

# **Better Self-Employment**

October 2017



In this report our Employment Group looks at self-employment from the perspective of those who have had difficulties making it work. We examine the causes as made evident to us in engagement with clients. Our aim is to highlight their problems and provide recommendations to improve their prospects.

## Contents

Summary	3
Introduction	5
1 Background	5
2 Self-employment and choice	
3 How things go wrong	7
3.1 Advice and self-employment	7
<i>Case study: Unsupported advice</i>	7
3.2 Foul play and bogus self-employment	8
<i>Case study: What needs changing</i>	9
3.3 Self-employment in construction	10
<i>Case study: Trader not consumer</i>	10
	11
4 Getting things right	
4.1 Projects paperwork and contracts	11
<i>Case study: Getting paid</i>	12
4.2 Self-employment in the service sector	12
4.3 The gig economy: opportunity for self-employment	13
4.4 What role for employment tribunals	14
5 Recommendations	15
6 Comment from Employment Group experience	17
7 Acknowledgement	17
8 Information sources	18

## Summary

### 1 Choice

We note that self-employment is a choice to be working but self-directed, outside formal employment and so without the safety-net of employment law. The decision can be a cruel experience for the job-seeker who has practical skills but little business expertise.

### 2 Things go wrong

There is a need for advice that goes beyond the formalities of setting up a business. Our case histories show where a 'word from the wise' might have avoided difficulties caused by: unsupported advice, accepting the trap of bogus-self-employment, failure to observe small print, and even the problem of getting paid. They illustrate a worrying lack of awareness of the practicalities of self-employment.

### 3 The client

There must be a proper understanding between the prospective client and whoever is bidding to do the work. Paper work is a necessity and way of confirming what has been agreed: it can't be limited to an invoice open to challenge at the end of a job or to satisfying the needs of HMRC.

### 4 The gig economy

We look particularly at the Uber model. In its basic form this is an opportunity for the self-employed who can choose to use a booking service provided by Uber who also make the service available to potential clients needing transport.

Uber has no contractual duty with either the driver or passenger to provide transport. It merely facilitates contact between them. Drivers need to know the extent and limitations of their commitment. Current developments suggest change might be needed following widely-expressed views that Uber should take more responsibility for the system as a whole.

## Recommendations

### 1 Bogus-self-employment

We support Taylor's proposal that arrangements should be made for claimants to obtain a determination of their employment status before formally taking their case to a Tribunal. In addition, and as a matter of fairness, we ask for time limits for claims to be relaxed to four years in order that past cases can be addressed.

## 2 Advice

We follow Matthew Taylor (1) and Julie Deane (2) in focussing on the need for advice. This needs to be both practical and accessible. We recommend two complementary approaches to provide practical advice in the work place and separately by a digital platform:

2a) Through a targeted service in which individuals *with direct personal experience as self-employed traders* would become ‘buddies’ of the newly self-employed for a fixed period of time.

2b) A properly funded digital platform providing relevant and topical information in a form that new and early-stage self-employed people find easy to engage with.

1) [Good Work: the Taylor Review of Modern Working Practices](#), July 2017

2) [Self-employment review: an independent report](#), BEIS, February 2016

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## Better Self-Employment

### Introduction

For many, the choice of self-employment is a success. Others find it a challenge. Based on real case histories, examples are given of what goes wrong due to inappropriate advice, poor awareness of business practice and avoidance of employment law. In the light of the Taylor 'Good Work' Review, we emphasise the significance of choice and call for a new approach to advice and strong action against bogus self-employment.

### 1. Background

At Citizens Advice Reigate and Banstead, our interest in self-employment has derived from people with problems that were a direct consequence of poor adaptation to self-employment. When brought to us, the problems were in the familiar range of debt, court summons, taxation, benefits, and relationship breakdown. We could help. But in many cases it was clear that these problems were the direct result of a bad experience in self-employment.

Some of these clients might have been better advised not to have tried self-employment. Others were potentially capable but had not developed the necessary business skills and client awareness to be fully effective. Some had been sucked into bogus self-employment because it was a job they could do and they would no longer need to carry on looking for work and reporting as Job Seekers to the Job Centre. Personal pride and lack of awareness contribute to the problems.

