



The Gig Economy

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Manchester Liability Society

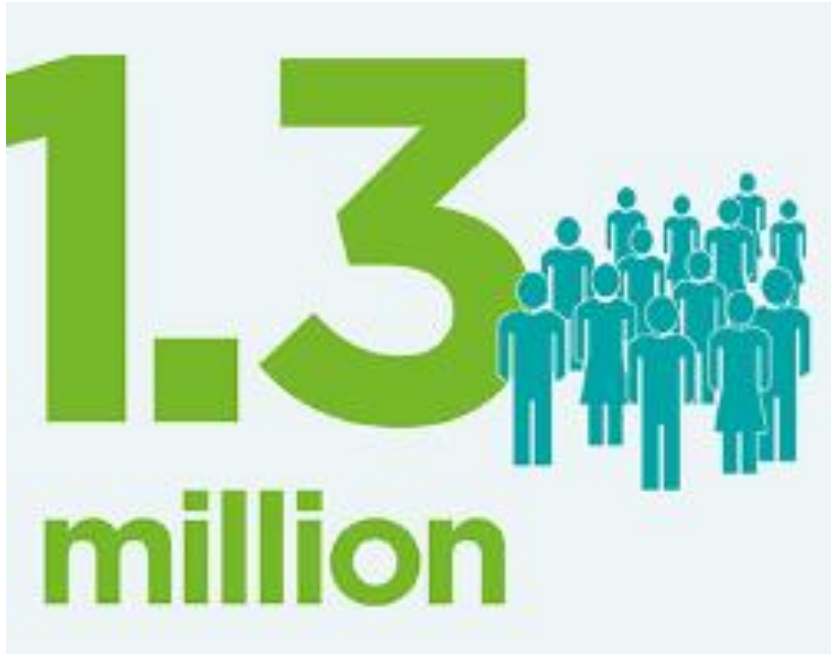
6th December 2017



1. What's the Gig?
2. Platforms
3. Redefiners
4. Employer's Liability
5. Current Cases
6. Other liability issues
7. The Future



What's the Gig ?

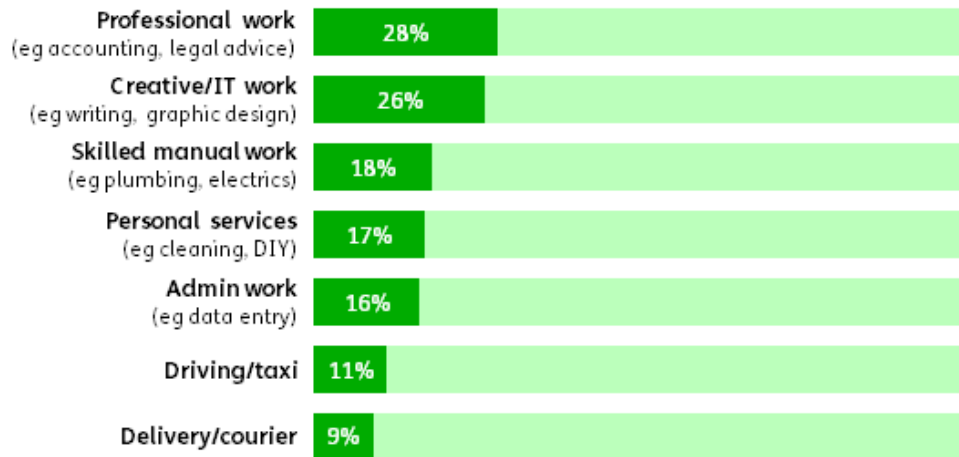


- Disrupt existing models
- Redefining “Workforce”
- Flexibility
- Technologically advanced

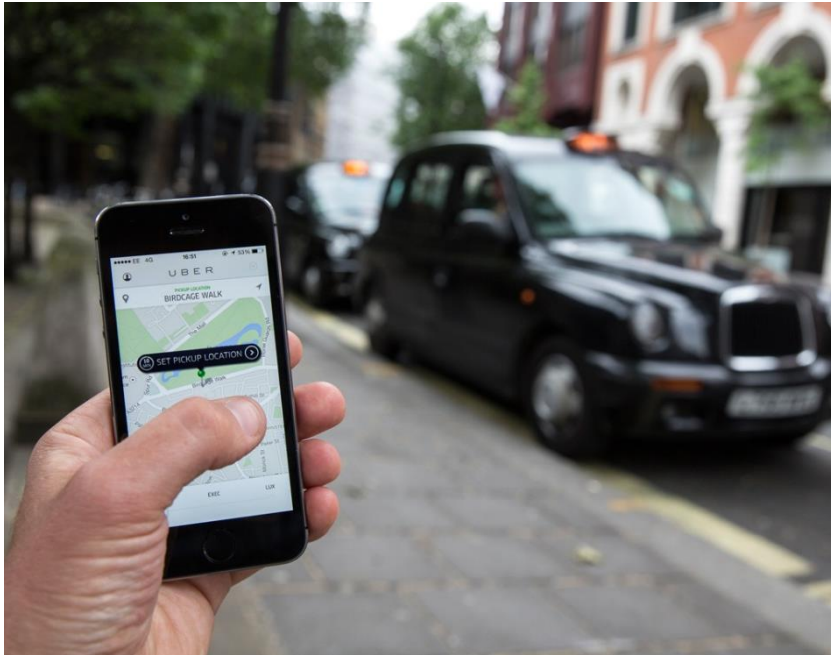


What gig workers do

Breakdown of services provided by gig workers, UK (some provide more than one kind)



Platform Based



- Digital Disruptors
- Technology Based
- Direct interface with customers
- Highly Diverse models
- Evolving constantly

The Redefiners



- “Self Employed” workers?
- Contract **for** services
- Zero Hours contracts
- Increased Flexibility
- Financially attractive?



