousands of people were asking for fixed hours or asking for permanent contracts and broadly speaking employers were always rejecting that, you might need to think about turning up the dial on that. You might need to think about whether or not you do make an entitlement for those workers. Again, in line with my general approach, let us try to see whether greater awareness, the power of public opinion, consumer opinion, investor opinion—because I would say if you look at the workplace and flexibility around caring responsibilities, that started with the right to request flexible work. Certainly I cannot argue across the whole country, but I have seen



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significant shifts in practices that started from a right to request, rather than an imposition.

Q947 **Chair:** I will just check, because you mentioned McDonald's. I think you said there were only 20% on zero-hours contracts. I am looking at a dispute that happened in McDonald's in August this year where there was industrial action based on the use of zero-hours contracts and the right to form a trade union. Again, I noted your comments about the fall-away of trade unions. Employers like McDonald's are making it difficult for staff to join trade unions and we have seen industrial action to do with zero-hours contracts. What is that telling us about what is happening in this type of casual, low-paid employment? Maybe this is one of the reasons we are finding such a low membership of trade unions, if big employers like McDonald's are making it very difficult for people to sign up.

Matthew Taylor: Yes. An important part of my recommendation for making it much easier for people to have representation at work is that at the moment ICE regulation only applies to employees. I argue that it should apply to workers as well. Were my recommendations to be enforced, then only 2% of McDonald's workers would be required to request it in order to have independent representation, rights to information and consultation. That would be my immediate response. I do not want to get into the detail of it, but I think that issue was very much around a particular part of the country where employment relations had deteriorated quite badly.

Q948 **Chair:** I remember it because it was brought up at Prime Minister's Questions one of the days that I am sure colleagues will recall just a couple of months ago. I just noted your comments. Maybe we will just leave that there.

Matthew Taylor: It is an interesting example, Chair. I do not know enough about that dispute, but in many ways McDonald's is an extremely good employer. In terms of social mobility, the people who run McDonald's stores, nearly all of them start off by flipping burgers. They have a commitment to try to progress their staff in ways that are commendable. Given one of the emphases in my report was around development, scope to develop at work, when you look at these large employers you need to look at them in the round.

Q949 **Ross Thomson:** During your review you did not advocate a ban on zero-hours contracts. Could you explain to us in more detail why that was the case? Also, we did hear from trade unions a lot of anecdotal evidence about zero-hours contracts and workers who think that is not fair, yet having come from the retail industry myself, I know that many workers chose zero-hours contracts because of flexibility. I do not know if you have any empirical evidence rather than the anecdotal evidence we have been hearing on that particular issue.

Matthew Taylor: The empirical evidence is clear. If you look at all forms of non-standard work you will see that surveys find that between 60%



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and 70% of people who are working in non-standard ways, whether that is self-employed, part time, temporary, zero hours, gig work, will say that is the form of work that they have chosen. The third or quarter who are unhappy will say that that is because they would rather get a different type of work, so it is not necessarily a reflection of the work that they do have. It just means that they would rather, if they could, get a permanent or fulltime job.

I would go back to what I said before—this is why I argued for this incremental, nudging emphasis on ideas like transparency. The world is complex and although it is very tempting to say all zero-hours work is bad, that is not what two-thirds of zero-hours workers say. There are clearly areas of industry where zero hours is a reasonable response to the fluctuating nature of that work. It is also clear that too many employers are failing to give people guarantees of hours when they could do so.

I run an organisation and this time of year I create a budget. When I create a budget for the RSA, which is a charity, I have to make a judgment and that judgment is if I am too confident about the future and I employ too many people and we do not get the funding, then I will have a deficit and my trustees will not be very happy and the risk will fall on my shoulders. If I undercook it and I am pessimistic, we might have to turn away good work that we would like to do. It is appropriate that I, as chief executive, and the board take on to its shoulders some of the risk for the fact that we have to make predictions.

Of course if I made all my workers zero-hours workers I would not have to worry about that, because I could simply flex the workforce entirely dependent upon day-to-day judgments. I do not think that is a fair bargain at work. I think the fair bargain at work is that flexibility, when there is a strong case for it, is great, but it is the responsibility of the shareholders and boards and managers to take on some risk themselves.

Q950 Hugh Gaffney: The individuals are responsible for the vast majority of their rights at work, but the Government agencies enforce a number of employment laws. Your review recommended that the HMRC be given greater responsibility for enforcing pay rights, so I would like an answer, if you could explain that to me.

Also, are there any other areas that you think the Government should take more responsibility for employment laws?

Matthew Taylor: Yes. I made the decision not to put as much emphasis on enforcement issues in my report. There is quite a lot about enforcement, but I was aware that Sir David Metcalf, who is overseeing the enforcement agencies, was doing the strategy. I am not sure whether it has been published yet. In relation to enforcement, yes, I did argue for a widening of the HMRC role from the National Living Wage to a broader set of basic employment rights for the lowest paid. I also, as I said, had elements in relation to the employment tribunal system, particularly increasing the penalties for companies who have lost a judgment in an



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individual worker's case, but then continue to try to use the same basic form of employment for other workers. That could lead to high levels of punishment.

I have continued to talk to David Metcalf. I think an interesting question is around responsibility for what happens in the labour supply chain. My argument was transparency. My argument was that companies beyond a certain threshold would need to disclose what happens within their labour supply chain. Again, it is a nudge to encourage organisations that care about their reputation and their brand, which tends to be larger organisations, to take an interest in what is going on at the bottom end of their labour supply chain, for example, in the delivery of their goods.

I think David Metcalf is quite taken by the system they have in the Netherlands, which is that liability lies at the top of that supply chain. If something goes wrong at the bottom end, then the liability would go up to the end user. I do not mean us, the consumer; I mean the company at the end of that process. That is an interesting idea. I did not go that far, but I can see the case that could be made for it.

Q951 Paul Masterton: You touched on this a bit in your last answer, but did you see through your evidence a particular problem with non-payment of tribunal awards? Is this something that is particular to certain industries or regions or certain types of awards or is it quite widespread?

Matthew Taylor: It is primarily in the SME sector and it is a lot to do with companies who close down. Businesses close and then a new business springs up with the same kind of people running it. What I did argue was that at the moment the Government are able to pursue people for unpaid fees to the state that arise from the employment tribunal process. I argued that the Government should also be able to pursue the unpaid fines for the individuals who had won their cases. It clearly is an issue, but it is a broader issue, as anyone knows who has found themselves seeking compensation from companies that then close themselves down or go bankrupt. There is an issue about whether or not you are able to proceed to collect fines that are owed.

Q952 Paul Masterton: We have talked quite a lot about making sure that employees are aware of their rights. Did your review suggest that there were a lot of employers, particularly SMEs, who do not know what rights their employees should have or is there a suggestion that they are well aware and they just tend to push to see what they can get away with?

Matthew Taylor: No. I think there is a high level of ignorance and that is not helped by the law being so complex. It is not helped by the point I made earlier, which is the atomistic nature of our businesses, so too few businesses that are members of the trade associations who they could ask for this kind of advice. If you are in Germany you are required to join your local Chamber of Commerce, so immediately when you start up a business you would have an organisation you could go to for advice.



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One thing that I did not recommend in my review—frustratingly, just because no one had said it to me, I heard about it afterwards and I am still hearing interesting ideas—is that the Government used to have a few years ago a process of recommending to SMEs HR advice services. If I was writing my review again I would recommend that the Government be more proactive in encouraging small and medium-sized enterprises to sign up to HR advice services. If you did that, the Government could then accredit some of those services to make sure they are providing proper advice, rather than advice about how to circumvent the law. I think that paying whatever it might be, £150 a month or something, to have somebody that you can ring up and ask how to do something or how to go about it would probably mean a lot fewer people would end up in employment tribunals. Yes, there is a general question about how we can make sure SMEs are more aware about the law.

The only final thing I would say is this day one statement I think would assist in that, because it would require all organisations to give a moment's thought as they write out, "These are your terms and conditions, this is your employment status" to make sure they have thought that through and presumably a variety of organisations will come along and support SMEs in drafting those day one statements.

Q953 Chair: It is interesting. You mentioned HR a couple of times and again I struggle to see much reference to HR and HR support in your report. It might surprise you to know that even us Members of Parliament are small employers. There is no HR support for our staff and I think what you are suggesting or saying is that this would be a welcome addition and feature if there was more and better HR support for small employers. Is that something that you think is desirable? If we are looking to try to achieve that, how do we start to achieve that?