It is useful to be able to present this report in the context of 'Good Work', Matthew Taylor's review of modern employment practice in the U.K. We welcome its high aspirations in seeking to promote a change in culture where fairness and flexibility would eventually be the principal guide to employment practice. However, we are concerned that in charting a measured course to this ideal, the need for urgent action to deal with current poor practice and exploitation could be delayed. In particular, measures are needed to provide support for those less able to match the ambition for continual personal development but still capable of making a valuable contribution.

We have created an online resource based on cautionary tales from real cases linked to self-employment. ([www.carbs.org.uk](http://www.carbs.org.uk)). We draw on this in making the comments that follow. The cases cover: quality of advice, bogus self-employment, the role of employment tribunals, the gig economy and flexible working generally, and the use of service contracts in relation to the service economy. We also reflect on some of the difficulties of implementation. It will not be surprising if we tend to highlight the difficulties of those least able to accommodate to change and who are most trusting of authority.

## 2. Self-Employment and Choice

People like to have control over their own lives. People with particular skills, ingenuity or novel ideas see, in working as their own boss, an opportunity to achieve greater job satisfaction and reward for their efforts. They take the risk to opt-out of the safety net of employment, as supported by employment law, and choose self-employment. They may also have been attracted by the increased freedom and flexibility in how the work can be done. At one extreme may be the feeling that you can work when you want to, but the sole trader, a gas fitter for instance, may well find it more likely that he can work only when he or she is wanted. So in making the choice, there must be awareness that neither an initial good idea, nor sound experience and practical skills, are enough on their own. There is a business to be developed and, with it, a range of new skills, risks and responsibilities. Enough work is needed to pay for holidays, sickness leave, insurance, income tax and other overheads in addition to what is needed to live on.

So, there is groundwork to be done before making the leap into self-employment. Part of this might involve joining with someone with complementary skills as a partner to share the choice, risks and opportunities. At a later stage, there might be the thought of expansion and taking on additional help either as workers or employees. Each step would be a matter for choice needing further know-how and experience.

Taylor reflects on the variety of self-employment. The most straightforward might be those individuals who create a product for sale: pottery, artwork, non-branded clothing etc. Such people are certainly self-employed – they control their own work together with the details and quality of what they produce. But maybe in the majority are those that sell their skills to someone else, either directly to a client as a contractor, or indirectly as a sub-contractor. It is this second group where most problems seem to arise. The difference between being an employee and being either an individual contractor or sub-contractor is clear and obvious. The employee's life is more predictable with working conditions underpinned by employment law and usually a regular salary. Compared with the salaried employee, the individual contractor has a tougher environment in having to seek work and negotiate how much it is worth to a potential client. This can be a competitive process involving long hours spent on estimates, quotations and meeting possible clients before a project becomes a reality and a source of income.

It is in this area of individual and small business that we see the most need for advice, information and proper know-how for people choosing, or have recently chosen, to go into self-employment. Even with advice, things can go wrong.

### 3 How things go wrong.

#### 3.1 Advice and Self-Employment.

Taylor rightly notes that self-employment will not be right for everyone and advice should be available to people weighing the prospects of becoming their own boss as an alternative to conventional employment or even as the only way of getting work. In fact there is already a mountain of advice available on the mechanics and formal requirements of self-employment. There are check lists giving information on insurance, warnings on taxation and record keeping, together with links to accountancy packages etc. There are also funding incentives through the New Enterprise Scheme and some help also from Local Authorities promoting business in their own areas. In the main, the advice is useful background for the confident potential entrepreneur who has already worked out a business plan and a way of working and just needs to check a few points before moving ahead. There is little advice on the qualities needed by people starting a hands-on home and business service such as plumbers, gardeners, hairdressers or electricians, on how to generate business, relate to clients, source materials, estimate and price their own work and keep records to monitor progress while also satisfying the requirements of HMRC. Previously, the boss would do all this and now the trader is going to be boss and take on those aspects as well as exercising his own practical skills. Some will have prepared well, maybe going partly part-time to get a feel for a change in working environment. Others take a plunge and find it tough. Some fail.

