

SCOTTISH EXPERT ADVISORY PANEL ON THE COLLABORATIVE ECONOMY
MEETING 26 JULY 2017: DISCUSSION PAPER ON WORKERS' RIGHTS INCLUDING
PEER TO PEER TRANSPORTATION & LOGISTICS

Purpose of this paper

1. This paper has been drafted to *aid discussion* at the “workers’ rights including peer to peer transportation and logistics” evidence session for the Scottish Expert Advisory Panel on the Collaborative Economy. *Recommendations cited in this paper that were made by respondents do not constitute endorsement.*
2. Based on information and evidence solicited through the call for evidence this paper highlights the key issues around worker’s rights including peer to peer transportation and logistics. The job for the expert panel is to interrogate the evidence and opinions and to reflect on the key issues of debate.

Chair’s Comments

As a panel, we have the task of separating out a number of distinct dimensions to our discussion on 26th July. These include issues and opportunities relating to:

1. Individuals accessing work through digital platforms
2. New entrants into the taxi and ride-sharing industries
3. Growth in the collaborative economy in transport and logistics sectors more generally

The first is an area that has attracted much attention over the last eighteen months, and gained further publicity recently with the launch of [‘Good Work: The Taylor Review of Modern Work Practices’](#).

The Taylor Review makes several recommendations that affect workers accessing opportunities through digital platforms. There will be representation from the RSA at our panel session, who will also talk to some of the recommendations in this report. The Oxford Internet Institute has produced a [set of short essays](#)¹ which provide additional points of view on the relationship between the gig economy and fair work. As this discussion paper shows, the evidence provided to this panel tends to balance issues and problems that require resolving within the gig economy, with some of the benefits that it can bring.

While employment law is a UK Government reserved matter, there is still much scope for this panel to consider recommendations that improve opportunities and working conditions for workers within the gig economy in ways that value both security (of work) and being able to work flexibly – as well as taking a view on issues of redress for workers. In terms of inclusive growth opportunities, this is also an area where alternative business models and ownership structures in the digital economy may be worth exploring.

The second point relating to the specific issue of new providers in the taxi and ride-sharing market has also generated widespread publicity and controversy. As agreed, in recognition of their conflict of interest, Uber will assume a different status at this meeting; one of providing evidence and response to questions to the panel, rather than as a panel member.

¹ <https://www.oii.ox.ac.uk/blog/towards-a-fairer-gig-economy/>

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Background

The paper has been informed by a call for evidence which was open between 24 April and 29 May 2017. It asked seven questions to gather views and experiences from Scotland's citizens and businesses on the collaborative economy. 52 responses were received in total with a range commenting on workers' rights; nine specifically related to transportation; and few respondents making reference to logistics. An interim analysis has been carried out (by Craigforth, social research consultants) of the points raised specifically in relation to workers' rights including peer to peer transportation and logistics and this paper draws substantially on the material provided in that. **It contains a mix of evidence and data and opinion.** A full analysis of the call for evidence responses will be available in August 2017.

Worker's rights

Background

The Scottish Government recognises that the world of work is changing and that employment practices and the legislative framework need to adapt at a similar pace to ensure workers' rights are protected and enhanced. We believe that every worker should be treated fairly and equally and deserves the right to safe, secure, well-paid work with statutory benefits and protections.

The independent Fair Work Convention is central to the Scottish Government's Fair Work agenda. The Convention's vision is for Fair Work to be embedded in all workplaces by 2025. Their Fair Work Framework defines Fair Work as being based on the core principles of human dignity, value and potential and looks to balance the rights and responsibilities of workers and employers. The framework sets out how businesses can create more innovative and productive workplaces, by adopting five key Fair Work Dimensions – Respect, Opportunity, Fulfilment, Effective Voice and Security.

Security as a dimension of fair work can be supported in a variety of ways: by building stability into contractual arrangements; by having collective arrangements for pay and conditions; paying at least the Living Wage (as established by the Living Wage Foundation); giving opportunities for hours of work that can align with family life and caring commitments; employment security agreements; fair opportunities for pay progression; sick pay and pension arrangements.

It is the Scottish Government and the Fair Work Convention's position that forms of flexible working where the burden of risk falls disproportionately on workers, including most zero hours contracts, are not fair work. Over the last five years, the trend of using collaborative platforms to procure on-demand jobs has accelerated, and shows little sign of slowing down. This is often referred to as the Gig Economy – so called because workers have multiple jobs or 'gigs' and often work within the collaborative economy but may also work outwith it as well.