Matthew Taylor: If we did not live in a world where there is very little money for anything, you could do it by subsidising that, providing it as a tax break. You could say to SMEs, "Money that you spend on HR support services—" because we are talking about companies that do not have an HR department and cannot afford an HR specialist. If money were no object you could subsidise that or make it the subject of a tax relief.

More modestly, what has been recommended to me, and what I would have put in the review had I heard about it as an idea, would be that the Government would provide a hotline or a website and say to SMEs, "If you contact us, we will provide you with a list of accredited HR service providers." That would not only encourage SMEs to receive those services, but would also provide a way of accrediting them, to make sure that people were getting good, soundly-based advice, rather than advice on how to circumvent their responsibilities.

Q954 Chair: I am not sure if it is your view, but certainly there would be a case to be said for it if we could resolve some of these difficulties around industrial disputes, of fallings-out in workplaces. With HR support, we would not get to the stage of tribunals with these sorts of things



happening. I do wonder if that is something you would support and if we were to look at this again, there would maybe be a bit more work on that.

Matthew Taylor: The cases we hear about, Chair, Uber and Deliveroo and Pimlico Plumbers, these are large companies that have accountants and lawyers and they are adopting a policy in the hope that the law will end up backing them. Those are the things that get into the newspapers. What is happening out there in the rest of the world is that there are lots of smaller companies and employees, individuals, ending up in the employment tribunal process as a consequence of ignorance, mistakes, lack of clarity, people thinking they can get away with things they cannot get away with. Sometimes people get different advice from the accountants than from their lawyers, for example. The lawyers will say, "No, this is the way the law works; this is what you should do" and the accountants will be saying, "Yes, but if you do it like this, you can avoid your National Insurance payments." Anything we can do to raise people's awareness would make a difference. It is certainly better to have more fences at the top of the cliff and fewer ambulances at the bottom.

Q955 **Tommy Sheppard:** Can I come back to this idea of good work, which is a big theme in your report? All of us can understand the relationship between work and happiness and also health and wellbeing, for that matter. I do not think there is any difficulty in principle in having an ambition of good work. However, I want to know what your thinking is about the balance between the content of the work—the extent to which the processes are done in isolation or are routine, monotonous or dangerous even—and the attitudes that people have to the job. It seems to me there is an almost direct correlation between the worse the job, not only the worse the remuneration, but the worse the social esteem the doer of that job is held in. What is your view of the relationship between those two things and how do you see moving forward with changing both the content of work and changing social attitudes to that type of work?

Matthew Taylor: Thank you. That is a great question. Just to clarify a point at the outset—and I hope this is not too frivolous a comparison—when I talk about this issue of good work, I make clear that when I talk about work in these contexts, I am talking about work that is people's main occupation, which is the thing that they do for years. This is like when you talk about good relationships, you do not mean the fling you had in Majorca when you were a teenager. It is the same thing. Some people work in a bar, they do a little bit of gig work because they are a student. They are filling in their hours and that is fine. I do not think we should go around saying to people, "Your bar work must be deeply satisfying to you." You are doing it to top up your earnings. You are doing it for a couple of years. That is fine.

When I talk about good work, I am obviously talking about the main part of your life, the thing that you do for many years, the thing that you rely upon. I think there we do know what the factors are that determine people's sense of the quality of their work. Yes, absolutely, basic terms



and conditions are important and you need to make sure that people are getting what they consider to be a fair wage, are fairly treated and have their rights enforced. Beyond that, however, what matters to people is a sense of meaning at work, that they feel that they know what they are doing and why they are doing it, the purpose that it serves, that people have some autonomy at work, that they are trusted to make judgments at work, that there is scope for them to advance at work, for their work to become more interesting or for them to be promoted, to progress at work. These are broadly the characteristics of good work.

If you talk to business people like Charlie Mayfield, who has undertaken this initiative *Be the Business* in John Lewis, he will argue that a lot of the problem that we have in Britain in terms of productivity is to do with the fact that very basic employment practices are not followed. I do not mean disobeying the law. For example, however, a huge number of companies do not have any kind of performance management framework, so there is no structured way in which, if you were working for me, you and I would have a conversation and I would say to you, "This is what I would hope you are going to achieve" and give you an opportunity to describe how you feel about work, what you would like to do. That just does not happen. There is no kind of framework for that kind of meaningful conversation to take place.

I also think that we have a view of work in this country too often that is a kind of master and servant view, with a very narrow notion of efficiency. It is interesting to me that if you go to America, Costco is now winning its battle with Walmart, even though Costco pays I think half as much again as Walmart, because it has high levels of retention of staff, much higher customer satisfaction because staff are much more friendly. Part of this story is about encouraging employers to understand that if you treat people better, you respect people and you trust them, you will get more out of them. You will encourage them—to use a phrase that I am very fond of—to bring their whole selves to work, rather than coming to work and thinking, "I will keep my head down, do what I am told and just take my money at the end of the day."

We need to have a very pluralistic account of good work. This is not about saying everybody ought to want to work in the work that I might want to work in, but it is saying that at work you should have a sense that you are respected as a citizen, that you are listened to, that you are trusted in some senses and not that you are simply a kind of cog in a machine, which is being squeezed as hard as it possibly can be, because that is the way in which we think about efficiency.

Q956 Tommy Sheppard: You call for people to embrace this ambition. Can you give us an impression of what you think the reaction is? You have recommendations for BEIS in particular and it would be interesting to know what their intentions are in this and how much they are going to embrace it. Also just generally, employers and employers' organisations—or for that matter, trade unions—do you think there is a lot of goodwill



towards this objective?

Matthew Taylor: Thank you for that. It is difficult, isn't it? I have done over 50 speeches about the review and everyone has been very nice to me and everyone has been very positive about good work. People are nice and polite to your face. I do not know what they are saying otherwise. I have found the reception to the ideas incredibly encouraging. I have found that people get this idea of good work, they can see that it is something that combines an idea of economic progress—which is more productive workplaces, better-managed workplaces, more engaged workers—with some notion of social justice, that we do not really want to have people locked in a low wage, low skill, low progression equilibrium at the bottom end of the labour market.

I am hearing people say, "This is a goal. As a country, when we often feel at the moment quite worried about the future and there is a lot of conflict, this is something that does unify people, it does unify thoughtful employers, it does unify progressive trade unions." Yes, I see a lot of positivity about it. I was delighted that the Department, in its Industrial Strategy, committed to the idea of good work and committed to measuring it. If we could develop a set of indicators that we recognised as being good indicators of whether or not work is good and whether it is improving, it would be an important part of the national conversation. Yes, I am very heartened by it. Indeed, I would say—and I am not saying this in any way to let the Government off the hook—even if the Government were not to implement my review, it feels to me as if this notion of good work has got into the bloodstream and I am pleased about that.

Q957 **Tommy Sheppard:** At the risk of labouring the point, can I just test this goodwill by reference to an example? It seems to me, for example, that one of the areas you might describe as bad work is in the social care sector, at the bottom end of it, where the jobs are very mundane, very insecure, very badly paid and have such a low rate of satisfaction that the turnover is chronic. One way out of that might be to professionalise that sector, to try to integrate the functions of changing bedsheets with others that are to do with counselling of clients or developing paramedical skills or whatever to make it a much more diverse and rewarding job, but you are not going to get that on minimum wage, so it is going to cost more. Is there an awareness, for example, at the level of Government—without getting into the austerity debate—in terms of changing the nature of the jobs people do in the public sector, where Government can lead, and that will—and should—cost more money?

Matthew Taylor: As to whether or not there is a public awareness, I do not know. The reality of social care is that it is subject to massive resource squeeze and so it is very hard for social care commissioners to see past a model of lowest cost. One of the small recommendations in our report—I do not think it was highlighted, but it was in the report—was that one of things the Low Pay Commission might want to look at is a model that the Gangmasters Licensing Authority uses, which is a kind of



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rate for the job, which is to say you have the minimum wage, but also they agree a rate and say to farmers basically, "If anyone offers you labour below this rate, given that they have to make a profit, you need to ask them some very tough questions about how they are achieving that."

I think we ought to have such a system in social care. We ought to have a rate for the job so that we say to public sector social care procurers, "It is not just about the minimum wage. If you are being offered labour, there is something going wrong here because it is very difficult to make a profit and pay minimum wage." That might help us to understand at the very bottom things like people not being paid when they move between assignments, for example, which despite the fact that the Government have acted on it I think is still widespread.