Taylor notes that Job Centre Plus has a role in this and in recent years has actively promoted self-employment for those currently out of work. In our economy, everyone up to retirement age is expected to work unless they have private means, are looking after children or are physically or mentally disadvantaged. The principal function of the Job Centres is to facilitate a process of getting unemployed people into employment while providing financial support in the interim period. There is usually broad advice on what jobs are available, requirements that people should seek work and sanctions if the search is not pursued with sufficient vigour. This is essentially an administrative process and, overall, relatively successful. But it is questionable whether the administrative focus of a Job Centre extends to the means of providing appropriate advice for someone wanting guidance on whether to take on the challenge of self-employment. It can go wrong.

##### *Case study: Unsupported advice*

*I was on Job Seekers, but finding it difficult to get a job possibly because I am dyslexic and have problems reading, writing and doing paperwork. I am also no use with computers.*

*It was about two years ago when we discussed my difficulties at Job Seekers and when it was suggested that I might set myself up as a self-employed window cleaner. This seemed worth doing, especially as there was help available on how to get going. This was to be from a firm in the area.*

*The firm sent all the necessary paper work to Company House and helped me to prepare some advertising leaflets. At the same time they explained that I would need to keep records and complete tax returns. They didn't explain very thoroughly what was needed or maybe I was a bit slow in understanding. Once started, the firm did phone me a couple of times to check on how things were going. I said that the window cleaning, itself, was going well but I was definitely struggling with the paperwork. Each time, they said they could provide some help but they never came back.*

*The result is that I got behind and failed to make a tax return when I should have done. I am now pursued by HMRC for a chunk of money I can't afford, made up of tax, fines and interest, all following my failure to submit tax returns. I feel a bit let down. It may be partly my own fault, but, from the start, I had made it clear that I had problems with dyslexia and would need support.*

*I now feel as though I was left out to dry when I needed the help that I had been led to believe would be available. Has anyone else had the same sort of experience?*

The above situation is extreme but is real and brought a client to the bureau with serious problems. He had been keen to work and had practical skills. but nobody seems to have tried to assess his capacity to operate a business. Rather than a registration as a company and help with a flyer and business cards – all part of the mechanics of business but not essential - he needed support and mentoring from someone who had actual experience of self-employment and could share this with a newcomer. This was not available either from the Job Centre or the company charged with overseeing his experience. We ask, who trains the trainers? Willingness to have a try at a new form of working is not enough unless conditioned by appropriate advice that, on occasions might be that 'self-employment is not for you.' Also, it is too easy to pass the responsibility of making things work to an external agency. The damage had been done, and expectations raised, in discussion in the Job Centre.

In this example the aim is not to undervalue the way that the Job Centre undertakes its main business. Rather, it is to point out, more generally, that providing advice, to those that actually need it, goes beyond the checklist and mechanics of employment and needs to be shaped to the capabilities of the individual who has chosen to seek advice. We make some suggestions later in this report.

### 3.2 Foul-Play and Bogus Self–Employment

There are situations where an employer seeks to avoid statutory rights and safeguards associated with a contract of employment by restricting a job offer to one of self-employment. Essentially the 'employer' is cutting cost by not paying national insurance , holiday pay etc. or keeping to the law in giving notice or in making people redundant. It is a form of business termed bogus- self-employment and is an exercise in extortion.



