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Sent: 13 December 2016 22:56
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Subject: Protest at Mayor's Question Time to end sweated Uber labour & unfair language testing



Dear Assembly Member

Last Friday, Frank Field MP, Chair of the influential Work and Pensions Committee, published an important report - Sweated Labour - Uber and the gig economy. The report should make grim and sobering reading for our London political leaders. Mr Field finds that Uber drivers in London are working in conditions more akin to a Victorian era and these conditions meet the classic definition of 'sweat labour'. Mr Field gathered testimony from 83 Uber drivers drawn mostly from UPHD membership.

Mr. Field recognises that Uber drivers are publicly licensed by TfL under the authority of the Mayor of London. As such, he has called on the Mayor, TfL and the Department of Transport urgently attach conditions to Uber's operator's license when it comes up for renewal in 2017 to ensure the eradication of sweat labour from the publicly licensed system.

With the vast majority of London's 115,000 licensed private hire drivers working on a contracted basis without rights, not just for Uber but for many other operators, we believe the entire licensed workforce is now at a severe risk of being 'sweated'.

I'm sure you will agree there can be no place for sweatshop conditions in London's economy and certainly not in the publicly licensed transport system. Despite the obvious moral offence, sweated labour providing public transport services creates an unacceptable risk to public safety.

We have also highlighted an unfair English language test that TfL's own regulatory impact assessment admitted had no public value. This measure represents the flagship proposal arising from a regulatory review that was supposed to modernize regulations for the app era. Instead, TfL took aim at London's poorest as a populist distraction rather than face its responsibility to regulate the market properly.

We have continually raised these issues with the Mayor, Deputy Mayor and TfL for months but all approaches have fallen on deaf ears. We have not even received a courtesy acknowledgement. TfL does not allow any dedicated representation for private hire drivers in the stakeholder process.

For these reasons and with regret we will be protesting at City Hall on Wednesday to coincide with Mayor's Question Time.

We would be very grateful if you could let us know if you support our demands that the Mayor, TfL and the Department for Transport must act to eradicate 'sweated labour' from the public transport licensing system and to withdraw an unfair testing regime.

[redacted]



Sweated Labour

Uber and the 'gig economy'

Frank Field and Andrew Forsey
December 2016

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Preface

The bottom is falling out of Britain's labour market, casting adrift the living standards of millions of people striving to make ends meet.

In our recent report, entitled *Wild West Workplace*, we revealed a raft of unjust practices being inflicted upon couriers working with one of Britain's biggest delivery companies, Hermes.¹ They include daily doses of anxiety, insecurity, and chronically low pay for couriers, as well as a lack of basic human decency from some of the company's managers. Although most of us would view them as the basis of an exploitative relationship between a company and its workers, such practices form the reality of what Hermes chooses to call 'self-employment'.²

The Prime Minister's response to *Wild West Workplace* could not have been more effective. First, the evidence in the report was referred to HMRC's compliance teams for further investigation – to see whether Hermes has evaded its responsibilities as an employer, by wrongly labelling its staff as self-employed. This was followed by the creation of a new, proactive unit within HMRC to inquire into other companies' use of similar techniques, and penalise those found guilty of depriving their workers of basic protections, such as the National Living Wage, by wrongly classing them as self-employed.

The new Government within its first few months in office has therefore sent out a clear signal of intent to those companies whose business models depend on depriving their workforce of the basic

protections we would expect to find in a modern, civilised labour market: the absence of such civility cannot continue if our economy is to work for all of us, rather than just a privileged few at the top.

It was not our intention to write a follow-up report to *Wild West Workplace*, but on the back of that report we have received submissions from 83 private hire drivers,³ almost all of whom work with Uber – a company which, like Hermes, commands a powerful position in Britain's 'gig economy'.⁴ Uber's entire fleet of drivers is required to work on a self-employed basis, as are the many thousands of couriers working with Hermes.

While the couriers await the outcome of HMRC's investigation, some of the drivers have begun challenging their employment status through the courts. A recent employment tribunal found in favour of those drivers working with Uber who, like couriers working with Hermes, feel as though their working lives are more akin to those lived by workers or employees, rather than the self-employed.⁵ Indeed, it came naturally to one driver to describe themselves to us as 'a full-time worker for Uber'. The outcome of the recent employment tribunal may therefore come to represent the tip of the iceberg, not just for Uber, but also, given the similar circumstances described to us by couriers, the wider 'gig economy'.

We believe that in the longer term, the onus should be placed upon companies in the 'gig economy' to prove that individuals working with them are genuinely self-employed, rather than

¹ Field, F., and Forsey, A., *Wild West Workplace: self-employment in Britain's 'gig economy'* (London: The Stationery Office, 2016)

² A person is self-employed if they work, or run their business, for themselves. A self-employed person is not paid through the Pay As You Earn tax system, and they do not have the employment rights (such as holiday pay, sick pay, challenging an unfair dismissal, minimum wage regulations, and employers' pension contributions) and responsibilities of workers or employees.

³ Private hire licences cover minicabs, executive cars, limousines and chauffeur services. Drivers carrying these

licences are not allowed to pick people up on the street and can only carry out bookings through licensed private hire operators.

⁴ The 'gig economy' is a relatively new and expanding industry in which companies hire people to work mainly on a freelance, casual, temporary basis. Those people are generally required to provide their services 'on demand' to fit around consumer behaviour.

⁵ The judgment on *Mr Y Aslam, Mr J Farrar and Others versus Uber*, was delivered on 28 October 2016.

what most of us would think of as workers or employees.