As to your broader question, I entirely agree with you. Realistically, given the constraints on public spending, it is hard to see people having the kind of headspace to imagine how social care could be redone, but that work does need to be done. Whether it is universities or trade unions or others, they need to be thinking about how it is we might provide social care in different ways, because you are right that the experience is often a miserable one.

The one thing I would disagree with you about possibly is you describe the work as mundane. There are mundane elements to it, but caring for a vulnerable individual is not mundane work at all; it is incredibly important work. There is a bigger question—and I do not want to go on—for our society going forward, which is as technology takes over more and more, more and more elements of jobs can be done by technology, it will be things like caring that become more important, because for the foreseeable future we are not going to have machines that can provide that kind of human care. I suspect that in future decades we will see the status of care rising in society. I certainly hope so.

Finally—and I suppose this is a long-winded answer—I would also refer you to a wonderful organisation that exists in the Netherlands called Buurtzorg, which we feature a lot at the RSA. They are domiciliary care providers and they provide domiciliary care for, I think, three-quarters of the Netherlands now, without any kind of hierarchy, where the carers are organised by teams, self-organising teams. The way in which they think about care is they think about it as a set of circles. In the middle is the individual, then the family, then the community and then the social care providers. They see their role as mobilising community and family for an individual. It is an utterly different way of thinking about care than the rather mechanised, minimalistic model that we have in this country. This is something the RSA has done a lot of work on and lot of other people have done work on. I would love to see a day when we would understand social care not as low status, low skilled mundane work, but as high-status work with lots of scope for progression. Whether or not that can happen when we are facing a social care funding crisis, that is another matter.



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Q958 **Deidre Brock:** Mr Taylor, there are lots of recommendations in the report. Can I ask which ones are particularly close to your heart? Which are the ones that really enthuse you, that you think if the Government took them on could really make a difference? Top three maybe.

Matthew Taylor: It is very nice of you to ask that. Yes, I would choose these three. First, the payment of a higher minimum wage for variable hours, because if the Government does not do that, although there are other measures in my review that would make a difference, it would then look as though the Government did not really get the fact that there is a genuine issue about zero hours and low-hours contracts being inappropriately used. That is necessary to demonstrate a recognition that we have a problem about the overuse of non-guaranteed hours.

Secondly, the massive lowering of the threshold for people to have rights to independent representation, to have information in consultation. Just on that point, I was very taken by something that Ruth Davidson said in the middle of the discussions around sexual harassment, where she said, "This is not an issue of sex; this is an issue of power." I think that is absolutely right. When you think about those issues, what has emerged is the importance of every worker and every employee having someone they can go to that they can raise a concern with, who can then safely raise that concern with management without recrimination. That is a very basic right that we ought to be trying to encourage in every workplace.

Beyond that, the right for workers to have information about what is happening in the company, which I think is part of the story of good work, by the way, that you know the organisation you are working in, what it is doing, what its plans are, and consultation about things that affect terms and conditions. So that: rights to representation, information and consultation.

Thirdly, which is something we have not spoken about at all, is about employability. One of the recommendations in my report was that the Government try to develop a national employability framework. The idea there is that if you look at what employers are saying—and this was reaffirmed in the Government's major report on skills that was published last week—they talk a lot about what are sometimes called transferral skills, sometimes called employability skills, life skills, soft skills. We are talking here about things like communication, creativity, team-working, resilience, digital skills. The problem we have at the moment is that we have a plethora of different ways of defining those skills. If you go to British universities—I assume it is the same in Scotland; it certainly is in England—they all have an employability framework, so they will all tell you the way in which degrees in some way instil these, but every single university has a different framework. If you go to employers, they have performance management frameworks, but they are all different.

The problem is this: when you look at somebody's CV, there is a hard side to it, which is the GCSEs, the A-levels—or the Scottish equivalent qualifications—the degree, the work history. But there is other more



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intangible stuff, which employers say they really care about. It is much harder to capture. It is not really captured in qualifications. You can get this stuff not just at work, you get it in education, you get it in training, but you also get it on the job and in the role that you have as a member of the wider society.

Someone told me a story the other day about someone they had interviewed for an apprenticeship. They had asked this young person at some point, "Do you have any leadership skills?" The person had said, "No, I don't think so." But then later in the interview it transpired that this person had organised a kids' football team on their estate. When I used to coach a kids' football team, that is a leadership skill, I can tell you. They also said to this young person, "What about resilience? Can you demonstrate resilience to me?" "No, I don't think I can." Again, it became clear that the young person had looked after one of their parents when they had suffered from a long-term illness at the same time as studying, which again is a real sign of resilience.

We argued for can we put together a single employability framework, agree a set of headings and then encourage apprenticeship providers, universities and employers to use these categories and then use interesting new possibilities, like what is called open badges. These are digital accreditations, so that when somebody demonstrates something—like, for example, setting up a kids' football team in their neighbourhood—they can get a little digital badge, which they can build up, so when you go for a job, as well as the obvious side of the CV, there is also this other stuff that you have, a portfolio that is a better description of yourself as a rounded person.

That means—finally to end this point—that in work you have a structure for that conversation that I was speaking to Tommy Sheppard about, that conversation with your manager, where you might say, "Is there a way in which I could do my job that would give me better ability to develop my communication skills or to demonstrate my leadership skills?" or, "Could you recognise that I have done that and give me some kind of accreditation for it?" I think that would be a real assistance for the idea that your entire life is a journey of learning and development and growth, whereas at the moment we have this really bizarre idea that you do your education until you are 24 and then that is it, you stop growing.

Q959 Deidre Taylor: Thank you, that was very interesting and I am sure the Minister found that very interesting as well. Hopefully he will take that on board.

I wanted to ask very quickly—and I know we are running out of time—but I have a real interest in people with disabilities, workers with disabilities. Which of your recommendations specifically relate to those and how might that improve their life chances and close that big employability gap between disabled workers and those who are not?



Matthew Taylor: One of the areas of the review we did not go into in enormous depth was the area around social inclusion. That was because we were slightly time constrained and I felt that a lot of very specific work had been done around some of these issues and I was not confident we could do it in the kind of depth I wanted to.

We did, however, talk about health and wellbeing at work. One of the things I recommended—and indeed I was in Manchester making this argument yesterday—was that local authorities would be well-placed to bring together the health service, employers, trade unions and others to address two things. One is how can we improve the quality of health and wellbeing at work so fewer people drop out of work as a consequence of stress, anxiety or physical injuries that they build up. Also, secondly, how can we be better at enabling people who have disability as a long-term condition to be in work and stay in work? Again, I think this is a big SME issue. Larger employers have the capacity to change people's roles and find a way of keeping people in work even if they develop disabilities or long-term illnesses. It is much more difficult if you are in a small company where you only have a limited number of roles. I think we need a more co-ordinated approach to the question of health and wellbeing at work.

Q960 **Chair:** Thank you for your attendance. Just one last question. You have said that your work of the review is complete, which underlines that that is all you are going to be doing around this. You also said it now falls to the Prime Minister, the Government and Parliament to decide how to respond to your recommendations. How do you feel that response has been thus far and is there anything further you feel should happen externally to keep pressure on Government to ensure that your recommendations are met?

Matthew Taylor: Yes. I was delighted by the joint report of the DWP and BEIS Select Committee. They did not agree with me on everything, and we have not talked here about the particular recommendation I had for how it is you could reconcile on-demand working with the minimum wage, but they broadly agreed with my strategy. Most importantly, they said that there would be all-party support for the package of measures. That was extremely heartening and obviously I will be looking forward to your report and hoping that you feel able to endorse at least some of what I argued for.

As I say, everywhere I go around the country there seems to me to be a real sense that we could be doing better in terms of quality of work, particularly at the bottom end of the labour market. The Government are, I think, going to respond reasonably early in the New Year.

Q961 **Chair:** When do you expect that response? Maybe we could ask the Ministers when they are here, but have you had any indication?



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Matthew Taylor: My understanding is sometime early in the New Year. To be honest, I would rather it was later and stronger than earlier and weaker.

Chair: Good. Thank you very much, Matthew. All of us enjoyed that session. Thank you for your time today. If there is anything further you feel would be usefully added to our inquiry, please submit it to us at any point.

Examination of witnesses

Margot James MP, Minister for Small Business, Consumers and Corporate Responsibility, Chris Thompson, Director, Labour Market, Department for Business, Energy and Industrial Strategy, Damian Hinds MP, Minister of State for Employment, Phil Martin, Deputy Director, Labour Market, Department for Work and Pensions.