Employment law, including the definition of employment status, is reserved to the UK Government. In October 2016, the UK Government commissioned Matthew Taylor, the Chief Executive of the Royal Society of Arts (RSA), to look at how employment practices need to change in order to keep pace with modern business models. The review has

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been examining the implications of new forms of work on workers' rights and responsibilities - as well as on employer freedoms and obligations. The review was launched earlier this month and can be [found here](#)².

In the largest survey undertaken on Britain's gig economy, the RSA found that nearly 8 million people in Britain would consider some form of gig work in future; young people (aged 16 – 30) are particularly attracted to the idea of gig work – one in four expressed interest in working in the gig economy. Major sectors in the gig economy include transport and courier services, storage, property, finance and marketing.

Opportunities

Opportunities highlighted in the responses to the call for evidence in relation to workers' rights focused primarily around the potential for collaborative platforms to create new employment opportunities and routes to market for workers.

- A range of respondents referred to the potential for collaborative platforms to provide **additional employment opportunities**. This included the potential for a greater diversity of more flexible employment that may suit those with parenting or caring responsibilities, and those in rural areas. In addition it may provide opportunities for supported employment for disabled or disadvantaged individuals. It was also noted that the collaborative economy could help to develop a more flexible labour market as a key competitive advantage for Scotland.
- A small number of respondents suggested that the development of new collaborative platforms has particularly **benefited the self-employed and small businesses** by providing access to new markets. This included reference to the potential to improve business start-up rates in Scotland and that this and higher levels of self-employment can have benefits both for the wellbeing of individuals and local economies. Reference was made to a mapping exercise showing correlation between high levels of self-employment and wider prosperity, and government research showing that the majority of the self-employed are content³.
- A small number of respondents referred to opportunities arising through the collaborative economy for **self-organisation, cooperatives and bargaining for workers**. This included a suggestion that the Scottish Government has a role in strengthening the institutional framework and the creation of new mechanisms to support worker participation, and specific proposals to support self-organisation.

Challenges

Respondents raised a number of concerns around protection of providers of collaborative economy services, and this was seen as a significant challenge to be addressed.

² <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>

³ <http://www.fsb.org.uk/standing-up-for-you/national-offices/scotland/entrepreneurial-towns/highest-and-lowest-self-employed-towns-in-scotland> and https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/500305/understanding-self-employment.pdf

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- The most common concerns were around the **extent to which the classification of providers as self-employed accurately reflects their status**. This was identified by a number of respondents as a significant issue for the collaborative economy, with concerns raised around the extent to which providers are subject to substantial control from collaborative platforms, while lacking the benefits associated with employment. Respondents also referred to potential risks for individuals' health and wellbeing, for example as a result of the blurring of the distinction between work and leisure time. Others suggested that there have been long-standing uncertainties around the employment status of the self-employed, including the lack of a statutory definition of self-employment, and referred to reports around self-employment.⁴
- Several respondents suggested that there is **a need for greater clarity around employment status** (and associated rights and taxation) for those working in the collaborative economy – to ensure equality of opportunity across the economy, to prevent providers from being exploited, and to provide certainty to collaborative economy businesses. An employment tribunal finding in 2016 that providers contracted by Uber are workers, rather than self-employed was highlighted.⁵
- The issue of self-employment status was raised as a concern in relation to the potential for the collaborative economy to support **delivery of public services**. In particular, one response questioned whether the flexibility and autonomy of self-employment was appropriate for the delivery of essential services.
- Respondents raised a range of **other concerns relating to working arrangements** in the collaborative economy. These included reference to:
 - providers earning below the minimum wage after deduction of costs;
 - a lack of control over charges levied by collaborative platforms; and
 - providers facing substantial charges if they are unable to secure sick cover.
- Several respondents noted the **diversity of business models** across the collaborative economy, and a range of working arrangements with individuals potentially using more than one employment status. The increasing number of individuals with multiple jobs was also mentioned as raising potential workers' rights issues. This included a suggestion that the focus should be on ensuring good working conditions for all providers, irrespective of their employment status.
- Reference was made to the potential role of **worker status**, where working arrangements fall within a grey area between self-employment and employee status, and that this confers some of the protections afforded to employees, while

⁴ *Mapping self-employed across Scotland* (2017), FSB Scotland; the Taylor Review of Employment Practices in the Modern Economy (2017); the Scottish Affairs Committee's Inquiry into sustainable employment (2016); the Scottish Government's consultation on social security (2016); *Home Truths: The true value of home-based businesses* (2015), FSB Scotland; *Micros Untapped: Realising the employment potential of micro-businesses* (2012), FSB Scotland.