Likewise, we wish for the trade union movement to evolve in various ways to help protect the living standards of the large numbers of people now working in the 'gig economy'. Although no official estimate has been made, it was recently suggested that four million people in this country undertake such work out of financial necessity.⁶

In the meantime, we submit this report to Transport for London, the body which regulates Uber's activity in the city, and the Department for Transport, the body which determines Transport for London's regulatory powers, in the hope that they will act as swiftly and effectively as did the Prime Minister, to help reset the rules of the game at the bottom of the labour market.

We do not propose in this report a complete overhaul of the industry within which Uber operates. Rather, we propose a series of reforms which, if implemented, would insert a much needed floor into the bottom of this particular area of the labour market. Our aim is to halt the continuous decline in drivers' living standards that has become so painfully apparent to us in the submissions we have received, and to introduce a missing element described by one driver as 'the human element'.

We are troubled to note that the practices described to us by drivers working with Uber would appear to fit the Victorians' definition of 'sweated labour'. In 1890, a House of Lords Select Committee deemed labour to be 'sweated' when earnings were barely sufficient to sustain existence; hours of labour were such as to make the lives of the workers periods of almost ceaseless toil; and conditions were injurious to the health of the workers and dangerous to the public.

It is these three evils, the roots of which lie in the enforcement of self-employment on drivers, that we call upon Transport for London and the Department for Transport to banish from Uber's working practices when the company's licence comes up for renewal in 2017.

Frank Field and Andrew Forsey
December 2016

⁶ Manyika, J., et al, *Independent work: choice, necessity, and the gig economy* (San Francisco: McKinsey & Company, 2016)

1. Introduction

The number of drivers in London operating with a private hire licence has almost doubled since the turn of the decade; from 59,191 in 2009-10 to 116,228 in 2016-17.⁷ A significant number of these new drivers work with Uber, a relatively new company which enables millions of people through their smartphones to hire a nearby driver, to take them from their current location to their chosen destination. Each driver working with Uber is classed by the company as being self-employed.

The irresistible rise of Uber embodies the rapid growth since 2010 of what is called the ‘gig economy’. As with other companies in the ‘gig economy’, Uber offers consumers rapid, low-cost, convenient access through their smartphones to a bevy of goods and services.

Uber introduced to the private hire industry a totally new way of working. The idea is that each registered driver logs in to the Uber system when they wish to begin their shift. Once they have logged in and are available for work, drivers are then offered jobs by Uber and the company deducts commission from each job they have successfully completed during that shift. Drivers then log out of the system when they wish to cease working.

With a network of tens of thousands of drivers at Uber’s disposal, consumers are likely to receive an almost immediate response to their request for a driver. As an added advantage for consumers, they find at the end of their journey that this service has been provided in return for a low fare.

Consumers are offered a wide range of services by Uber, including:

- UberX – a basic low-cost service offered by most drivers;

- UberPOOL – a low-cost carpooling service, with an additional 25 per cent discount, through which consumers share their journey with other passengers whose identity remains unknown until they join the journey;
- UberXL – a service offered by drivers with larger vehicles; and
- UberEXEC – a premium service with a higher minimum fare.

It is not just consumers who have benefitted from this menu of low-cost, convenient travel options. Uber has registered impressive financial results in its first few years of existence. According to the House of Commons Library, its turnover in London more than doubled between 2013-14 and 2014-15; from £11.3 million to £23.3 million. Its turnover is likely to have increased by at least as much in 2015-16 and 2016-17, thanks in part to the growing number of consumers registering to use the company.

As we documented in *Wild West Workplace*, though, there is a sizeable group of people who bear the largely unseen human scars of the ‘gig economy’. They are the hidden army who, despite being classed as self-employed, work very long hours, often with one particular company, in return for chronically low rates of pay.

Moreover, they do so without the right to paid leave, to the National Living Wage, and to challenge an unfair dismissal, for example, which are among the protections granted to workers and employees.

Drivers who have worked with Uber for several years were keen to note in their testimonies how pleased they were during their early months with the company. However, it was reported to us how the fares and conditions have so deteriorated in

⁷ This is the correct figure as of 4 December 2016, according to <https://tfl.gov.uk/info-for/taxis-and-private-hire/licensing/licensing-information>

the past two years that, as a result, many drivers now feel trapped.

We analyse in this report the reality of the working relationship that now exists between Uber and its drivers. We look at whether and, if so, which parts of this relationship stand in contrast with what most of us would think of as genuine self-employment. We look also at the impact of this way of working on drivers' living standards. The report is based upon the testimonies we have received from 83 drivers who depend on Uber for their income.

There are four aspects of working life with Uber which we examine in this report, that seem to bear a close resemblance with what the Victorians would have called 'sweated labour':

- Drivers are at risk of taking home less than a third of the National Living Wage.⁸
- Drivers find it increasingly difficult to obtain work, and must therefore stay on the road for extended periods of time to make a living, as Uber is recruiting an unlimited number of new drivers each day from which it gains higher rates of commission.
- Almost all of the risks that are inherent within the private hire industry are unloaded onto the drivers, with very little in the way of emergency support being offered by Uber.
- Drivers do not have the freedom to determine their own working patterns, as Uber holds the power to remove work from them if certain conditions are not met.

We cover each point in turn in the chapters that follow, before concluding with a series of proposals to Transport for London and the

Department for Transport,⁹ as well as the trade union movement.

We fear that, until such proposals are set in train, a growing number of people in this country will find themselves being subjected to 'sweated labour' – toiling through anxiety and insecurity, for unsafe lengths of time across seven days a week, in return for poverty pay.

⁸ The National Living Wage of £7.20 is the legal minimum hourly rate of pay for workers and employees aged 25 and over.