*Case study: What needs changing?*

*I was working in a restaurant for about 5 years as the head chef when I saw a job advertised for a restaurant manager, the pay looked attractive and the restaurant itself meant that I could get to work in under 20 minutes. I applied for the job and was pleased to be offered the manager's role, however the owner said that I would need to be self-employed, which not having done this before or unaware of the differences between employed and self-employed agreed to start the next week.*

*Due to my experience and the fact that I lived very close to the restaurant, the owner quickly gave me greater and greater responsibilities for running the restaurant. During the first 3 months all was well but then the owner decided to relocate and move to another part of the country leaving me to run the restaurant entirely on my own. I explained that I had a young family and that I didn't really want to work 12 hrs a day 6 days a week, however the owner just ignored my comments and said that it would be good experience for me and he would help me when he could.*

*After 9 months and not having much time away from the restaurant to care for my family, I realised I had to leave. I tried to discuss the situation with the owner and offered to give him 2-3 months' notice so that he could find another manager. The owner asked me to leave that day and to hand-over the door and safe keys to his uncle who came round to the restaurant. I have not been paid for the last 2 months and am owed 9 months' worth of holiday pay, as I haven't been able to take one day off since I started working.*

*The owner just keeps saying he will sort it out but I am now struggling to pay my bills whilst looking for another job and I have not been given any reference from the restaurant owner, as he says he doesn't need to do this, how can I ensure I am paid properly?*

The initial engagement, based on an advertised attractive position which appeared to be one of regular employment but was then offered only as an opportunity for self-employment, has become a too frequent experience. In the initial stages, when our client was interacting closely with the restaurant owner, she was almost certainly working full time to his directions and solely engaged with the restaurant. In all but recognition by the owner, she was a full time employee but denied all statutory rights and safeguards. She was good at her job and was made overall manager while the owner spent time away setting up a new venture elsewhere. At this stage, she would have had minimal supervision and be making all the day-to-day decisions on running the restaurant. When she asked for some relief of the workload, particularly the hours she was working, there was no opportunity given for negotiation but summary disengagement. She decided against taking her case to an Employment Tribunal because of the level of fees and possibly the cost of representation.

Since the Taylor review, Tribunal fees have been abolished and Citizens Advice is already pushing for cases that were not pursued over the past four years because of the level of fees, should now be brought to a Tribunal. There are potential problems with workload, but these need to be addressed to meet the spirit of fairness required by Taylor. We return to this aspect in a later section.

Aside from fees, a feature of our Client's case was the total rejection of any form of negotiation based on change in working conditions and responsibility. She had, in effect, become a service provider. Ideally, the owner should have recognised this and been prepared to negotiate a service agreement between himself, as the restaurant owner, and our client, which need not be a contract of employment but would provide the operational flexibility required and set out the respective responsibilities of both parties to the agreement. We will return to the subject of service contracts in a subsequent section.

### 3.3 . Self–Employment in Construction

The construction industry provides an illustration of a traditional business model used to bring a project to fruition with the basic links from client to contractor and then to subcontractor. If we include the team used by the Client to define the project, the model may involve the full range of employment -Worker/ Employee/ Employee Shareholders/ Self- Employed and Contractor/ Director/ Office Holder/ - as differentiated by status and employment rights in Employment Law. The basic model tends to be adapted to different situations according to type of project and to some extent the involvement of the Client. At one extreme there is design-and-build by a single contractor with most work on the ground being undertaken by subcontractors. At the other extreme, there is the major project, maybe of public interest, involving different packages, each with their own main contractor, but with delivery being overseen by a cross disciplinary body responsible to the client. Even with this, the underlying model is not much changed. It is relevant to our discussion on self-employment that Taylor notes self-employment reached a high of 15% of total employment during 2016 and that joinery, plumbing and construction are the largest sectors for self-employment in the UK. It is not necessarily an easy ride. The transition to self -employed contractor can have its own pitfalls

#### *Case Study: Trader not Consumer*

*Two brothers are in business. They do small extensions, and kitchen and bathroom refurbishment or updating. One brother came for advice because a supplier had refused to take back a bath that appeared defective. If he were a consumer, a supplier would have needed to respond by remedying the fault, replacing the bath or refunding the amount paid. But, he was a trader and bound by the Terms of Trade of the supplier. He was selling the bath on as part of a bathroom refit. The bath was a special item, ordered from abroad and would be charged to the householder as part of the works undertaken.*

*The Terms of Trade specifically included a condition that special items, one-off orders to meet a particular need, could not be returned. Like so many people, the purchaser had not read the Terms of Trade and was left with a bath that was rejected by the client and he had to pay for. He would need to deal with the supplier himself if he were to obtain any satisfaction.*

This case illustrates that lack of experience and awareness can lead to pitfalls outside the range of formal advice currently on offer. We suggest that some way must be found to encourage exchange of experience between practitioners for their mutual benefit. In this instance, the brothers might have learnt that it would be quite usual to ask the client, as the consumer, to purchase the bath rather than themselves.