⁵ *Reasons for the reserved judgement on preliminary hearing sent to the parties on 28 October 2016*, Employment Tribunals cases 2202550/2015 & others.

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acknowledging the flexibility of many working arrangements in the collaborative economy. The tax treatment of workers was also raised.

- A small number of respondents raised specific concerns around **job displacement and workers' rights associated with increasing automation**. They referred to an Institute for Public Policy Research Scotland report.⁶ The need for regulation to be prepared for the implications of increasing automation was highlighted and the possible creation of a 'Future of Automation' Commission in Scotland was suggested. One response expressed concerns that increasing automation could further exacerbate what was seen as a race to the bottom for wages, terms and conditions.

Respondents referred to a range of **potential approaches to address the issues noted above**:

- A matrix as a tool to determine employment status for individuals and businesses across all sectors (including the collaborative economy) based on factors relating to autonomy, control of working process and environment, business risk, and level of integration in the business. These factors are used as indicators of whether a provider is genuinely self-employed and what changes required to achieve self-employed status.
- Negotiation of self-employed contracts with providers to resolve concerns around classification and ensure a fairer sharing of profits.
- Reviewing business regulation and policy to reflect the diversity of modern business models.
- Consideration of a pilot to help self-employed people to collectively mitigate the risks they face.
- Re-evaluating the Scottish Government's labour market strategy to take account of the increasing significance of self-employment.
- Assessing the support available for the self-employed to develop their skills.

Protection of contributors

In terms of the protection of providers of services, respondents made the following points.

- A range of respondents commented on **insufficient protections for providers**. These comments included reference to a research report focused specifically on workers' rights in the transport sector of the collaborative economy⁷. The points included:
 - reference to the absence of limits on numbers of contractors (and the implications for providers' ability to secure sufficient work);
 - a lack of control over how much providers will be paid for a job/task leading to individuals earning below the minimum wage and providers bearing sometimes substantial costs associated with the provision of services;
 - a lack of control over charges levied by collaborative platforms;

⁶ *Scotland's Skills 2030* (2017), Institute for Public Policy Research Scotland.

⁷ *Sweated Labour: Uber and the 'gig economy'* (2016), Frank Field and Andrew Forsey.

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- the potential for ratings systems to have an unfair influence on providers' ability to earn;
 - providers facing substantial charges if they are unable to secure sick cover and extensive use of zero hours contracts; and
 - use of agency workers as a permanent culture in some workplaces, and suggestion that overly complex contracts can also be a barrier to ensuring providers have access to sufficient protections.
- A substantial number of responses raised concerns around the **employment status of providers** across the collaborative economy (such as collaborative platforms imposing self-employed status on providers where this may not accurately reflect their relationship) and a need for greater clarity and their rights. Some suggested that existing employment statuses - employee, worker, self-employed - should be sufficient to capture the range of working arrangements, but questioned whether these categories are used appropriately. A recent report by the House of Commons Work and Pensions Committee was referred to.⁸
 - Other concerns were around:
 - the **potential for platforms to develop monopolies**, and for this power differential to harm workers' rights;
 - **resourcing of enforcement** is insufficient to protect workers' rights;
 - the growing numbers of people in insecure work and inappropriate use of self-employment also **applying out with the collaborative economy** in sectors such as retail, hospitality and care; and
 - evidence from the TUC that a growing proportion of those in insecure work are doing so on an involuntary basis, and CIPD research suggesting that most collaborative economy providers want employment rights⁹.

Respondents made a range of suggestions for approaches to improve protections:

- Ensuring **appropriate employment status** of all providers across the collaborative economy was suggested by a range of respondents. A small number suggested that effective enforcement of existing legislation should be sufficient to address concerns. However, others suggested a need for a statutory definition of self-employment.
- A range of specific **changes to address inappropriate use of employment statuses**. These included:
 - strengthening of penalties for companies using contract clauses to prohibit litigation over employment status;
 - suspension of tribunal fees for workers challenging their employment status and introduction of a summary process for workers wishing to challenge their employment status at tribunal; and

⁸ *Report on self-employment and the gig economy* (2017), House of Commons' Work and Pensions Committee.