⁹ Transport for London is the body responsible for licensing the private hire trade. Its powers in this respect are determined by the Department for Transport, through the Private Hire Vehicles (London) Act 1998

2. 'Ubering seven days to survive' – Low fares, high commission, long hours, and low pay

The National Living Wage

As we noted in *Wild West Workplace*, companies in the 'gig economy' who class their staff as being self-employed are under no obligation to pay them the National Living Wage. And so it seems with Uber.

The evidence we have received suggests that once the essential costs of acquiring and maintaining their vehicle have been taken into account, some drivers take home as little as £2 an hour – less than a third of the legal minimum for workers. This is a far cry from the hourly rate of £9.40 which, at the time of writing, is the rate required by workers to afford a basic standard of living in London.¹⁰ It was reported to us that:

'The hourly rate that I can expect from Uber, when you take into account all of the expenses to run a car, i.e. insurance, fuel, car rental, and wear & tear [is] £2 - £3 per hour.'

'[I am trying to make] ends meet as a parent, father of our children and the responsible person in the household. [In one recent week after expenses I earned] £4.86 per hour. [During the following week, after expenses, it was] £5 per hour.'

It seems that there are four main reasons for this chronically low pay: very low fares which have been cut in recent years; high rates of commission which vary between newer and older drivers; the costs of renting the right vehicle which meets Uber's specification; and the costs of refuelling and maintaining each vehicle.

Low fares

We understand that in London, a typical UberX journey carries a fare of £1.25 per mile, plus 15 pence per minute. The base fare is £2.50 and the minimum fare is £5.

Drivers wrote in their testimonies that these rates had been cut in recent years and that, at their current level, they make it difficult to earn a decent living. On the one hand, this has delivered for passengers, in the words of one driver, 'a first class service at basement prices'. On the other hand, it was reported that for the drivers themselves:

'At the beginning it was really good, because fares were a lot higher than now. [For example] £1.75 per mile and £6 minimum fare, now £1.25 per mile and £5 minimum fare. This is because Uber dropped their fares [...] without any consultation with drivers.'

'I don't know if I can drive for them much longer as the fares are far too low for me to make a decent living.'

'The minimum charge is way too low, it was dropped from £6 to £5 but the cost of living is going up, including the maintenance of the car. Also the charge per mile is way too low; from £1.75 per mile it went down to £1.25 per mile.'

'We as drivers are earning £1.25 [per mile] [...] God forbid if they keep dropping it.'

'Uber have dropped their rates, making it much cheaper for the customers, but leaving the drivers struggling to meet the costs of the job; let alone bringing in money for food on the table for the family.'

¹⁰ This hourly rate of £9.40 is known as the London Living Wage. It is a voluntary, rather than statutory, benchmark.

High rates of commission

Once each passenger has paid for a standard UberX journey, Uber deducts approximately 20 per cent of that fare in commission. The driver is then paid the remaining 80 per cent. We understand that the rate of commission increases to 25 per cent for new drivers. The impact of such deductions was described to us in the following terms:

'The hourly rate drops to £5 or less after commission.'

'We have to work longer hours, sometimes 70 plus hours, to cover our cost. It's because the operators don't share any of our cost but [are] keen to take their high level of commission. Sometimes we need to pay at least 25 to 30 per cent commission on the total of each fare.'

Some drivers also expressed concerns over the potential for Uber to rig the market through its rates of commission. We heard in evidence that, due to the graded rates of commission, Uber may be incentivised to give more work to newer drivers, thereby making it more difficult for existing drivers to find work:

'Job dispatching is not fair as they prioritise the new Uber drivers, as they get more commission from them.'

'The fares are low, yet for all new drivers, Uber take 25 per cent commission [...] they take 20 per cent off all [drivers who joined earlier].'

'The newer the driver, the higher the commission. This also helps Uber because they make more money. We as the old drivers on low commission (money paid to Uber for each job) are constantly losing our fares to [those] who are on a higher commission. Other drivers with higher commission

have travelled further and [for a] longer time to pick up [a] passenger while I'm on that street.'

The costs associated with maintaining vehicles

A decisive factor which plunges drivers' hourly pay below the National Living Wage is the financial cost they must incur to work with Uber.

By classing them as self-employed, Uber has unloaded onto drivers a whole series of financial burdens. It is only once drivers have undertaken enough work every week to carry each burden, that they can then begin earning their own livelihood.

Drivers who rent their vehicle to fit Uber's requirements must pay regularly to use that vehicle.¹¹ This group must also cover the additional costs, such as petrol, maintenance, tolls, insurance, and road tax, which are incurred by other drivers.

The total cost of up to several hundred pounds per week, to acquire and maintain a vehicle, can take a heavy toll on drivers' earnings. It was reported to us that:

'Working for Uber means around 30/40 hours just to cover my cost.'

'We are pushed to do more hours a week [because] we don't make enough money to support ourselves. When I take the cost of expenses I am hardly left with £150 in my pocket for 60 hours which is way below minimum wage. My livelihood is my job. I support my family through this work. Uber has created the circumstances in which one can't survive.'

'I have to do longer hours than expected and earn after my expenses probably less than minimum wage. I choose to work as I do not want to depend on state benefits.'

¹¹ A list of vehicles that fit Uber's requirements can be found at: <http://london.ubermovement.com/vehicle-requirements/>

'Yesterday my hourly net income fell to £2 an hour. I made £40 cash, then had to put in £30 in petrol.'

'I am earning about £10 per hour. After my expenses I am left with £5/£6 hour. My expenses are petrol, maintenance of my car, insurance, tax. As a private hire driver making a living wage is really hard.'

'[In one week, after expenses, I was] earning £6.23 per hour.'