#### 4. Getting things right

##### 4.1. Projects, paperwork and contracts and self-employment

Accountants, Lawyers and other professionals rely on a training and qualification process underpinned by oversight by membership bodies to give confidence to clients and trust in the way they do business. Arrangements with clients are often open ended based on an initial approximate estimate of costs for a single assignment and a statement of fees. This works in practice with the help of professional bodies that set standards and can respond to complaints. In some areas, professionals, with acknowledged expertise and reputation, are paid a retainer to ensure their availability for a particular client. Again this is an open ended arrangement based on trust. This is the high end of the market.

At the other end of the market, the one-or two person builder, or event caterer say, responds to an enquiry with an initial estimate which, if interest persists, is fleshed out into a quotation. If accepted, this forms the contract for the work to be done. Besides costs and payment, there will have been discussion on timing, and facilities to be made available by the client, such as access for plant, or to a kitchen, and what has been agreed will need to be linked, or written in, to the quotation. The client needs to understand both the scope of the work that is to be done and what cooperation and facilities are required to make this possible. A successful business handles this well and makes clear where there are uncertainties and how these will be dealt with. We note that this phase of involvement with the client will be new territory for those taking on a project for the first time. It is another area where advice or shared experience could be helpful.

For small jobs, there might be a tendency to cut corners. However, the process need not be overwhelming and the underlying principle of engaging with the client from the start so that there is mutual understanding of what is required by all parties is important and, if ignored, can lead to unfortunate outcomes.

### *Case Study: Getting Paid*

*I am a heating engineer.. I was phoned regarding a boiler that didn't seem to be delivering hot water, The caller was distraught as she had had no hot water for 3 days. They had tried a number of other heating engineers but none had turned up as they promised.*

*I agreed to go round to have a look and explained there would be a call-out charge but couldn't promise that it could be fixed immediately as the boiler might need a new/replacement part. She said that was fine but could I come round within the next hour as she needed to go to work, I agreed.*

*When I inspected the boiler, I quickly realized that I could deal with the problem there and then. So, I got the boiler working again and the customer was obviously pleased with the outcome. I drew up an invoice and gave it to the customer. She then said that I would need to talk to the landlord to get the bill paid. At no time did the customer say that they would not be paying the bill or weren't responsible for the flat and boiler.*

*I said that the customer should pay the bill as they had requested the work to be carried out but she just refused and said it wasn't her responsibility. At this time admittedly I became frustrated and said that the customer should have explained to me the circumstances before I carried out the work. I left the flat saying that I would be speaking to the landlord and that I wouldn't be visiting the customer again.*

*On calling the landlord, who, it turned out to lives in Europe rather than the UK, he said that her tenant had complained about my level of customer service and that, although the boiler was now working, I shouldn't be paid the full call-out amount as my attitude wasn't acceptable. The landlord said I could write an email explaining what had happened and they would then decide if they would pay the full amount of the invoice. However, he added that since they had not received a quote/estimate it would be odd to pay the full amount as the tenant never told the landlord there was a problem with the boiler.*

This is a sad case as the heating engineer was far too helpful in going ahead with the work before having reached an understanding on how he would be paid. It may be a common experience. If so, it is another example of where exchange of experience with other self-employed contractors could be helpful in the long term.

#### 4.2.: Self-Employment in the service sector .

Long term engagement may be required when the project is not a single task to be completed in a given time but is ongoing, such as maintenance of a facility or managing an activity. The task can be described in broad terms and could be the subject for employing a maintenance engineer or restaurant manager.

