



Department for
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Jane Hunt MP
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Darren Jones MP
Business, Energy and Industrial Strategy Committee,
Chair
House of Commons
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26 July 2022

Dear Darren,

Your Committee has always taken a strong interest in all issues relating to workers' rights. I wanted to take this opportunity to write to you as Chair of the BEIS Committee with a short update.

I am writing to inform you that the Government has today **published its response to the employment status consultation**. It sets out that the current three-tiered status framework for employment rights (employee, limb (b) worker and self-employed) provides the right balance for our labour market, providing flexibility for innovation and entrepreneurial action whilst ensuring that gig economy workers receive the rights and protections they are entitled to. Alongside the Government Response, the Government has published:

- New employment status guidance following the Uber Supreme Court judgment to provide additional clarity for businesses, individuals and other groups such as those in the gig economy, to have a better understanding of which employment status for employment rights (including pay, leave and working conditions) they fall into. The guidance also references an update to the 'Calculating the Minimum Wage' guidance on what counts as working time for National Minimum Wage purposes in the gig economy.
- HMRC employment status research commissioned in 2018 to assess the number of people in the UK with worker status for rights (which includes employees and limb (b) workers), which it estimated to be between 23.6m and 26.3m. The research was finalised in June 2019, but due to a change of Government and the onset of the pandemic, was never published.

Employment Status Consultation Response

In the Good Work Plan (December 2018), the previous Government committed to legislate to improve the clarity of employment status tests, and to work towards alignment between rights and tax. Since the Good Work Plan was published, the UK labour market has evolved, and the country has faced an unprecedented economic challenge as a result of the coronavirus pandemic.

The response sets out that the current three-tiered status framework for employment rights provides the right balance between the flexibility our economy needs and worker protections. The Supreme Court's recent judgment on Uber confirmed that individuals in the gig economy

can qualify for worker status under the current employment status tests and be entitled to the same employment rights and protections as workers in other parts of the economy. The flexibility and dynamism of our labour market, of which the limb (b) worker status is an important element, will be essential to building back better from the pandemic. However, the Government recognises that, whilst the employment status framework for rights works for the majority, and most respondents felt that the worker category remained helpful and should be retained, boundaries between the different statuses can be unclear for some individuals and employers. As a result, the Government is publishing non-statutory guidance.

Non-Statutory Employment Status Guidance

The Government wants to increase transparency for individuals on their employment status, empowering them to claim the rights they deserve whilst providing enhanced clarity on what employers' rights and responsibilities are. New published employment status guidance on GOV.UK will provide certainty for businesses around their employment obligations and help workers understand their rights. Guidance will help employers to comply with the law while maintaining flexibility and ensuring a level playing field within the labour market.

The guidance includes sections specifically for employers, individuals and others with technical knowledge of the area including trade associations, trade unions and other groups. This guidance will make it easier for individuals to work out their own status whilst ensuring that the employment status system remains flexible and continues to adapt to modern working practices.

The new guidance on employment status for employment rights also references an update to the 'Calculating the Minimum Wage' guidance on GOV.UK on what counts as working time for National Minimum Wage purposes in the gig economy.

The employment status frameworks for tax and employment rights are based on similar tests but separate. The territorial extent of the employment status consultation response for tax and the research is the UK. The territorial extent of the employment status Consultation Response for employment rights and the new guidance is England, Wales, and Scotland as employment law is devolved to Northern Ireland.

I will place a copy of the employment status consultation response and a copy of this letter in the Libraries of the House.

Yours ever,

A handwritten signature in cursive script, appearing to read 'Jane', written in black ink.

JANE HUNT MP

Minister for Small Business, Consumers & Labour Markets