'I have car insurance to pay [which] costs me £400 a month, then loan for my car £235, and also other bills [...] my outgoings cost me way too much. I am overdrawn in my account and struggling to pay bills on time.'

'We don't clear £6 an hour, because of the quiet hours, diesel and insurance costs.'

'Soon after receiving the licence I then financed a car for £25,000 which I had to license and insure. I did all this because I thought I would be able to manage once I [started] work. I really feel stuck in my current situation as I have made a huge investment (car). Cars were not allowed to be more than [a few] years old when I partnered with Uber, so I had no choice but to make that investment.'

'My cost of running my vehicle is high and sometimes I wonder is it really worth going to work?'

'Taking the fuel cost of running a car for 8 hours and the cost of the car insurance, taxes and everything else, the rate falls under [the National Living Wage] badly. For me, I estimate that I have to gross £80 per day just to break even. So the hours are long - I often work 50 to 60 hours per week.'

'There has been weeks that me and my colleagues have put in over 40+ hours just to earn £350, this

before my expenses like fuel, insurance, car wash etc.'

A fair day's work for a fair day's pay?

Several drivers assessed the cumulative impact of low fares, high commission, and high costs on their weekly earnings:

'I always struggle and find it almost impossible to make a living. I have to pay Uber 25 per cent of my earnings; I have insurance for £3,000 a year; I have fuel costs of £200-£300 a month; I service and maintain the car; I wash the car twice every week at a cost of £80 a week, plus MOT twice a year and [private hire] licence. Costs add up [...] I take home £5 an hour which is not even the minimum wage.'

'The fares are too low and the commission too high. Drivers work [...] 6.5 days [...] and 16 hours per day – dangerous for the driver, passenger and the public. Often you will earn less than the minimum wage, so you work more hours. An average Prius costs £250 per week including maintenance and insurance. Petrol for the week average £100 [...] so before you make any money your cost is £350.00 per week. If you cannot earn £20.00 per hour with an average [of] 10 hours per day [...] you are running at a near loss so, sadly the tax credits pay the difference.'

'Car costs approximately £200 per week [...] petrol paid for by the driver can run into hundreds per week. One colleague said for 60 hours he earns £400 less petrol and tax.'

Confronted with such evidence, one may naturally ask, 'why do the drivers not seek higher earnings by working with another company?'

The answer is that, particularly in London, working with Uber is fast becoming the only private hire show in town for drivers. The company now controls a large proportion of the private hire market. Were they not working with Uber, the drivers would find it difficult to gain any work at

all. Clearly any improvement in this sector of the labour market will need to begin with a look at Uber itself.

On the back of the evidence we have received on drivers' pay, we recommend that the Department for Transport should grant Transport for London the powers it needs to require Uber to set its fares and rates of commission at levels which afford drivers an adequate standard of living. As a first step, Uber should ensure that drivers' earnings after expenses – covering the whole period in which they are active, and not just the duration of each journey – should fall no lower than the National Living Wage.

We turn now to another aspect of Uber's working practices which seems to have depressed drivers' ability to earn a decent living: the creation of a huge surplus of labour competing for work.

3. 'Flooding the market' – The impact on earnings of an unrestricted surplus of drivers

A heavy downward force on drivers' ability to earn a decent living has been exerted by a rapid increase in the number of new drivers undertaking work with Uber. It was reported to us that increased competition for fares has resulted in drivers staying out on the road for much longer periods of time each day, and for a greater numbers of days each week. They have done so merely to try and maintain their earnings, let alone be fortunate enough to increase them.

There is currently no cap on the number of new drivers each day who are able to begin working with Uber.¹² It is not surprising, therefore, that existing drivers reported to us how the roads are becoming 'flooded' with a large and growing number of new drivers – the total number in the private hire market has increased by 15,000 in the first eight months of 2016-17.

Many drivers who have families to support reported with some embarrassment that, due to the necessity of working longer hours to bring home sufficient money, they are unable to spend time with their loved ones. It was not uncommon to read in the evidence we received of drivers working upwards of 12 hours each day, and one driver was resigned to 'Ubering seven days to survive'. It was reported likewise that:

'Drivers will carry on working at low rates due to desperation. Low fares and too many drivers mean drivers have to work longer hours which is not safe for the drivers and [the] customers.'

'[Uber have] flooded [the] market with drivers. My [earnings have] halved over [the] last 2 years.'

'My pay is getting smaller as time goes by and this is because of Uber cutting the fares and also an over-supply of drivers. I have fixed costs to meet before I can earn for my family (car, insurance

etc.) so this means I need to work longer and longer to earn the same money. At the moment I work about 40 to 50 hours a week. I reckon I'm not even earning the minimum wage after everything is taken out.'

'Day by day, Uber is finding new ways to make money. Meanwhile Uber is increasing the number of drivers therefore reducing the amount of work available to existing workers.'

'Due to the extremely high number of Uber drivers at present it is very hard to make ends meet. I know countless Uber drivers who are driving seven days a week to make ends meet. I have not been on holiday for the last three years because I could not afford to do so.'

'If too many of us become private hire drivers then there won't be enough jobs for all of us.'

'There are days I and my colleagues drive around for a fare and would not get a customer for hours. This is due to the huge amount of [...] drivers around. There needs to be cap on this.'

'They keep taking new drivers every day [...] which is a lot more than demand. Because of this we have to work more hours every day which results in depression, tiredness and more accidents on the road. Restrict the number of drivers in the city.'

'Many drivers will not come forward out of sheer embarrassment of working 60 hours + per week. My argument with these lads is they shouldn't be on the road risking their own, and the public's, lives but instead fight for fairer pay.'

'More hours [are] leading to an increased level of anxiety and stress, a low level of communication with my family and a gap in my personal and family life.'