Alternatively, the work could be out-sourced to a provider to do the work under a service contract with responsibility for supervision and quality of the work resting with the service provider. This is a common way of dealing with tasks such as in-house catering, or office cleaning when an outside firm is contracted to do the work. This works well with large or medium size companies that are used to bidding for work that will be done by their own employees or workers.

A sole practitioner, with particular relevant skills, such as a chef, might consider bidding for a long term assignment as a self-employed contractor rather than become an employee. However, there are obvious difficulties for the sole practitioner in arranging acceptable cover to allow for sickness, holidays and domestic emergencies. In practice this sort of commitment would be more suited to a small business rather than a single person.

#### 4.3 The Gig Economy: an opportunity for self-employment.

The Gig Economy is characterised by an interface, or platform, between clients and service providers using real time applications and communication devices to link clients and service providers in a closely defined area of business. It is different from most other forms of working in merely facilitating a service and arranging for any service contract to be solely between the client and the service provider. We take Uber, and its role in personal transportation, as an example of this way of working.

The Uber web site invites people to sign up to ride with the accompanying message 'Safe, reliable rides in minutes'. You sign up, name, email and password and are able to download the Terms and Conditions. These confirm that Uber has a PHV operator's license and so is able to take bookings but also makes clear that Uber does not provide transportation or function as a transportation provider and that transportation services are provided by independent third party contractors who are not employed by Uber or any of its affiliates. Uber sets the fares using dynamic programming based on availability and surge demand so the price may change during the course of a journey. Additionally, Uber facilitates payment to the driver who will have an account into which fares are paid monthly, less a percentage retained by Uber. Passengers or 'riders' are licensed to use an app provided by Uber to manage this process.

On the same web-site you can sign up to be a driver, transportation provider or partner whichever term is being used. Again the contract between Uber and the driver is purely to do with booking arrangements and payment. Access to the app/booking system is conditional on having a suitable vehicle, necessary licenses insurance etc. and acceptance of overviews of performance and much else whilst making clear that transportation itself is covered by a contract between the driver and the rider. Uber monitors performance, obtains feedback from riders and is free to terminate the agreement at any time. The driver can choose when to be available and is in no way directed as to when he or she might be required. The driver is also free to terminate the agreement anytime and without notice. In Uber's terms, the driver is an independent contractor and certainly not an employee or worker. He or she is a self-employed contractor.

Taylor has suggested that drivers in this gig economy might be regarded as dependent contractors presumably because they rely on the booking process to get business. We feel the adjective is redundant. In reality there is mutual dependency in that Uber needs the drivers. It is true that an individual driver who chooses to sign up to work with Uber will inevitably be dependent on their support system but it is a matter of choice rather than a condition of employment. Uber itself depends on having a mass of drivers available at any time in order to meet the continual demand of a major city. In fact, the Uber business model can be successful only by operating at this scale.

Problems could arise if a similar model is used at smaller scale. Suppose, for instance, an operator chose to set up a scheme involving electricians or plumbers in a medium sized town. The skills involved are not so universally available as in driving a car so there could be pressure on the numbers of available 'drivers' to meet the work load. The operator might then need to request, even pressure, tradesmen to attend jobs at times when they were nominally unavailable. Repeated over a period, it might seem that individual tradesmen were working longish hours at the operators request rather than by choice and so satisfying conditions closer to those for an employee than a free agent. The 'driver' might then start to think of the additions that come with paid employment.

We don't see the Uber style operation as setting a problem in employment provided the scale is such that the freedom to choose when and where to work is not undermined by lack of capacity. Problems leading to questions on employment status would only seem to arise when the operator, not the 'driver', becomes too dependent on the availability of the tradesmen.

Returning to Uber, we would see their main concern is acceptance in an area where the market may have been served in a more traditional manner over a significant time. The London cabbie and black cabs provide the contrast of an established service based on trained drivers with 'the knowledge' having to compete with every day drivers in non- standard vehicles directed by what might be considered a piece of software. Uber's problems are not so much employment related but more likely to be the need for transparency in demonstrating how thorough is their checking process in recruiting drivers and vehicles into their booking service and handling complaints from riders. TFL's short term extension of Uber's operating license in London suggests that weaknesses of this sort could influence decisions on providing or renewing the operating licence.<sup>±</sup>

#### 4.4. What role for Employment Tribunals re. Self-Employment?

Someone choosing to be self-employed has chosen to opt out of the protections and support provided by employment law until such time as help is required in the form of workers or employees and their employment rights have to be afforded.