Q962 **Chair:** Good morning. We have a brace of Ministers this morning. Aren't we lucky? Ministers, if you could say who you are, anything by way of a short introductory statement and introduce your officials who are flanking you this morning. We will start with you, Minister James, thank you.

Margot James: Thank you very much, and thank you very much for the invitation here today. On my right I have Chris Thompson, who is Director of Labour Markets in my Department.

I very much value the opportunity of focusing on Scotland in relation to the Good Work agenda and I am happy to answer any questions that you might have for me. Over to you, Damian.

Damian Hinds: Thank you very much. I am Damian Hinds. I am the Minister for Employment at the Department for Work and Pensions. It is a very great pleasure to be back with your Committee, Mr Chairman. I am here with Phil Martin, one of our deputy directors at the Department.

Q963 **Chair:** That was quick and brief. Welcome back, Damian, it is always good to see you at this Committee.

Just to start things off, we have heard evidence of a wide range of unfair and illegal employment practices that are affecting Scottish workers. Has the UK Government assessed the extent to which employers are failing to respect employment rights or are otherwise treating their staff unfairly? I will leave it up to you to decide who wants to pick that one up.

Margot James: I will go with that one to start with. The Taylor review has exposed, as you say, some serious breaches, some serious abuses. In my responsibility for labour markets, I also meet with the enforcement agencies, so I have a bird's-eye view of the extent. Perhaps not the extent, but certainly the nature of abuse in the workplace from the three main enforcement agencies that come under our purview.

I do not think that we have a truly quantifiable idea of the extent of the abhorrent practices. The vast majority of employers aspire to treat their



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employees fairly, but my estimate, based on what comes across my desk and my proactive approaches to find out where things are going wrong, is that there is a significant minority of employers who, at best, play fast and loose with the law and at worst engage in illegal abuse.

Q964 **Chair:** Why I asked is we took evidence from Citizens Advice Scotland. Some of the evidence they gave us was quite alarming. They recorded 46,540 new issues that they were doing in a wide range of abuses of worker rights, but highlighting examples of unfair dismissal, non-payment of wages, cancellation of holidays, bullying, racism and denial of sick pay. This was said very directly to us in the some of the work that they had been doing. Is that something that you recognise that is a particular issue and difficulty? Are we seeing more people coming forward and making these types of complaints about worker relations in the workplace?

Margot James: Citizens Advice does a marvellous job, I would like to start by saying that. I was not surprised to read its evidence to you. I meet with it reasonably regularly. It does the same job in the rest of the United Kingdom. What it finds is independent, it is absolutely valid and we take it very seriously indeed.

There are some aspects of the area of wrongdoing, if I can put it that way, for which there is some quantifiable data. We do track, as best we can, what happens to employment tribunal awards. When I first took this job I was absolutely astonished at the number of employee tribunal awards that go unpaid. That is an aspect of abuse where you can put some figures on it. Yes, I very much agree that Citizens Advice has uncovered quite unacceptable practices. When I said a minority of employers engage in these sorts of practices, I did say it was a significant minority, and I think Citizens Advice evidence bears that out.

Q965 **Chair:** Lastly on this issue—and I will pass it to Tommy Sheppard in a minute—the Citizens Advice Bureau states a lot of this relates to people on zero-hour contracts. I do not know if you heard the session with Matthew Taylor. There is a mixed response obviously to the value of zero-hour contracts in the workplace. Is there a particular issue that we might have with people on zero-hour contracts who are facing the worst type of conditions when it comes to the workplace environment?

Margot James: If you unpick the workplace as it pertains to people on zero-hour contracts, from what I have read and studied there is quite a variety of treatment and opportunity at that level of the workforce. I accept that the concept of a zero-hour contract can expose workers to unfair practices and at times exploitative practices, but that does not always follow. The research that we have seen finds that quite a large number of people on zero-hour contracts welcome the flexibility.

Matthew Taylor, as you heard already, I am sure, has recommended that we look very closely at the balance of risk between the employer and the employee, particularly with regard to people on zero-hour contracts, where Matthew found that in too many cases that risk had been



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transferred, virtually in its entirety, to the employee. I think that is where the abuse really steps in. He has a number of recommendations as to how we can tackle that.

Q966 Tommy Sheppard: Good morning. I wanted to ask specifically about the question of blacklisting, which has been a recurrent concern for this Committee. In the 2010 Parliament, the Committee had an inquiry specifically with regard to the construction industry in Scotland. The Committee indeed recommended that the Government should hold a much larger inquiry, possibly a public inquiry, into the whole area, which is something the Government declined to do. Part of my question is why, and do you not think there is merit in looking at this?

Of course, one of the arguments against it might be that it is less of a problem than it was. That is why, in this review, we have taken evidence from the trade unions, who told us to our faces that, in their words, the problem is as bad as it ever was. Given that, it is clearly a concern because if people feel they are going to be penalised by agitating for their rights or trying to do something about it, it is going to be very difficult to uphold some of the objectives that we have. Do you think the Government would consider having an inquiry or review into this? If not, why not?

Margot James: At present we have declined to undertake a public inquiry on the basis that the evidence that we have seen is historic. It was absolutely appalling. There is absolutely no place for penalising people, who in many cases are bringing much-needed health and safety issues to the concern of their employers. There is absolutely no excuse for what happened. But I think unless we get evidence that the problem really is persisting, I do not see the role of a public inquiry, particularly since in 2010, I think it was, a new law was passed to make it illegal to engage in blacklisting employees. Certainly since then, that I think is when we have seen a reduction in the practice. As I say, I have yet to see any hard evidence that it is a problem that would merit a public inquiry.

Having said that, I do accept that it will not have been eradicated altogether. As we consult on Matthew Taylor's recommendations around good work and the many other areas that he has made recommendations on, then I would encourage trade unions to bring their evidence forward as part of their response to our consultation.

Tommy Sheppard: Sorry, just a little bit of clarity in that—

Margot James: Yes, of course. What I was saying was if the trade unions do have this evidence that blacklisting continues to be a persistent problem, then I would urge them to submit it. I am sure they will be responding to our consultation on Matthew Taylor's report.

Q967 Tommy Sheppard: But to do so within the framework of the Taylor report?



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Margot James: It would be an opportunity—I would suggest another opportunity—to get their point across, because it has no place in the modern workplace. Taylor’s recommendations are very broad. I have asked people to bring evidence and I have not had any yet about the scale of blacklisting. We are forced to conclude that although, as I said, it is unlikely it has been eradicated completely, compared to the scale of what was going on in the 1980s and 1990s, we think that it has reduced substantially, particularly since it was made illegal in 2010.

Q968 **Tommy Sheppard:** I can only tell you what we were told by the trade unions, that from their point of view it is still a problem.

Margot James: Absolutely, and I invite them to forward us their evidence.

Tommy Sheppard: I welcome your wish to receive and consider evidence in this regard and I think we should probably get back to those who have the evidence to add.

Q969 **Chair:** We have a historical association with this issue, as you are probably aware.

Margot James: I am, yes.

Chair: There have been two Scottish Affairs Committee reports that preceded me as the Chair. One of the things we are very keen to pick up was where we were with blacklisting, just to follow up on some of the work that this Committee has done historically. We were surprised when we heard from the trade unions that this was still very much a live and outstanding issue. We are grateful to the response that you have just given there, Minister. What we will be doing now is to encourage the trade unions to furnish you with that evidence and information. They will be encouraged by that response too. I do not know what other members of the Committee feel in response to what we heard from the trade unions. I think it would have to be beyond the context of the Taylor review in terms of the Government response to all that. Thank you for that.

Q970 **John Lamont:** My question relates to employment tribunals and the fees that were introduced and then overturned in 2013 by the Supreme Court. The Justice Secretary has suggested that they may be reintroduced at some point in the future. Could you give us any more clarity on that and whether that is still the intention?

Margot James: There has been no communication to me from the Ministry of Justice about its plans. I know that it is discussing how best to respond beyond the direct response to the Supreme Court judgment, which is of course to repay all fees that were charged during the time that fees were payable. I am afraid I cannot give you an answer to that question because I honestly do not know what their plans are. But I am quite sure that whatever plans it might be discussing, it will pay great attention to ensuring that it provides for real and proper access to justice.



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Q971 **John Lamont:** Thank you. The Committee has heard some criticism about the enforcement or lack of enforcement of employment rights. Could you expand a bit about what your agencies are doing to protect employment rights and particularly what measures have been imposed in recent years on employers and how that is compared to previous years and if there is any trend that is emerging?

Margot James: You are talking about enforcement rather than tribunals?