It's the Employer's Liability act 1969, stupid!

- EL Act unchanged
- Broad Definition of “Employee”
- Common Law tests apply
 - › Control
 - › Mutuality of obligation
 - › Subjective assessment
 - › Each case decided on own merit



CERTIFICATE OF EMPLOYERS' LIABILITY INSURANCE (a)

(Where required by regulation 5 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (the Regulations), one or more copies of this certificate must be displayed at each place of business at which the policy holder employs persons covered by the policy)

1. Name of policy holder
Hesketh Industries Ltd

2. Policy Number
Y5551139QBE0117A

3. Date of commencement of insurance policy
06/12/2017

4. Date of expiry of insurance policy
05/12/2018

We hereby certify that subject to paragraph 2

1. the policy to which this certificate relates satisfies the requirements of the relevant law applicable in Great Britain, Northern Ireland, Isle of Man, Island of Jersey, Island of Guernsey, Island of Alderney, or any offshore installations in territorial waters around Great Britain and its Continental Shelf (a); and

2. (a) the minimum amount of cover provided by this policy is no less than £5 million (c), or
(b) ~~the cover provided under this policy relates to claims in excess of [£] but not exceeding [£]~~

3. the policy covers the holding company and all its subsidiaries

Signed on behalf of QBE Insurance (Europe) Limited and QBE Casualty Syndicate 386 (Authorised Insurers)

RWBj

Notes

(a) Where the employer is a company to which regulation 3(2) of the Regulations applies, the certificate shall state in a prominent place either that the policy covers the holding company and all its subsidiaries, or that the policy covers the holding company and all its subsidiaries except any specifically excluded by name, or that the policy covers the holding company and only the named subsidiaries.

(b) Specify applicable law as provided for in regulation 4(6) of the Regulations.

(c) See regulation 3(1) of the Regulations and delete whichever of paragraphs 2(a) or 2(b) does not apply. Where 2(b) is applicable, specify the amount of cover provided by the relevant policy.

Important
Display will be satisfied if the certificate is made available in electronic form and each relevant employee to whom it relates has reasonable access to it in that form.

The Insurers' obligations under this policy are several and not joint and are limited solely to the extent of their individual subscriptions. Please see the policy for full details.

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Current Cases



PIMLICO PLUMBERS

- Appeal in Feb 2017
- Contract stated “Self Employed”
- But ...
 - Minimum hours of work, Uniform, branded van,
 - No right of substitution
- *“any contract... has to be interpreted in the light of the relevant and admissible facts which form its background.”*

UBER

- Appeal Nov 2017
- Contract stated “Self Employed”
- But ...
 - Control of Drivers
 - Obligation to take fares, no right of substitution,
 - Integration into the business
- *“The notion that Uber in London is a mosaic of 30,000 small businesses linked by a common ‘platform’ is to our minds faintly ridiculous...”*



Wider liability issues



- If not EL then PL ?
- Vicarious Liabilities
- Risk management ?
- Training and competence
- Defensibility



Changes ahead?

Taylor Review of Modern working practices 2017:

“Government should replace the minimalistic approach to legislation with a clearer outline of the tests for employment status, setting out the key principles in primary legislation”

Employee
or Worker

Independent
Contractor



Changes ahead?

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“Government should replace the minimalistic approach to legislation with a clearer outline of the tests for employment status, setting out the key principles in primary legislation”

Employee

Worker or
“Dependant
Contractor”

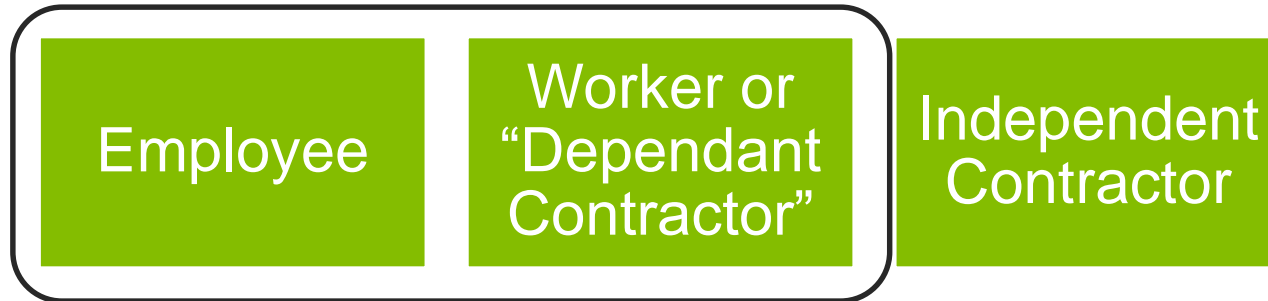
Independent
Contractor

Changes ahead?



Taylor Review of Modern working practices 2017 :

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Thanks & Questions

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