

Joint Committee on Human Rights - Human Rights at Work

April 2023

Who we are

Founded in 2013, Focus on Labour Exploitation (FLEX) is a research and policy organisation with a vision of a world free from all forms of labour exploitation, including forced labour and human trafficking. Our mission is to end labour exploitation by challenging and transforming the systems and structures that make workers vulnerable to abuse.

This submission responds to questions on *the right to privacy and surveillance at work & International human rights treaties*

The right to privacy and surveillance at work

What forms of surveillance, if any, that are used to monitor workers raise concerns under Article 8 of the European Convention on Human Rights (right to private and family life)? Are there any associated concerns under Article 14 (freedom from discrimination)?

1. FLEX's participatory research with couriers in UK app-based delivery sector found that couriers are constantly monitored by the app and measured by their productivity, delivery speed, route taken, customer ratings, and which orders they accept or reject.¹ All this information affects the deliveries that each courier is assigned in the future.² Moreover, riders fear being penalised if they are not available during peak-times or for rejecting too many deliveries. Couriers report having their supplier agreement with the platform terminated, often without any explanation or ability to challenge the decision, which they attribute to this monitoring.³
2. Abrupt and unexplained terminations create an environment of fear, pressuring couriers into accepting conditions and jobs they might otherwise refuse, and acting as a barrier to joining a union, reporting incidents, or complaining about or reporting abuse. When asked whether they had been afraid of having their account closed, 43% of survey respondents answered 'yes' if they complained about unfair treatment, 31% if they reported or complained about bad working conditions or pay, 27% if they organised a strike or a

¹ FLEX. 2021. ["The gig is up": Participatory Research with Couriers in the UK App-Based Delivery Sector.](#) Participatory Working Paper No. 3, p.32

² Deliveroo. 2021. [UK Rider Privacy Policy. Section 3, Subsection g.](#)

³ FLEX. 2021. ["The gig is up": Participatory Research with Couriers in the UK App-Based Delivery Sector.](#) Participatory Working Paper No. 3, p.32

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boycott, 18% for trade union membership and 16% for reporting or complaining about harassment or abuse at work.⁴

3. By monitoring couriers through the app, producing a fear of dismissal if couriers report abuse, couriers are left exposed to high levels of violence at work, such as verbal and physical abuse, theft and sexual harassment. Of our survey respondents, 59% had been shouted or sworn at, 24% had been threatened with physical violence while on the job, 20% had been assaulted or attacked, 16% had been shoved and 10% had their vehicle intentionally damaged.⁵
4. In addition, we found research participants experienced high levels of gender-based abuse, specifically sexual harassment. In total, 18% of survey respondents had experienced some form of sexual harassment at work. This percentage jumps to 57% for women and non-binary participants, who also face other forms of gender discrimination. The gender segregation that we see in traditional sectors of the economy is also replicated in the gig economy. Where women do work in male dominated sectors, such as app-based food and good delivery, they are more likely to face discriminatory treatment.⁶ Women and non-binary research participants all recounted how their treatment at work was significantly different from their male colleagues.⁷ Through ratings and feedback systems, further power imbalance is created that is skewed toward businesses and customers. While customers' and business' complaints can have real repercussions, such as account termination, it is unclear whether couriers' reports of abuse are followed up appropriately.⁸

Where surveillance is used to monitor workers, does the current legal framework adequately protect their Article 8 right to private and family life? If not, what changes need to be made to ensure it does?

5. The lack of government regulation within the UK app-based delivery sector brings a serious risk of labour abuse. By classifying couriers as 'self-employed contractors,' businesses avoid the majority of the costs and responsibilities associated with being an employer, leaving workers with few protections and bearing high levels of risk. Many of the issues that couriers experience are not formally considered labour abuses because of an outdated legal framework which cannot be applied to these new digital business models. Nevertheless, in the absence of sufficient government regulation, workers continue to face treatment that produces significant negative impacts that would be considered illegal under a direct employment model.⁹ Of particular concern is the opaque

⁴ Ibid, p.33

⁵ Ibid, p.6

⁶ Galperin. 2019. [‘This Gig is Not for Women’: Gender Stereotyping in Online Hiring.](#)

⁷ FLEX. 2021. [“The gig is up”: Participatory Research with Couriers in the UK App-Based Delivery Sector.](#) Participatory Working Paper No. 3, p.26

⁸ For more information on the lack of action and impediments relating to couriers' reports, please see: [“The gig is up”: Participatory Research with Couriers in the UK App-Based Delivery Sector](#), p. 28

⁹ Ibid, p.7.

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use of surveillance and monitoring within the app that create an environment of fear, pushing couriers to work in conditions they would not usually accept and leaving them susceptible to violence and discrimination without protection by their employers. Despite flexibility being a key aspect of the gig economy, FLEX research found that the flexibility was one-way and that workers were both unable to make a decent wage and felt they would be penalised if they did not work during peak-times.¹⁰ This puts women couriers at further disadvantage as women carry out a disproportionate amount of unpaid care work and are more likely to have childcare responsibilities or hold concerns about their personal safety working late into the evening.¹¹