¹² There is no cap either on the number of licensed taxi drivers, although the total number of such drivers in London

has remained relatively steady, between 21,000 and 22,000, in each year since 2009-10.

'They are bothered about their money, not my safety.'

'There needs to be a cap on how many more drivers they are taking on, as there is a huge impact on the amount of traffic there is in the city.'

'They have hired a lot of drivers and the workload has gone down. There's hardly any surge and the normal fares are peanuts.'

'Every day more and more new drivers are joining which is creating so many problems to the industry. Thousands of drivers are going through the same hardship and yet [Uber] are continuing to make it harder and harder for drivers to survive.'

'London streets have become so congested with Uber drivers that it has become literally a nightmare to earn money. I am working six or seven days a week reaching up to 100 hours. I feel I have no choice but to do these hours because the level of jobs coming in has decreased so much due to the fact of new drivers joining on the Uber platform [...] the drivers are getting themselves in a tangle with large amounts of expenses because there simply isn't enough work out there which then leaves them no option but to work very long hours which in essence is dangerous for drivers, passengers, members of [the] public and the infrastructure.'

'Uber and TfL keep adding more and more drivers so the work is less and the fares have been cut. I believe I am now earning below minimum wage after my costs. I am married & I have to keep working to support the family. I don't get a pension, holiday pay or sick pay. Uber say I am my own boss but they control everything. They say how much the fare is & which route to take.'

Clearly the private hire market is so functioning as to make it increasingly difficult for drivers to earn sufficient money, while simultaneously delivering

higher revenues for Uber. That an unlimited number of drivers is able to join a market in which there is no wage floor is a recipe for chronic low pay and insecurity. There is, however, no cost to Uber of having an increasingly large network of self-employed drivers at its disposal.

We recommend to the Department for Transport that it gives Transport for London the powers it needs to introduce a cap on the number of new drivers registering to work with Uber. This cap should be set at a level which enables existing drivers to earn a minimum hourly rate that is equivalent to the National Living Wage once the costs of maintaining a vehicle have been factored in. Such a cap could also ease at least some of the congestion on London's roads.

We have focused in these opening chapters on the various forces which are depressing drivers' earnings. These forces would of course be negated, to some extent, if the drivers were to be classed as workers, rather than self-employed, as they would gain the protection of the National Living Wage, for example.

We move on in the next chapter to look at the nature of the everyday relationship between Uber and the network of drivers with whom it works. We analyse the balance of risks in this relationship and then consider whether self-employment is the most accurate label for this group of drivers.

4. All work and no pay? – The balance of risks and rewards

Being a driver in the private hire industry is an inherently risky occupation. There is always the risk of a road accident, peaks and troughs in the numbers of passengers, the uncertainty of who the next passenger may be, and what condition they may leave the vehicle in at the end of their journey. We may reasonably expect that the company through which each journey has been booked, and to which a certain rate of commission is paid from each booking, would be required to take on some of these risks. But from what has been reported to us, it appears as though Uber has unloaded almost all of the risks onto its fleet of drivers.

The testimonies we received flagged up four particular sources of uncertainty and anxiety for drivers: there are several different scenarios which leave drivers at risk of working without pay; when they are offered a particular job, drivers are not told of their destination until they have picked up their passenger; drivers are likely to be left to pick up the costs of cleaning their vehicle; and it is almost impossible to make contact with Uber in an emergency.

Life at the deep end of the UberPOOL

A particularly risky element of Uber's business model for drivers is UberPOOL, a service through which passengers gain a hefty discount if they offer to share their journey with other, unknown passengers travelling in a similar direction. It was reported to us that, despite their self-employed status, drivers are required to make themselves available for UberPOOL. This service tends to be unpopular with drivers, due to its lower fares (passengers are offered a 25 per cent discount) and higher rates of commission (set by Uber at 35 per cent):

'Everything was going smoothly in the beginning, but then [the] price [was] cut down and they

introduced UberPOOL in which they are taking 35 per cent of what we earn. We are classed as self-employed but literally we have become slaves to this Uber system. If we refuse a job we get warning emails of deactivation.'

'We have no options for opt out, practically Uber force us to do UberPOOL.'

'They introduced UberPOOL and began their campaign [of] instilling fear into drivers if they do not accept UberPOOL jobs. Those jobs are 25 per cent cheaper than UberX jobs which are already ridiculously cheap to begin with, and on top of that Uber will take 35 per cent commission.'

'UberPOOL is a service which has been enforced upon me. Being self-employed one would look to work and make a profit without danger or stress, but this service actually puts me in loss, danger and extra stress. I have voiced my concerns to Uber on several occasions, but they have just ignored me.'

'They introduced UberPOOL (car sharing). Here they take even more commission from you, 30 per cent minimum, on top of the fare reduction of 25 per cent. Therefore [if] you do not accept [...] they do not like as it provides even more income for the company while you lose.'

'Uber has started to [...] force the drivers to accept UberPOOL requests. If we don't accept them we are threatened with [lower ratings]. If we accept the UberPOOL and find a matching rider to share the journey, by the end of the trip every rider gets [a] 25 per cent discount and Uber charges 35 per cent. Uber should not charge this.'

'I cannot make any profit on UberPOOL when it is requested on airports, as it is 25 per cent cheaper than the current rate. I would like to remind you that we cannot refuse [several] jobs in a row [because] they disable us from [taking all] airport trips for a month.'

'I am [...] very disappointed [when] doing UberPOOL from [an] airport. The prices are nothing and the time I spend on the road, and vehicle wear and tear, can't match that.'