John Lamont: Yes, sorry.

Margot James: On the national minimum wage, the resourcing to HMRC has increased substantially over the last three years. It is now up to over £20 million and it employs 360 staff. There were complaints from individual workers about underpayment of the minimum wage. Approximately 50% of its resources are engaged in proactive inquiries, by sector often, and even by parts of the country, localities, to ensure that employers are deterred from not complying with the minimum wage law.

Then we have the Employment Agency Standards body that at the moment tackles abuses in the Employment Agency area. It does have a very limited resource. It employs 11 people on a budget of £500,000. I know Matthew Taylor has looked at what they are capable of doing and he is advocating that they should be doing more. I think he has some very good recommendations in that area that we will be consulting on, but it does have a limited resource at the moment, although it is judged to be very effective in the way it deploys that resource. Then we have the Gangmasters agency, which has 70 staff and a budget of almost £5 million. It is tasked with accrediting the agencies that supply workers in certain sectors and keeping them up to scratch in terms of their compliance with the law.

One of the most positive developments in the last year is our appointment of the Director of Labour Market Enforcement. That is an office that oversees all of these three different agencies, which have to date been working very independently of one another. As you can imagine, they are each gathering a huge amount of evidence and intelligence and there is considerable crossover and synergy. One of the Director of Labour Market Enforcement's tasks is the development of a central intelligence hub that will gather the work together of the three agencies and make it possible for them to work far more effectively with each other when necessary.

Q972 **Ross Thomson:** On that issue of employment rights, Matthew Taylor answered earlier employment is so complex that maybe we need to raise awareness of rights and look at clarity in law, for example. I asked him about the risks of divergence if employment law was haphazardly devolved across the UK, in Scotland and Wales. Do you agree or do you believe that it would be simpler and clearer in terms of workers' rights and awareness of workers' rights if that was consistent or, in his words, had continuity across the UK rather than having them devolved?



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Margot James: Yes, I do agree with Matthew's assessment in that regard. I think particularly in relation to employers at the borders between countries within the United Kingdom it would be extremely difficult to try to comply with two sets of laws. There would be a great risk, if it were devolved, that the level of non-compliance would increase, because non-compliance is a function of both unwitting non-compliance and deliberate non-compliance. There is scope for unwitting non-compliance to increase if employers are trying to juggle two sets of regulations.

Q973 **Hugh Gaffney:** This year the Government has appointed Sir David Metcalf, the UK's first Director of Labour Market Enforcement, which we just heard Matthew Taylor talk about as well. How will this change the UK's approach to the labour market enforcement?

Margot James: I think it will change it for the better in terms of raising the profile of enforcement, as I was saying in answer to the previous question, of bringing together some of the synergies and intelligence that the three separate agencies operating in their three different silos is capable of generating. Sir David will be ensuring that each of those agencies is working in a far more complementary way, one with the other. Therefore they will be able to achieve more in terms of enforcement and a better use of their existing resources. The higher profile that Sir David will bring with his work will add very much to the deterrent effect in terms of deterring employers from breaking the rules.

Q974 **Hugh Gaffney:** Just to supplement that—Matthew Taylor was not sure—has the report been done yet? Will it be January 2018? Is the report out?

Margot James: Do you mean the response—

Hugh Gaffney: David Metcalf.

Margot James: Yes, he has published a draft strategy. He will be publishing his full strategy early in the New Year. Chris, could you confirm that?

Chris Thompson: Yes. I would expect spring, probably early spring, but he has already published, as Margot James said—

Q975 **Hugh Gaffney:** He has done a draft?

Chris Thompson: He has done a draft and he has set out there very much the areas that he was interested in looking at for his first strategy. I think you can see from that the particular areas that he is looking at, how the agencies work together, particular areas of exploitation that he wanted to focus on, and then, crucially, are we using the right levers that we have for enforcement effectively.

Q976 **Chair:** Hugh Gaffney almost asked the question I was going to ask. When can we expect a response to the Taylor report? We have had Matthew in front of us for the past hour there and we all found his evidence fascinating and some of the recommendations quite important. When do



we expect the Government response?

Margot James: Until very recently I had assured people that we would be responding by the end of the year. This might slip into early in the New Year as our response is finalised and enhanced, but it will be very soon.

Q977 **Chair:** What do you feel about some of the recommendations that have been highlighted in Mr Taylor's report? Are you broadly sympathetic to what he is suggesting? Is there anything that you have seen that might be difficult for the Government to progress? How will you work with him to try to realise some of the very important recommendations that are included?

Margot James: I found his report inspiring. As a former employer myself, I found it very interesting. I thought his concept of good work that is fair and decent for all is inspiring and I would very much like to work with him in order to set the groundwork for achieving that aim.

You asked me what might be difficult. There might be individual recommendations that would be difficult and that we perhaps will not accept. The vast majority of them we propose to accept and we will be consulting on how best to bring them about. There are some that we will consult on whether to bring about. Overall, I think possibly the greater challenge is in that headline of fair and decent good work for all. That will be very challenging in the very tough competitive and commercial environments that exist in some sectors of our economy.

Q978 **Chair:** I think we were all impressed with what Mr Taylor had to say about good work and I note the questions that were asked by Mr Sheppard on this very issue. Is this an ambition therefore you feel the Government could buy into quite readily, this whole agenda of good work?

Margot James: Definitely, yes. One of Matthew's recommendations we have already accepted, which is that the Secretary of State for my Department has accepted the responsibility to deliver on that promise personally.

Q979 **Chair:** We heard from representatives of what is referred as the gig economy, and they gave us evidence in the last session of Parliament. Colleagues in this Committee probably did not hear that or secure that. What are your views about the development of the gig economy? What do you understand are the difficulties and issues and the impact this is having on the whole labour market? I struggle to see what the Government's response to the emergence of the gig economy is and whether it is something you feel is welcome or you feel it is something that should be constrained. How do you see it fitting in with the general workplace environment just now?

Margot James: I see it as an area of great opportunity. The Government have responded to it by asking Matthew Taylor to do his report in the first



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place. The Prime Minister's view was that employment markets were fast changing, largely on account of technology. She therefore asked Matthew Taylor to look at employee protections in light of this changing marketplace. That is essentially the response of the Government to date.

If I may go a little further, I see it as an area where our employment laws have been tested, particularly the definition of employment versus self-employment versus worker status. That has been tested and thus far the courts, the tribunals, have ruled that a lot of workers in the gig economy are workers rather than self-employed, so it is challenging in that area. It has provided great opportunities for people who want to work informally, flexibly, in many cases as a bolt-on to more permanent traditional employment. To that extent, as Matthew has found, it is highly valued by many of the workers in that particular sector of the economy.

As well as Minister with responsibility for labour markets, I also have responsibility for consumers, so I have two balls to juggle there, because there is no doubt in my mind that the gig economy has revolutionised choice and opportunities for consumers in a way that I think will never be rolled back. But certainly we do need to respond very positively to Matthew Taylor's recommendations in making sure that that revolution in consumer choice does not come at the cost of decent, fair and good work for the employees or the workers in that sector.

Q980 Chair: I do not know if you were here when Matthew Taylor was talking about self-employment. We had a conversation about what we described about bogus self-employment, because what this Committee has heard is this trend towards putting people into self-employment where there seems to be the temptation to not pay the National Insurance and pension contributions. There seemed to be a definition that was going on about a standardised gig economy, as we understand it, which is inhabited by the Ubers and Deliveroos of the world.

Matthew Taylor gave an example of somebody working in a care home who found themselves as self-employed even though it was quite clearly within the structures of structured employment. What is your feeling about the parking, if you want to call it that, of people into self-employment, about the impact this is having on the work environment and what do you feel about people who find themselves in what might loosely be described as bogus self-employment?

Margot James: Bogus self-employment, in my opinion, definitely exists. I think there are grey areas. Sometimes it is not always easy to define what is self-employment and what is employment. But the law is reasonably clear that one's employment status is a function of the nature and style of working that you have with the person or entity that is paying you. It is that that defines your employment status, not what your employer—

Q981 Chair: This is important. How is that enforced? If there is an issue about the status of self-employment, when it quite clearly is not, what redress



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does the employee have and how is that going to be resolved to the satisfaction of the person that finds themselves in this place just now?

Margot James: In part I could answer that with reference to Matthew's recommendations, one of which is that everybody who starts work will get a copy of terms and conditions from day one that is clear about what status that person is going to enjoy and the nature of the work that goes with it. That will help.