6. Since the introduction of platform work into the UK economy in approximately 2012, there has been a concerning lack of regulatory action from the Government. In October 2016, the Government commissioned Matthew Taylor to carry out an independent review into the UK employment framework. The outcome of this review, known as 'The Taylor Review', focused on changes in the labour market due to the emergence of new business models and different forms of 'gig work'. The review concluded that the legislative framework must be reviewed to accommodate the reality of people's working relationships.
7. In response to the Taylor Review¹² which called for the legislative framework to be reviewed to accommodate the reality of people's working relationships, the Government set out its Good Work Plan, which outlined how it planned to implement Taylor's recommendations, and held several public consultations between 2018 and 2019. These consultations covered reforms to the law related to employment status, one-sided flexibility and addressing unfair working practices and the establishment of a single enforcement body for employment rights.¹³ A new Employment Bill was announced in the December 2019 Queen's Speech, which was expected to contain some of the recommendations; however, in December 2022 the Government confirmed that they had shelved their plans for an Employment Bill.¹⁴
8. More must be done by the Government to address the vulnerabilities resulting from platform work, including steps to ensure that employment law catches up with new digital business models. Currently, efforts to narrow this legislative gap have been left to individual workers bringing cases to employment tribunals to have their rights recognised. This reliance on individuals to bring forward cases to employment tribunals has been proven to be ineffective for workers in low pay who have limited access to legal advice and the financial resources needed to engage in litigation.¹⁵

¹⁰ *Ibid*, p.7

¹¹ *Ibid.*, p.6.

¹² Taylor et al. 2017. Good Work: The Taylor Review of Modern Working Practices. Department for Business, Energy & Industrial Strategy.

¹³ Department for Business, Energy & Industrial Strategy (BEIS). 2018. [Good Work Plan](#).

¹⁴ The Telegraph. 2022 [Tories ditch manifesto pledge to create workers' rights super watchdog](#).

¹⁵ Cominetti *et al.* 2021. [Low Pay Britain](#). Resolution Foundation.

9. It is imperative for the Government to uphold its commitment to the protection of workers' rights and ensure that such rights keep pace with the changing labour market. At a minimum, the Government should bring forward an Employment Bill and prioritise the resourcing of Labour Market Enforcement bodies to implement the recommendations it has already accepted from the Taylor Review.

International human rights treaties

Does the UK effectively comply with its international obligations to protect workers' rights under the International Covenant on Civil and Political Rights, International Covenant on Economic and Social Rights, and International Labour Organisation Conventions? If not, what improvements should be made?

10. In March 2022, the UK Government ratified the ILO Violence and Harassment Convention, the Convention states that each ratifying country shall adopt '*an inclusive, integrated and gender-responsive approach for the prevention and elimination of violence and harassment in the world of work*' and that this should include '*ensuring effective means of inspection and investigation of cases of violence and harassment, including through labour inspectorates or other competent bodies.*'¹⁶ In ratifying the convention, the UK committed to ensuring that labour inspectorates are empowered to deal with workplace violence and harassment. In its statement, the Government committed to introducing '*a new duty on employers to prevent sexual harassment in the workplace, as well as explicit protections against workplace harassment by third parties, for example customers or clients.*'¹⁷
11. The violence and harassment faced by couriers discussed above, illustrate a wider issue for women at work in the UK, with one in two women having experienced sexual harassment at work, with a greater impact on racialised and other minoritised women.¹⁸ This is often linked to unequal power relationships which are heightened in low-paid and insecure work, meaning that workers may fear losing their current job or future work opportunities if they report or complain about sexual harassment. Language barriers and the threat of immigration enforcement may also prevent people from reporting harassment.¹⁹
12. FLEX's recent research into the cleaning and hospitality sectors highlights some of the risks of exploitation and gender-related abuse and violence in these highly feminised sectors. 42% of women and non-binary participants in cleaning and 44% in hospitality

¹⁶ International Labour Organisation (ILO). 2019. [Violence and Harassment Convention \(No.190\)](#)

¹⁷ Department for Work and Pensions. 2022. [The ratification of the ILO Violence and Harassment Convention.](#)

¹⁸ Trades Union Congress (TUC). 2016. [Still just a bit of banter? Sexual harassment in the workplace 2016.](#); TUC. 2019. [Sexual harassment of LGBT people in the workplace: A TUC report.](#); TUC. 2021. [Sexual harassment of disabled women in the workplace A TUC report.](#)

¹⁹ FLEX. 2020. [Opportunity Knocks: improving responses to labour exploitation with secure reporting.](#) Pp.6 & 46.

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reported experiencing sexual harassment at work. 20% of survey respondents additionally said they had been afraid of losing work or having their hours cut if they reported or complained about harassment or abuse at work.²⁰

13. Although slow moving, we welcome steps towards better protection from sexual harassment at work, such as the ratification of the ILO Violence and Harassment Convention. While a proactive approach from employers is imperative, it does not address the structural issues underlying violence and harassment at work. To protect workers, employment models that embed precarity and vulnerability must be challenged. This could mean, reducing or limiting outsourcing, limiting tiers in supply chains, prohibiting zero hours contracts and ensuring secure reporting mechanisms so that victims can seek help from the authorities without fear of immigration enforcement action.²¹ Paired with this, we must have adequate and proactive labour market enforcement that has been trained in gender-responsive approaches. The Working Group on Women Workers has set out practical steps labour market enforcement agencies can take to build a more targeted, gender-aware response to abuse and exploitation of women in the workplace.²² First and foremost, the experiences and voices of women workers must be at the heart of any approach to tackling gendered labour exploitation and abuse and ensuring women have access to safe and decent work.

²⁰ FLEX. 2021a. [“If I could change anything about my work...” Participatory research with cleaners in the UK.](#) Participatory Working Paper No. 1; FLEX. 2021b. [“To help workers, I would tell the government to...” Participatory research with workers in the UK hospitality sector.](#) Participatory Working Paper No. 2.

²¹ FLEX. 2020. Opportunity Knocks: improving responses to labour exploitation with secure reporting.

²² FLEX. 2017. [Women in the workplace: FLEX’s five- point plan to combat exploitation.](#)