According to drivers, some passengers may not know they have opted to use UberPOOL. Others may not have understood what the service entails. Both groups may subsequently refuse to pay for their journey once they have been joined by other passengers. It was suggested in evidence that:

'[Uber] reimburse riders and I end up with zero fare. This happened several times [on occasions] where [the] rider refuses to share the cab with another rider on UberPOOL. After driving them for 25 minutes they come out of my car and cancel the trip. Then they tell Uber that they didn't know they were on UberPOOL, so Uber adjust the fare and I didn't get paid for that trip.'

'I had an UberPOOL job in which you have to pick up multiple passengers. As you drive down the road those passengers don't know each other. And last time it all kicked off in the car between passengers. I reported it to Uber. The reply was carry on and don't complain.'

'UberPOOL [is an] unsafe concept from Uber. I get more hassle from picking a second rider up – sometimes they don't show up – and also get hassle from the first rider because the second one is not available for show. The other point is cost [of UberPOOL] is very low [...] it's not [a] reasonable wage for UberPOOL jobs. I feel it's getting much worse. I have emailed Uber in the past requesting I come off UberPOOL as it has been unsafe. I had an UberPOOL request from a male passenger, went to the second person's pick-up, a female passenger. She looked into the car from outside her house, actually went to the car, looked through the window, and told me, "nope, don't want to come in with a male rider, feel unsafe". These riders have never met before, it's unsafe and Uber are now trying to force me and

other riders to do these jobs when we don't want to.'

Likewise, we understand that even if no other passenger joins an UberPOOL journey after this option has been selected by a single passenger, the passenger may still gain a 25 per cent discount. The driver will therefore have completed a conventional journey, but for a much lower fare.

Where to, please?

When a passenger hails a taxi in the street, they inform the driver of their chosen destination and the driver then decides whether they wish to undertake that journey. On the other hand, when a passenger makes a private hire booking, drivers are generally informed in advance of their chosen destination.

We would expect that, given they are classed as being self-employed, when drivers working with Uber are deciding on whether to accept a particular job, they would have all of the necessary information to hand, including the passenger's chosen destination. Likewise, it would seem reasonable for a self-employed driver to then use that information to set their own fare for that journey.

However, the evidence we received suggests that Uber's drivers are left in no man's land:

'They also don't say where the passenger is going and you only find out when the customer is in the car.'

'We are private hire and for that reason we need to know the pick-up location and destination.'

Left to clean up the mess?

Drivers reported to us that it has become increasingly difficult to gain help from Uber towards the costs of cleaning up the mess that is

sometimes left behind by passengers at the end of their journey. We were informed that:

'Uber customers will throw up in my car, or spill beverages, and I have to spend up to £50 to get it cleaned professionally. But Uber do not reimburse this always, which leaves me out of pocket.'

'Last year I had a drunk rider who was sick in my car. I took pictures of it and sent a cleaning receipt [for which Uber reimbursed me]. This year, because they have tens of thousands of drivers [...] I [recently] had the same problem again [...] and after many exchanges with them they just ignored me with no replies. So I have just to accept that for [a] fare I have lost [twice as much in] cleaning fees and the rest of [that night's] business, as the car needed drying after the cleaning. I could have been better off not working that night.'

Left to your own devices?

Drivers reported to us that it is almost impossible to contact Uber in an emergency. We heard that:

'Contacting Uber is very difficult, they have no landline and when they suspend you, without your knowledge, you can waste days trying to find out.'

'I need to email on average 4 times [before receiving an answer].'

'At one point Uber randomly blocked my account on a Friday evening, and kept it blocked throughout the weekend and through to the following Wednesday. I repeatedly emailed them for information as to why they have blocked my account and requested that they unblock it so that I can get back to work. But I received no reply at all until Tuesday.'

'One thing that makes me unhappy about Uber is that we drivers end up taking all the responsibility for things we shouldn't [...] Uber offers no real time support for us drivers so there [is] no place or no body to call [...] The lesson here is – why

doesn't Uber have a phone line where we can call in an emergency [...] By the way [the] scenario of cancelling trips midway happens a lot. My case was not isolated.'

One recent incident involved large numbers of drivers being left in the dark by Uber when they were not paid their weekly earnings:

'I am still waiting to be paid from Uber. That will be two missed payments from Uber totalling £800.'

'They have not paid me my wages this last week. They are unable to be contacted via [...] telephone, only contact is through the app or via email and both result in scripted text replies. If I am unable to get payment then not only I can't work this week but can't buy food for family who are relying on me to buy food for the family, and putting me and my whole family in depression and I have no idea what should I do now to survive with my family.'

'If I am unable to get payment then I am left with 1/2 tank of fuel and then I am out of work.'

Given the evidence we have outlined in this chapter, we recommend that the Department for Transport should grant Transport for London the powers it needs to require Uber to share more equitably with drivers the risks that are inherent within the private hire industry.

Clearly there is a need for Uber to review the workings of its UberPOOL service so that passengers and drivers are granted a fairer deal. As an immediate step, Uber should be required to ensure drivers are not left out of pocket as a result of passengers' dismay at UberPOOL itself, rather than the service they have received from their driver.

Likewise there is a trade-off between drivers being independent, self-employed individuals, and having the destination of their next journey being withheld by Uber until the passenger has been

picked up. This discrepancy needs to be addressed.

We believe that Uber should also reimburse drivers for the costs of cleaning their vehicle, if a passenger leaves behind a considerable mess. As things stand, drivers risk not only having to foot those costs, but also losing out on several hours' work while their vehicle is out of action.

In addition, Uber should be required to offer drivers a 24-hour helpline through which a rapid response can be gained on emergency situations such as unpaid earnings, or acutely complex situations arising during a journey.