Currently and to date, the role of the tribunals and the courts has been key in determining the status of people where the status is in dispute between the individual and the employer and they have provided a good bulwark. But Matthew's recommendation is that we should not just be leaving it to the courts to determine people's status. I think we are well aware that genuine self-employment is absolutely a very valid choice for people to make, but there is too much bogus self-employment. Of course another element of this is that it does create a very unfair commercial playing field, because you have companies who are playing by the rules—by the spirit of the rules as well as by the letter of the rules—trying to compete with companies that are cutting every cost, including trying to kid people that they are not employed when they are employed.

Q982 **Chair:** I was straying gently into what were you going to do about it. I know you referred to Matthew Taylor's report and obviously that is the first stage about addressing some of this, but you are the Government and you see what is happening here. I think we expect a little bit more. We might take forward Matthew Taylor's recommendation and we are expecting to hear that this is the issue, this is the difficulty, and you are right it is stopping the labour market. What therefore are your plans to deal with some of these issues?

Margot James: Some of the plans are developing within the Treasury rather than within my own Department, because obviously this has huge implications on the National Insurance take. The Chancellor is looking at this area as well. It is something that we will work with the Treasury on in addition to looking at the validity of Matthew Taylor's recommendations and indeed consulting on them.

Q983 **Deidre Brock:** It was good to hear the Minister welcome the concept of good work, as highlighted in Mr Taylor's report, and it was good to hear from Mr Taylor that the Scottish Government's work on the Fair Working Convention had inspired him to place good work as a concept at the heart of his report.

I want to go back to the question of the issue of businesses juggling two sets of employment regulations across borders, as was expressed in your answer to Mr Thomson. Mr Taylor also said he could not see a real problem if one country chose to offer better conditions for its workers than the other. Can you pinpoint precise examples of where non-compliance might occur? You said that you thought non-compliance would be heightened as a result. What sort of areas are you talking



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about?

Margot James: That is slightly a hypothetical question in a sense, in that we are talking about a scenario that does not exist at the moment. But if we were to devolve employment laws, then there is the capacity for regulations to differ in ways as yet unknown. I think that the more differences you have with regulations, which are already in some areas too complex, it stands to reason that there will be greater scope for unwitting non-compliance.

Q984 **Deidre Brock:** In specific areas such as?

Margot James: For example, national minimum wage regulations. Would you have any other examples, Chris?

Chris Thompson: I was going to use precisely that. The Low Pay Commission, if you ever talk to it, in any of the reforms that it advises Government on, it is very conscious of the complexity of the system. It sees a knock-on effect, that if you change the rates in a way that complicates it, it may be to suit an environment more, but it often has a consequence for non-compliance and it is very wary about that.

Q985 **Deidre Brock:** Of course, but that is one of the consequences of devolution. We already have significant regulation divergence across the border in different areas such as planning, for example, so I do not see it as beyond the wit of Governments or businesses to be able to deal with.

Margot James: That is a completely legitimate view. I was going to say something else, but I have forgotten what I was going to say.

Q986 **Chair:** I am quite intrigued by this response. Are you suggesting in some way that low pay would not be met in Scotland if there was a divergence for it and it came to these issues at all?

Margot James: What I was going to say was that obviously the bulk of employment law and regulations is setting a baseline. It is setting a minimum, if you like. The Scottish Government and indeed the Governments of any of the devolved Administrations are perfectly at liberty to pursue policies that will encourage employers to look beyond the minimum.

Q987 **Chair:** That is a good thing though, surely.

Margot James: Of course it is a good thing.

Q988 **Chair:** Your concern would be the impact it would have on the rest of the United Kingdom, not so much on Scotland, if we decided that we wanted to do these things differently and it was devolved? Surely your concern is not that Scotland would embark upon a course that would lead to worse conditions for people who are employed in Scotland?

Margot James: No, what I am saying is the devolved Administrations already have the power to set policies within the overall employment framework that might lead to conditions that are well above and beyond



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the minimum threshold that is set as a baseline throughout the United Kingdom.

Chair: I cannot see a downside to this. I am struggling to hear this.

Deidre Brock: The STUC has called for employment law to be devolved to Scotland.

Chair: We will just leave that one there, thank you.

Q989 **Hugh Gaffney:** You talked earlier on about good practice for the workers and then you started talking about the cost, by the employers cutting the cost. Matthew Taylor also spoke about this with employers, talking about a lawyer against an accountant. A lawyer knows the rules, but accountants try to save money. The HMRC currently name and shame the ones who are not paying the minimum wage. Therefore the bad practice you have just spoken about, will the Government look at naming and shaming bad employers so we stop this race to the bottom and we start to improve things for all workers?

Margot James: Yes. Naming and shaming I had not mentioned, so thank you for bringing it up. It is an important deterrent and it is something that we take seriously. We are about to embark on another round of naming and shaming employers that have fallen foul of national minimum wage law later this week or next week. Yes, I agree with you that it is important. Matthew Taylor also has a recommendation that we apply that naming and shaming policy to employers that persist in not meeting their responsibilities when it comes to paying employment tribunal awards. That is another area that Matthew has recommended that we deploy naming and shaming and one that we are very sympathetic to.

Q990 **Paul Masterton:** We now have in the UK the National Living Wage, which sits below the living wage calculated by the Living Wage Foundation. What is the Government's reasoning between this difference? Do they see the figure produced by the Living Wage Foundation as being incorrect in some way?

Margot James: Certainly not, no. We would encourage employers of course to pay more than the minimum wage if commercial considerations allow. The National Living Wage, as published by the Living Wage Foundation, is approximately £1.25 higher than the National Living Wage.

It is important to remember that the National Living Wage is set independently of Government by the Low Pay Commission. It sets it with regard to the economic conditions at the time, particularly in relation to employment. In other words, it is trying to strike a difficult balance between maximising the amount that low-paid workers can receive without creating unemployment. It is a fine line. It is a line it has trodden. You might say when you look at employment, which has been a great success in terms of the numbers of jobs created, 2 million-plus jobs I think I am right in saying, since 2010, phenomenal. We are encouraged by that and we have absolutely no doubt that we will achieve our goal of



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having a National Living Wage that is commensurate with 60% of median earnings by 2020.

It is also worth noting the National Living Wage that we have in this country is in the top third of countries that have any national minimum wage. We want to see it increase, but we are certainly in the top third when it comes to countries with National Living Wage regulations.

Q991 Paul Masterton: In terms of wages more generally, obviously at a UK-wide level the highest wages tend to be in London. Even in Scotland the highest wages tend to be in large financial and city centres. What is the UK Government doing to try to increase the level of wages more broadly around the UK, particularly in rural areas?

Margot James: I think the National Living Wage and minimum wage regulations are there to provide certainty for employees wherever they are working. There is an issue with rural employment, but at least rural workers do have that protection. That is the purpose of it.

Q992 Chair: Could I ask a couple of questions about the National Living Wage? It is the issue of under-25s. Is the Government going to reconsider this, particularly with all the issues that are thrown at young people now? I know the Government are responding in a number of ways because of the perceived fright they got about the number of young people voting in the last general election. Is there any way that the Government are going to tiptoe gently into ensuring that people under 25 are also paid the National Living Wage?

Margot James: That would be something for the Low Pay Commission to make recommendations about, were that policy to ever change, but I do not see it changing in the near term because the divergence in unemployment rates is still quite significant between the age groups. The measure at the moment for under 25-year-olds, the youth unemployment, is 11.9% versus a national average of 4.3%. The rationale for the different levels and the need for a lower rate under the age of 25 is that we do not wish to reduce the chances of young people getting a foothold in the labour market. We think that if we were to make the cost of recruiting them too high, there would be fewer job opportunities for them.

Q993 Chair: Not paying them the same wage of somebody over 25 is good for them?

Margot James: No, I would not say that. Clearly I do not agree with that. It is not good for the individual person, but collectively we do have to be mindful of the need for work to be available, as well as what that worker is paid. The Low Pay Commission is of the view that we have to consider the fact that there is more than double the unemployment among people under 25 than over 25, so one has to be very cautious about increasing the cost of employing people under the age of 25, given that disparity.



Q994 **Chair:** I want to ask one last question on this about the Living Wage Foundation living wage, which I think in Scotland you will probably recognise the Government initiatives to try to get people on this. I am looking at the 3,705 employers accredited as paying the Living Wage Foundation. 1,024 are located in Scotland. What is your view about all this and will the UK Government make the same type of attempts to try to ensure that we have more people accredited for the accredited National Living Wage or is that something you do not think is important? What is your view?