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<sup>±</sup> Subsequent to our drafting this Section, TFL chose not to extend Uber's licence on safety grounds. Uber announced it would appeal but is now in conversation on what change is needed to satisfy TFL

There are also the areas of uncertainty when a particular style of working has morphed into employment over a period of time and also instances of bogus self-employment where employment status should be reviewed. For sole practitioners in particular, tribunal fees have been a significant disincentive to taking their case to a tribunal. This could now change.

Almost coinciding with publication of the Taylor review, the Supreme Court ruled that Tribunal fees were illegal as contributing to a denial of justice to claimants and so should not be charged. Taylor had already recognised the influence of high fees in limiting the opportunities for people with genuine cases to have these determined by an Employment Tribunal. To take some uncertainty out of the process, he proposed that a scheme be devised in which someone's employment status could be established prior to going to Court. To be useful, any determination would need to be authoritative if it were not to be challenged in the subsequent hearing. With only this reservation, we are strongly in favour of the proposal as a way of partly clearing the ground before taking a case to a Tribunal,

Following the Supreme Court ruling, the gov.direct web site now states that no fees are charged and has issued guidance on how fees charged in the past can be recovered. Additionally, Citizens Advice now gives advice on how cases, that might have been taken to a Tribunal but for the level of fees, might be brought forward. However, as there has been no relaxation in the time limit for a making a claim, the advice suggests that the claim should be supported by evidence of personal circumstances at the time or a record of advice given not to make a claim because of the heavy charge. This seems to be an unfair and restrictive limit on the prospect of making a claim particularly in the case of bogus self-employment where imposition of a grossly illegal mode of employment is effectively being sheltered behind a time limit based on ability to pay an illegal fee. Such a case would be primarily based on employment status and would be challenged by the defendant. The combination of high fee and even the remote prospect of additional costs from the Court and the defendant in the event of a loss could be enough to inhibit anyone taking their case to the Tribunal. We consider that it is again a matter of fairness that some arrangement should be put in place so that these cases are brought to a Tribunal. In the next section, we make a suggestion on how this might be done

## 5. Recommendations

Overall, we are supportive of Taylor's proposals. He looks particularly at what we might call the productive economy that contributes to GDP and sees a future where quality of work is valued and aspiration rewarded. It is a good vision. This fits the aspiration and ambition that drives people to set up business on their own, or with others. We are told of the many successes and the fact that 16% of our total work-force is self-employed supports this view.

However, there are some who find it difficult and some who might be better advised not to try self-employment but to rely on the support that comes within the structure of traditional employment. The numbers are probably small but significant in that they are vulnerable and, within the spirit of social fairness, need our support.

This leads to our first recommendation aimed at addressing the injustice to people who have been caught unknowingly in a mesh of bogus self-employment. We believe it right that they should get compensation for losses due to statutory rights being withheld. In doing this it would also provide a reminder that employment rights are to be respected and not to be avoided as a way of shaving a bit off the employment wedge. The matter is urgent.

**We recommend** the adoption of Taylor's proposal that someone should be able to apply for their employment status to be assessed ahead of taking a case to a Tribunal. We are not against a modest fee for this service, provided the assessment is robust and not available for challenge as part of a Tribunal hearing. Along with this, the time limit for bringing a case to a Tribunal should be relaxed to say four years to enable satisfaction to be achieved for earlier breaches of employment law. With employment status confirmed in advance of a hearing, compensation might well be agreed as part of the ACAS early conciliation process especially as the defendant might wish to avoid a Tribunal appearance and possible fines.