⁹ *Living on the edge: The rise of job insecurity in modern Britain* (2016), TUC

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- placing the burden of proof on employers to show that providers of services are not workers or employees.

However, it was also highlighted that approaches to deal with inappropriate use of self-employed status should not disadvantage the majority of self-employed for whom this status is an accurate reflection of their working arrangements.

- **Other changes** proposed by respondents to improve workers' rights in the collaborative economy included:
 - restricting numbers of licences issued to collaborative economy businesses;
 - a ban on the use of zero hours contracts;
 - ensuring all workers have a right to a written statement of pay and conditions, including expected hours of work;
 - providing low-paid workers with access to Statutory Sick Pay equal to that of other employees;
 - extension of the pensions auto-enrolment to include the self-employed (via tax returns);
 - legislation to ensure all providers receive a minimum level of pay;
 - a 10% upper limit on commission charged by platform operators;
 - a requirement for all collaborative economy drivers to use meters to ensure they are paid correctly for each trip,
 - consideration of conferring additional rights on providers classified as workers including reference to the right to challenge unfair dismissal; and
 - consideration of models for self organising that may help the self-employed to collectively work to address the risks they face.
- In relation to achieving change one respondent noted that areas of employment legislation are reserved to the UK Government, but suggested that there remains scope for the Scottish Government to drive change. This included reference to the creation of new social security benefits, and potential for the Scottish Government to use its leverage through procurement and assistance grants to improve workers' rights in the collaborative economy.

Balancing regulation with competition and innovation

Several respondents suggested that **existing regulations are broadly fit for purpose** to achieve the required balance between protecting contributors and allowing competition and innovation. However, most of those providing comment on workers' rights highlighted concerns or potential areas for change.

- A need for **regulations to better protect workers' rights**.
- A small number of business representatives saw a need to ensure **regulation reflects and adapts** to the diverse and sometimes new range of business models and working arrangements that characterise the collaborative economy and which is a key attraction for some providers.

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- One response proposed a **distinction between non-collaborative and genuinely collaborative and sharing platforms** – the latter enabling providers to manage their interactions and protect their interests, and where the imbalance of power between platform and provider is minimised. It was suggested that existing regulation should apply to platforms that replicate established consumer and employment arrangements, but that new, lighter touch regulation would be more appropriate for genuinely collaborative platforms.
- Some responses referred to the **risk of monopolies** developing across the collaborative economy and suggested that regulation should extend beyond protection of contributors, to encourage businesses away from monopoly and dominance of a sector.
- Another organisation respondent recommended regulation to **support collective bargaining** for providers of collaborative economy services and included proposals for the development of new sectoral bodies bringing together unions and employers to negotiate pay and conditions.
- The use of **public procurement** to support regulation was also proposed by another organisation respondent. This included the introduction of fair wages resolutions to public procurement, and a ban on umbrella companies and those using false self-employment being awarded public contracts.
- It was suggested that regulation of the collaborative economy should take into account other initiatives such as a Universal Basic Income.

Barriers to growth

A relatively small number of respondents made specific reference to workers' rights in the context of barriers to growth of the collaborative economy:

- Several respondents referred to **poor job security** as a particular issue for workers' rights. This included reference to a perceived lack of legal protection for providers of services, and concern that any further removal of barriers to the collaborative economy should not be at the expense of workers' rights.
- A small number of respondents pointed to **a lack of employee voice and representation** as an issue. This included a representative of traditional service providers warning against workers' rights being presented as a barrier to growth, or as an element that should be removed to help growth.
- A small number of respondents perceived **a lack of investment in skills and training**, and a shortage of skilled workers across parts of the collaborative economy.
- Another organisation respondent referred to **low wages** as a problem including the risk of workers having to accept low wages due to job insecurity.