Margot James: I applaud the Scottish Government for what it has done in this regard. It is quite possible that the result has been that there is no real divergence in average earnings in Scotland versus the rest of the United Kingdom. Given the prevalence of rural areas and some of the issues that the Scottish economy has faced, I think the fact that average earnings is the same in Scotland as the rest of the United Kingdom is very much a feather in Scotland's cap.

We do not have plans to promote the Living Wage Foundation's policy across the rest of the UK, in part because we do not want to confuse the picture. The important thing is that employers comply with national minimum wage and National Living Wage regulations. We do not want to confuse it by talking about a separate living wage as well. This is an area that is clearly devolved and the Scottish Government has used it to advantage.

Q995 **Ged Killen:** The Scottish and UK Governments both have powers that affect the Scottish economy. Where does responsibility for job creation and quality of work in Scotland lie?

Margot James: There is so much that goes into delivering good and fair work. I think you touched on the wider investment—investing in jobs, investing the future—as well in your question. I can answer it better in terms of responsibility of the UK Government, but obviously the Scottish Government have a very important role in doing that. In some sense I think it is important that the two Governments work together. I would like to give the example of the Industrial Strategy as an area in which both Governments can work together. The Scottish Government have had input into the Industrial Strategy and have engaged with my Secretary of State, Greg Clark.

There are lots of opportunities, I think, for Scotland to build on its huge strengths as an economy. You have sectors, oil and gas, renewable energy, Scottish whisky, financial services, advanced manufacturing. You have great strengths in Scotland that some of the initiatives in the Industrial Strategy we hope will apply and accelerate the growth of these sectors, whether it be the Grand Challenges or the City Deals. All of this I think is something where the Scottish Administration and Westminster might well very much work together, and of course with industry and local Government as well.



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Damian Hinds: Can I echo what Margot says? The question is about who is responsible for job creation and we should be under no illusions that the fundamental thing that creates jobs is the strength of an economy. It is having businesses investing, which creates growth, which creates opportunities. The management of the economy is a reserved matter in the settlement. We should not lose sight of the fact that we have seen quite dramatic employment growth in this country and we should never take this for granted. This has not been seen in all other comparable countries. This is something that is about the United Kingdom. We have seen employment grow 3 million, we have seen unemployment come down to a level not seen since the mid-1970s. In fact, it is even lower in Scotland than it is in England. That is what creates jobs.

We have a series of extra initiatives shared between the Scottish Government and the UK Government that complements that economic growth and that job creation. It is really important, as Margot says, that we work co-operatively together. I celebrate the strength of the relationship I have with my counterparts in the Scottish Government and the opportunity to have ongoing collaborative work. Specifically, of course the Smith agreement sets out what is UK reserved and what is devolved. Contracted employability programmes, as they are known, are devolved to the Scottish Government. We have had these two transitional programmes and now we are moving into the phase of the new generation of programmes. We may talk a little about that.

The operation of the network of Jobcentres: it is very clear again in Smith and in the Scotland Act that that is a reserved matter, but of course we want to work closely together. Where there have been opportunities to put in place collocations, either with local authorities or in some cases working in the same premises with Skills Development Scotland, that is a supply-side opportunity for the sector, for DWP and for the Scottish Government. It is also a synergy opportunity for individuals to have more things in one place and of course all these things must be working together.

Q996 **Ged Killen:** We will be coming to the Industrial Strategy later on and I would like to touch on Jobcentres as well. Before that, with the Scotland Act 2016 you talked about employability support programmes and obviously the Scottish Government have taken on a lot of responsibility for that with disabled people and long-term unemployed. But there have been cuts to these programmes at a UK level that has reduced the funds that the Scottish Government have received. Do you believe that the funds that have been devolved to Scotland are sufficient to provide these services?

Damian Hinds: There have been cuts to unemployment, Mr Killen. That is the fundamental point. Also our employability programmes are all about making sure that we do what is right for the individual and has the most chance of getting them into sustained employment. There are various different ways that you can do that and you can help people. We



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have more emphasis now on in-house provision. I say in-house: partly it is still working through partners, but through the Jobcentre network, earlier intervention, things like sector-based working, work experience placements, working closely with the skill sector and so on. We find that those things are very effective. DWP has a very, very finely tuned system for evaluating programmes and we like to be able to pinpoint exactly the effectiveness for that individual and the financial return to the taxpayer of different programmes.

There is a formula, of course. There is a proportion, according to the Barnett consequential, of spend on employability programmes in the rest of UK that goes to Scotland. That absolutely pertains in this case as well. The provision for administrative spend is separate and it is part of the overall provision for administrative costs within the devolution settlement.

I think it is really important, as I said a moment ago, that we redouble efforts constantly to work together on these things. We need to make sure that on the permanent employability programme in Scotland we do what we can to help colleagues in the Scottish Government to make sure referrals are at the level that is required. I am concerned that at the moment there needs to be more effort put in to work out particularly how to promote the programme, if you like, to ESA recipients, because ESA recipients, most of them, are not habitually coming into Jobcentres on a very regular basis, so that is not a channel of contact that is going to work most effectively for absolutely everybody, so a more effort needs to go into that. Again, we can help, we can give thoughts and ideas and of course we stand ready to do everything we can through our networks to make sure these programmes succeed.

Q997 Ged Killen: Coming back to the issue of the Government's policy on closures of Jobcentres, what impact do you think this policy of closing Jobcentres will have particularly on disabled people, who we know will find it more difficult and face more barriers travelling further away on public transport?

Damian Hinds: You say a policy of closing Jobcentres. We do not have a policy of closing Jobcentres. What we have is the end of a PFI contract put in place by the previous Labour Government, lasting 20 years and with quite limited flexibility on what you do with your estate. Of course over those two decades a great deal has changed. A great deal has changed in the labour markets and in the last few years a great deal has changed in the level of unemployment. Also a lot has changed in the way that individuals in receipt of benefits and individuals looking for jobs interact with our services. What we seek to do in Jobcentres has changed a lot. We do far more now. We are bringing employers into Jobcentres, running group sessions and so on, many of which tend to put a premium on larger Jobcentres.

But fundamentally, at the end of this 20-year period, there is a one-off opportunity—in fact, a requirement, not just an opportunity—to review



the estate, to look at what you have, 700-plus locations, look at the places where the space is well-utilised, look at where it is not well-utilised, look at buildings that are properly modern and capable of dealing with the opportunities of the digital age, look at those that are not and rethink how you do that network.

That has caused us to do a number of different things. In some cases we have merged two Jobcentres nearby to make a bigger one. As I say, there are things you can do in a bigger Jobcentre you cannot do in a smaller one. We have also done things like collocations, including some in Scotland that I mentioned. Fundamentally, we are committed to and do have a wide and comprehensive network of Jobcentres.

Obviously in very rural areas it is harder and longer to get to Jobcentres than it is elsewhere, but that is true of a lot of things. I represent a rural constituency myself. Overall, by the way, in terms of the Scottish statistics, there are still considerably more Jobcentres per head of population in Scotland than in England. If we talk specifically about Glasgow—and I do not know if you were going to come on to that—there are still more Jobcentres proportionate to the population in Glasgow than other comparable UK cities, with the sole exception of Manchester.

Yes, we are absolutely committed to a Jobcentre network. It is at the heart of what we do. In fact, those of you who have not recently visited a Jobcentre—and I am sure you all have—and seen some of the changes that are coming, particularly the very positive changes with Universal Credit, how that changes, how we interact with our clients, then I would very strongly encourage you to do so.

Phil Martin: The only thing I would add on that, as a former Jobcentre manager myself, I would not underestimate the extent to which not everything that the Jobcentre does happens in a Jobcentre, inasmuch as we had work coaches who went into other doctors' locations or into childcare centres as well to help to offer that advice.

Damian Hinds: We also do many home visits a year of course. We want to make the service successful and I am very conscious of points you raise about people with disabilities. It should also be reiterated, and I mention this in response to a previous question, that for most people on ESA and the support, they are not regularly coming into Jobcentres in the same way that people on Jobseeker's Allowance are.

Q998 **Chair:** The last time you were here, of course, Minister, was when we did that one-off inquiry into Jobcentre closures, particularly in the Glasgow area. I have to say the Committee was very disappointed in the Government response, which was just basically a restatement of Government policy. There did not seem to be any response to some of the geographical issues that were put forward about the difficulty people from different communities had being able to access a Jobcentre.