This chapter, along with the previous ones, has offered the occasional glimpse of the twilight zone of self-employment that exists in the 'gig economy'. We seek in the next chapter to take a more detailed look at this issue, as well as its impact on the lives of drivers working with Uber.

5. The twilight zone of self-employment

Invisible chains?

The evidence presented to us laid bare the disparity between what most of us would call self-employment, and the everyday experiences of drivers working with Uber. Drivers cannot set their own fares, or choose which jobs to undertake, for example. Many are totally dependent on Uber for their income and they all must meet certain conditions to continue receiving work. We were informed that:

‘Despite paying our own cost to keep us in work, we as drivers [are] not allowed to quote our own fares or negotiate our own fares, refuse the jobs or refuse to take any passenger etc. The operators, if they want to, can sack or stop giving us a work without any prior notice.’

‘Being self-employed means to be your own boss, you decide how and when you're gonna work. In this business there is no such thing, as invisible chains [force] you to play by their rules.’

‘Our app providing the work is controlled by them, telling us where and when to go. Argue and they log you off, so no work. They call us self-employed, yet we drive their cars costing a fortune in rent, their insurance, their app which tells us where to go and what to do. Any scratch to the car has to be paid for by ourselves, as does all petrol. We [...] get no holidays or sick pay and can be dismissed instantly.’

The working life described to us by drivers is one that is fraught with insecurity, and low on independence.

The drivers can, of course, decide whether and when to log in to the Uber network which provides work. However, it was reported to us that many drivers are totally dependent on Uber for their livelihood. Once they are logged in to the network, and despite being self-employed, it seems as though drivers' working patterns are

dictated by the company and that this can throw up all kinds of uncertainty. It was reported that:

‘Every time I open the app to start work, I have this fear [around], ‘are they going to allow me work or not?’

‘I have been four days off [work] from Uber, as they turned off my system.’

Freedom and independence are almost completely absent from the drivers' lives. If a driver turns down a certain number of jobs in a row – be it because the passenger's pick-up point is difficult to access, the journey is a low-earning UberPOOL service, or the passenger is shown to have a history of making life difficult for drivers, for example – they are locked out of the system for a set period of time. Such a disciplinary system may be understandable if it was enforced upon employees. But is it fair for self-employed drivers to be denied reasonable choice in deciding their own working patterns? We were told further that:

‘This job is one of the most stressful jobs I ever had. I am forced to work as they please and take jobs that I don't want to [do].’

‘I drive an 8-seater vehicle; they know I have this vehicle and are sending me normal UberX jobs which don't pay well at all. When I refuse these jobs, Uber logs me off for 10 minutes. They also have UberPOOL jobs which, if you refuse, you get logged off. We are self-employed and [it] should be our choice to do the jobs we choose to do, without being punished.’

‘Last week Uber suspended my account [...] for not accepting jobs. It took four working days to get back online. I have bills to pay and a young family to look after.’

‘The drivers that [are] supposed to be self-employed, running their own business, and they have the right to run it the way they see fit. [Yet they] are forced to act against their own interest

and accept trips they may lose money doing, just to stay on the platform. So the self-employment bit in this business is a lie.'

'If I cancel a job for good reason, say I don't accept three jobs [due to] location or price or [being] UberPOOL, Uber put me into something called the sinbin. This means I can't accept any jobs for a [set period of time and] I lose out on work. Why do they think they can do this? That's not how you treat a partner [of] your company.'

'I do not understand why, if I am a customer, I cannot choose what I can do or have any say about my business [...] I am paying my car and insurance and fuel, I am also paying Uber 25 per cent commission, and even like that I cannot choose what I can and cannot do.'

'I feel more like an employee than my own boss. When Uber decide to deactivate a driver it's very hard for me to work and pay my bills – direct debits coming out are very hard to keep on top with, not easy at all. It makes me laugh how Uber say, "when you join us you are your own boss". Not true. They can treat drivers however they feel like. It's awful and unfair behaviour.'

'We don't want five stars, we want five pounds!' – Approval ratings

At the end of each journey, passengers are asked to provide feedback on their driver through a 'star-rating' system – five stars represent the highest level of satisfaction, and no stars the lowest. Drivers reported to us with incredulity that if their average rating falls below 4.5 stars, they risk losing work for a set period of time. They feel as though this amounts to a performance management system and fear that, even if they have safely and successfully driven a passenger to their destination, an inadequate rating from that passenger could cost them work in future.

Again it is worth emphasising here that the drivers are classed as being self-employed, and yet their

chances of gaining work from one day to the next are dependent on Uber's star-rating system. The following submissions are typical of what drivers reported to us:

'They say that we are self-employed. Then why call us in when our rating goes below 4.5?'

'I don't feel like I am self-employed driving for Uber, as they treat me like an employee, i.e. I am subject to [a] customer rating where if its gets below their expectation Uber will deactivate a driver's account.'

'I cannot be refusing passengers or my account can be deactivated, or getting bad ratings because a rider thinks that I should be even providing water and Wi-Fi when I am already in losses, and everything because I cannot be in control of my business, I just do not feel treated as a self-employed.'

'We are constantly demonised by this rating system, although Uber say it does not prevent us from working if the rating drops. They constantly remind us of it dropping and eventually deactivating our account, preventing us from working. There are steps that need to be taken to reactivate the account but a lengthy one. During this time we are not asked for an explanation like in normal work places. This in reality is a suspension with pay, but for us without pay.'

'If the rating will go below a specific point, "you'll lose access to the platform". This is what they've told me when I went to the office last time. Therefore, I have to accept any kind of abuse and racist behaviour, just to make my rating stay at the imposed level.'