Our second recommendation is directed at the nature and delivery of advice. We recognise that this is the focus for Taylor's new deal for self-employment. However, our view is that advice that is currently available is appropriate for those who already know the score and just want the dots joined in the formal process and requirements of self-employment. It is the sort of advice that can be easily passed on by someone who has no experience of self-employment itself and the variety of personal qualities and skills needed to make self-employment a success.

A different approach is needed for those who have genuine difficulties but could make a real contribution if given appropriate guidance. Again this is not a matter to be deferred. The particular problem is to assist the less capable to make a safe choice of employment but also to engage with individuals who are confident in their own practical skills but are almost unaware of what is required to run a business and so the need for advice. Again this is not a matter to be deferred.

**We recommend** that new ways are developed to provide support and advice to people in the early stages of self-employment. These need to be accessible to people who might tend to resist formal learning and so need the basic requirements to be set in the context of day-to-day business practice and preferably communicated by people experienced in self-employment.

We have two suggestions on how this might be achieved. If adopted they would be complementary. Both require resources.

Our first involves the concept of providing a Buddy for the newcomer to self-employment.



We suggest that someone who is receiving support from Job Centre+ and shows an interest in self-employment should have an option to be linked to a Buddy who already has a history of working successfully in self-employment. The newcomer would be in close contact with the Buddy who would be required to spend time explaining, and maybe showing, how clients should be dealt with, quotations made and business conducted. Ideally, Buddies would be volunteers, would need to be recruited and could need compensation for the time involved. If successful, the outlay would be matched by future savings in benefit payments. The advantage of such a scheme is that the newcomer is immersed in the job and learns on the job. The concept is raw and not yet worked out in detail. However, we do see this as an approach worth taking further.

Our second suggestion has the prospect of more immediate application. We propose a digital platform with news, information and experience relating to practice in self-employment to be made available on a mobile phone, tablet or lap top. Ideally this should function as an information exchange between both established practitioners and newcomers. Ideally such a web-forum would develop its own momentum as more people accessed the site and made comments. It should be properly resourced and hosted discretely so that unacceptable material would not be retained. Possibly a reward system could be used to encourage contributions and comments.

## 6. Comment from Group Experience

We, at Reigate and Banstead Citizens Advice, have gone some way towards our second proposal on advice. We were in a position to get information on difficult experiences with self-employment and saw these as cautionary tales worth making available to others. We added other material and have built a useful resource. Where we have so far failed is in generating comment and direct interaction with self-employed people. We still think this is a way forward but ideally through a stand-alone online forum. It is convenient to host our 'Talk Self Employ' on our own website but Citizens Advice is not the first place you would come to for hands-on business advice or if you are unaware that advice is needed. Also, as Citizens Advice, we are often mistaken for an arm of national or local government. To be successful, an information exchange of the sort proposed may need to be independent to the extent that anyone volunteering their experience and know-how feels comfortable in making their contribution. Our involvement may be needed to facilitate the exchange but this might work better under a separate banner.

## 7. Acknowledgment

John Dougill, Barrie Clarke and Bob Russell of the Employment Group are grateful to Elaine Parr, District Manager, Reigate and Banstead Citizens Advice for her enthusiastic support and interest in the project. We also thank Bureau Staff generally for bearing with us and for contributing material from their own caseloads.

## 8. Information Sources

The Cases used to illustrate particular difficulties experienced by people in self-employment are based on face-to-face interviews with clients of Citizen's Advice who came to the Bureau with their problems. The accounts are based on case note records but rewritten to give the essential facts whilst preserving the anonymity of the client and any individuals dealing directly with the client.

Besides input from face-to-face dealings with clients as part of CA business and reports posted from the Citizens Advice Secure Self-Employment campaign, we have consulted the following:

Department for Business, Innovation and Skills – Who are the Self Employed?  
October 2015

Department for Business, Innovation and Skills – Understanding Self-employment  
February 2016

Julie Deane: Self-Employment Review – independent report, BIS Feb, 2016  
Good Work: The Taylor Review of Modern Work Practices.

The commentary on Uber follows from its own web site and comments posted on Uber working practice in the UK, USA and Australia.

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To contact our employment group or comment on this paper please email:  
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