I suggest to you that this whole question about Jobcentre closures,



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particularly when Central Scotland is not going to go away—and I know, Mr Killen, that there is unhappiness amongst local constituency members—is that the last word on these Jobcentre closures? I know about the PFI contract, all the other things you say, collocation, but there is a net loss of Jobcentres in West Central Scotland, particularly in the Glasgow regional area. Can we expect anything further from the Government in terms of a response to this?

Damian Hinds: I am a little confused when you say there was no response from the Government—

Chair: There was a response. It was just a restatement of Government policy.

Damian Hinds: If you will excuse me for a second, there was no response from the Government to the consultation because of course there were changes made to the plans. But the fundamental point remains that we are committed to having a network of Jobcentres, good coverage, an accessible network and that is indeed the case.

Chair: I think we will just leave that there.

Q999 **Hugh Gaffney:** We could probably spend all day on Jobcentres. One of the things you mentioned earlier on was the unemployment figures are down. We spoke a lot and there is a lot of talk about zero-hour contracts. Some of these contracts, a niece has only an eight-hour contract a week. A fulltime equivalent, we used to do the books and the work with the boss and say the cost of fulltime equivalents was 40 hours, so one job could equate to five jobs. If that is the case, the contracts they are giving out nowadays are for four hours, five hours, six hours. You start to break that down. That is five or six people on the employment figures. Is that how the employment figures work?

Damian Hinds: No, it is not. We have and are publishing average weekly hours' data that are produced by the Office for National Statistics and measures the number of hours. I do not have those numbers in front of me, but from memory I think the average work is people on part-time contracts is 16 hours. Overall—Phil may find the appropriate page in his pack—for people working fulltime I think the average is around 40 hours. We also know that people on zero-hours contracts from separate survey data, the average number of hours worked is in the region of 25 or 26.

Incidentally, the proportion of people relying on a zero-hours contract, as has been mentioned earlier, there are a variety of circumstances in which you could have a zero-hours contract, including many people who have them as a second job as well as those who have them as a student and so on. We know the proportion of people who rely on a zero-hours contract as their main work is around 2.8% of the population. This is from survey data. Again, in Scotland it is within 0.1 percentage points of that at 2.7%. In fact, job satisfaction, work satisfaction among that population is sometimes recorded as being higher than it is among the working population as a whole.



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My view very clearly on zero-hours contracts is they are not for everybody, but they do have a role. Sometimes they help people get back into the labour market after some time out. They can combine sometimes with studies or it can be a second job. They are not for everybody, but they absolutely have a role and they can work very well for some people.

Q1000 Hugh Gaffney: I will move on to the question because I know we could spend a lot more time just talking about this. One of the things we spoke about was the Access to Work programme. The responsibility for employment support programmes for disabled people has been devolved to the Scottish Government, but the Access to Work programme highlighted the fact that to provide support in work for disabled people, this is not devolved. Is there a reason for that? What is the reason?

Damian Hinds: It is not devolved because it is overwhelmingly not—

Hugh Gaffney: Sorry, it remains reserved. The Access to Work remains reserved.

Damian Hinds: Yes, I understand what you are saying. It is not devolved because it is overwhelmingly not contracted provision. There is a small part of Access to Work that is contracted provision, but—and you will be familiar with the programme—it is a way of providing individual support packages to people. In some cases that is transport to and from work. In other cases it is having an assistant at work or there can be other physical assistances as well, but it is not contracted provision in the same way as you find a third-party provider or series of third-party providers to do employability programmes. Those are very clear in Smith that those contracted out employability programmes are devolved.

Q1001 Hugh Gaffney: Given you mentioned earlier about Jobcentres, geographical-wise is there anything for disabled people in Scotland? Could that be operated at a Scottish level? Could it change?

Damian Hinds: I am not sure I have understood the question, Mr Gaffney, but I think you are saying for employability programmes for people with disabilities, could that be devolved? Yes, and it is.

Hugh Gaffney: Thank you very much for that.

Q1002 Deidre Brock: Minister, I am not sure we had an answer to Mr Killen about the devolution of the funds to Scotland on the new employment support programmes they have taken on for disabled people and those at risk of becoming long-term unemployed. Do you believe the funds that have been devolved to the Scottish Government are sufficient to provide those programmes, given the cuts Mr Killen referred to?

Damian Hinds: I believe there is a formula, a longstanding formula, for devolution of funds. The funding comes as block and then it is quite rightly at the discretion of the Scottish Government, overseen by the Scottish Parliament, quite rightly. The Government then have the flexibility and freedom to spend that money in the ways it chooses.



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Q1003 **Deidre Brock:** Yes, but given the cuts, do you think there is sufficient money provided by the UK Government to offer those employment programmes to the same extent as before?

Damian Hinds: You said I did not give an answer to Mr Killen. I thought I had, so to repeat or to paraphrase what I said—

Deidre Brock: I may have missed it. There was a bit of a cloud of words and I perhaps did not hear.

Damian Hinds: I am terribly sorry for my cloud, but what I was trying to say to Mr Killen was—and I think it is pretty well-known by the Committee—there is a formula for the Barnett consequential from the different spending programmes in the United Kingdom. That has been applied to the employability programmes in the same way as to other things. It is also the case that over time unemployment has come down and it is also the case that more things are being done in terms of early intervention programmes through Jobcentres. That was the essence of my answer to Mr Killen.

Q1004 **Chair:** Can I just conclude the session, which has been fascinating? I am grateful to both of you again. Industrial Strategy: I think it is you, Minister James, who has the responsibility for this and I would just like to ask in your view how this will impact on Scotland. I understand you are bringing together ministerial forums on the Industrial Strategy that will involve representatives from all the devolved Administrations and Parliaments. Could you just talk a little bit on your view about how you expect them to operate and work and just how the Industrial Strategy will impact on Scotland?

Margot James: It is definitely a strategy for the whole United Kingdom. Scotland is hugely important to it. I mentioned in my answer to Mr Killen some of the huge strengths of the Scottish economy and the first thing to say about the strategy is that we do envisage it first and foremost building on our strengths as a country. But importantly also we do need to see the opportunities extended into areas and for people who have not enjoyed a fair share of the growth that we as a country have enjoyed. There are pockets in all corners of the United Kingdom where that is the case, where earnings have fallen behind, where business has disinvested. We do want to see a real application of devolution to fairly small parts of the country so that they can address some of the key issues that they face. Scotland will be important in terms of that side of the equation, just as it is in terms of building on our strengths. Place is very important within the strategy.

Another of our key strengths is higher education. I would say that Scotland enjoys a disproportionate benefit in that regard with your fine universities. We want to see an even better integration of R&D and research-based universities' outputs being capitalised by local businesses. One of the key achievements of the Industrial Strategy is to have wrestled money to improve R&D to bring what we as a country, including



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Scotland, spend as a proportion of our GDP on research and development up to the OECD average by 2025 and we have new money to do that.

There are various sectors that are close to negotiating a final deal whereby Government can provide opportunities, remove obstacles and work with sectors of the economy. We would encourage sectors of the Scottish economy to step forward to secure benefits in that regard as well.

Q1005 Chair: On the forums, I know they are not mentioned in the final Industrial Strategy document. They have not been dropped, have they?

Margot James: No, not all. In fact, there is an overarching commitment within the Industrial Strategy to a forum between my Department and the Scottish Government.

Q1006 Chair: How do you envisage that would work?

Margot James: We have not put any flesh around it yet, but it will be something we evolve together with the Scottish Administration. Greg Clark has met several times and engaged with Ministers in the Scottish Government with responsibility for business and industry and those meetings have gone well and we intend to build on them, work together with the devolved Administrations to localise the Industrial Strategy to meet the needs of Scotland.

Q1007 Chair: Just lastly, the Industrial Strategy I think is vitally important. I think everybody around this Committee would agree with that and we would all want to ensure its success. Just in terms of and in reference to the work of this Committee and this inquiry, does it deal with good jobs and greater earning power and will this review also how businesses are better supported to provide good jobs?

Margot James: Indeed it does. In fact, I am glad you corrected my omission there, as I should have said that good work is fundamental to the Industrial Strategy. It is fundamental to improving people's earning power and raising Britain's productivity up to the standard of the best. At the moment, as you know, we are not there yet. We see the Industrial Strategy as a vehicle for creating not just more employment, but good employment.

Chair: Great. I am very grateful to you for putting up with my cold when it comes to answering these questions and grateful to both of you for coming along today. It has been very helpful. Anything further that you can usefully contribute to our inquiry, please get in touch with the Committee. Thanks again.