Moreover, drivers reported that some passengers were using the star-rating system to make unreasonable demands:

'[Some passengers] will expect you to provide them with [a] water bottle, gum, a phone charger

and aux cable to play their music as loud as they like, or you get a bad feedback which could get you suspended from the platform. As Uber killed other operators, there is no or little work anywhere else. As you have invested in an expensive car and insurance you have no choice.'

'One passenger said, "Hello boss, if you allow me to smoke and drink in your car I will give you five stars".'

The judgment of a recent employment tribunal was that drivers working with Uber are not what most of us would call self-employed. The conditions we have outlined here would seem to support that judgment. We believe this judgment could be a game-changer for the 'gig economy', if it is applied not only to those drivers who went through the tribunal process, but to all of those individuals who work in this way.

We recommend that all drivers working with Uber should automatically be classed as workers – a halfway house between employment and self-employment. This reclassification would afford them basic protections, such as the National Living Wage, in return for the requirements placed upon them by Uber.

We believe that, in the longer term, employment law should be reformed so as to place upon companies in the 'gig economy' the onus of proving individuals working with them are genuinely self-employed, rather than workers or employees.

6. Conclusion

There are several common aspects of life in the 'gig economy' which we have documented in this report, as well as in *Wild West Workplace*. Legions of people going to work each day are doing so for poverty wages, for dangerously long hours, and for companies that deprive them of basic protections we would expect to find in a modern, civilised labour market.

From the evidence we have received, we conclude that:

- Drivers working with Uber are at risk of taking home as little as £2 an hour – less than a third of the National Living Wage.
- There are four main reasons for this chronically low pay: very low fares which have been cut in recent years; high rates of commission which vary between newer and older drivers; the costs of renting the right vehicle which meets Uber's requirements; and the costs of refuelling and maintaining each vehicle.
- A heavy downward force on drivers' ability to earn a decent living has been exerted by the rapid increase in the number of new drivers undertaking work with Uber. It was reported to us that increased competition for fares has resulted in drivers staying out on the road for much longer periods of time each day, and for a greater numbers of days each week. They have done so merely to try and maintain their earnings, let alone be fortunate enough to increase their earnings. That an unlimited number of drivers is able to join a market in which there is no wage floor is a recipe for chronic low pay and insecurity.
- Uber appears to have unloaded almost all of the risks that are inherent within the private hire industry, onto the drivers with whom it works. The evidence we received flagged up four particular

sources of uncertainty and anxiety for drivers: there are several different scenarios, particularly involving the UberPOOL service, which leave drivers at risk of working without pay; when they are offered a particular job, drivers are not told of their destination until they have picked up their passenger; drivers are likely to be left to pick up the costs of cleaning their vehicles; and it is almost impossible to make contact with Uber in an emergency.

- There is a disparity between what most of us would call self-employment, and the everyday experiences of drivers working with Uber.

In an attempt to remedy these ills in the fast-growing private hire industry, we wish to propose the insertion of a floor into this particular area of the labour market, below which nobody is allowed to operate. This is an essential step towards ensuring the industry works for everybody, rather than just a privileged few at the top.

We recommend to the Department for Transport that, as a means of inserting this floor, it should enable Transport for London to attach 'adequate working conditions' to its 'fit and proper operators' criteria before it comes to renew Uber's operating licence in 2017. In so doing, it should require Uber to:

- Set its fares and rates of commission at levels which afford drivers an adequate standard of living. As a first step, Uber should ensure that drivers' earnings after expenses – covering the whole period in which they are active, and not just the duration of each journey – should fall no lower than the National Living Wage.
- Cap the number of new drivers registering to work with the company. This cap should be set at a level which enables existing drivers to earn a minimum hourly rate that is equivalent to the National

Living Wage once the costs of maintaining a vehicle have been factored in. Such a cap could also ease at least some of the congestion on London's roads.

- Review the workings of its UberPOOL service so that passengers and drivers are granted a fairer deal. As an immediate step, Uber should be required to ensure drivers are not left out of pocket as a result of passengers' dismay at UberPOOL itself, rather than the service they have received from their driver.
- Address the uncertainty around drivers not knowing the destination of their next journey until the passenger has been picked up.
- Reimburse drivers for the costs of cleaning their vehicle if a passenger leaves behind a considerable mess. As things stand, drivers risk not only having to foot those costs, but also losing out on several hours' work while their vehicle is out of action.
- Offer drivers a 24-hour helpline through which a rapid response can be gained to emergency situations such as unpaid earnings, or acutely complex situations arising during a journey.
- Extend the judgment of the recent employment tribunal – that drivers working with Uber should be classed as workers, rather than fully employed or self-employed – to all drivers working with Uber, rather than just those who pursued the case. This would afford all drivers basic protections, such as the National Living Wage, in return for the requirements placed upon them by Uber. In the longer term, employment law should be reformed so as to place upon companies in the 'gig economy' the onus of proving individuals with whom they work are genuinely self-employed, rather than workers or employees.

A further necessary step for the Government to take is to extend these criteria to other companies operating along similar lines and in different parts of the country, so that a national minimum standard of fair employment can begin to take hold in the 'gig economy'.

Alongside these steps, our recommendations to the trade union movement are twofold: to explore how it might craft for itself a role in smoothing drivers' incomes over the course of each financial year – thereby protecting drivers' living standards during periods when they cannot work, or do not receive enough work – as well as to set up a new mutual organisation which can begin employing drivers to run an alternative private hire service along ethical lines.

We fear that, until such a programme of action is set in train, a growing number of people in this country will find themselves being subjected to 'sweated labour' – toiling through anxiety and insecurity, for unsafe lengths of time across seven days a week, in return for poverty pay.

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