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Role of government

A range of respondents made reference to workers' rights, and clearly saw the protection of workers' rights as a significant element of the government's role. This included business, public sector and other organisation respondents. Specific points raised by respondents were:

- Several respondents referred to the **role of the government in ensuring stronger protections for workers** in the collaborative economy. This included specific suggestions for modernising the Competition Act to include workers' interests, and to making it easier for workers to hold their employers accountable.
- Several respondents considered how **government could help to frame and shape the collaborative economy** in Scotland. This included suggestions for government guidance or charters on workers' rights, and encouraging collaborative models that integrated workers' rights from the outset. Reference was also made to the potential role of government in preventing monopolies as also offering better guarantees to workers.
- A small number of respondents referred to a need for **stronger support networks** for workers - such as an advice service for providers of collaborative economy services.
- A small number of respondents referred specifically to the issue of **low wages** across the collaborative economy, and the potential application of the Scottish Living wage to the collaborative economy.

Key considerations for discussion during evidence session

A number of stakeholders have been invited to provide additional evidence at the third meeting of the Expert Advisory Panel on the Collaborative Economy. Invited stakeholders have been asked to consider the following questions and will be given ten minutes to outline their responses.

1. What data or evidence can you provide on the impact the gig economy is having on Scotland's labour market?
2. Do you think that the existing classifications of workers' e.g. employed/self-employed remain adequate for the evolving work place?
3. How do we ensure that gig economy work does not displace secure jobs by creating part-time, low-paid work that offers workers few or no statutory benefits or protection?
4. How can we ensure that the gig economy presents equal opportunities for women, particularly in light of the Gender Pay Gap Inquiry recommendations as well benefiting workers in rural locations or those that have disabilities?

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Peer to peer transportation and logistics

Background

PwC¹⁰ describe peer-to-peer transportation as individuals sharing a ride, car or parking space with others. They estimate that collaborative platforms in five key sectors of the collaborative economy generated revenues of nearly €4 billion in Europe in 2015 and facilitated around €28 billion of transactions. The largest collaborative economy sector by revenue is the peer-to-peer transportation sector at € 1,650 million. It has been forecast that logistics is the next industry that is currently undergoing digital disruption by streamlining the pick-up and delivery of shareable assets and the lowering of transportation costs.

The Scottish Government commissioned YouGov to find out more about Scottish consumers' experiences and views of the collaborative economy¹¹. Two of the most common reasons for using collaborative economy platforms amongst Scottish users are:

- To receive same day/expedited delivery (e.g. Nimber) (24 per cent); and
- A ride-hailing app (e.g. Uber) (21 per cent)

Background on Taxis and private hire cars licencing is available at Annex A.

Opportunities

Below is a summary of the key points in the call for evidence responses in relation to important opportunities for transportation and logistics within the collaborative economy. The majority of respondents focused on transportation, with few respondents making reference to logistics. This may reflect the profile of respondents; businesses and others associated with the transportation sector (traditional and new providers) accounted for a number of those providing comment.

A range of respondents made reference to the **impact of the transportation and logistics sectors** of the collaborative economy – in terms of the scale of the sectors, and the rate of growth over recent years. Some referred to the extent to which these models have become mainstream and are widely accepted by consumers. These include private hire drivers using a range of eHailing platforms; use of bike-sharing services, and the significance of peer to peer transport within the wider transportation sector. One response highlighted that the UK has been particularly receptive to vehicle sharing.

Several respondents also noted the potential for the collaborative economy to **significantly change how transportation services are designed, provided and paid for**. A transportation/logistics business highlighted the potential for Scotland to become a leader in the collaborative economy by striking the right balance between innovation and regulation.

¹⁰ Assessing the size and presence of the collaborative economy in Europe – PwC April 2016

¹¹ All figures, unless otherwise stated, are from YouGov plc. Total sample size was 1,007 adults. Fieldwork was undertaken between 28th February and 2nd March 2017. The survey was carried out online. The figures have been weighted and are representative of all Scottish adults (aged 18+).

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In terms of benefits and opportunities for transportation in the collaborative economy, respondents made the following points in relation to the **private hire sector**:

- Several respondents saw potential for the collaborative economy to extend employment opportunities for private hire drivers. This included reference to drivers having more routes to reach customers, and a suggestion that enabling drivers to work independently of booking offices can “empower” drivers.
- A small number of business respondents referred to the potential for reduced private hire costs to the general public as a result of increased competition within the sector although this included reference to the need to ensure this competition is fair.
- One view was that new collaborative platforms and technologies could improve the customer experience for those booking and paying for taxi and private hire services. This included broad references to the collaborative economy having changed how people choose to book and pay for services, and specific benefits such as apps enabling easier booking and paying for services. It was noted that the convenience of these new options could benefit both customers and drivers.

In terms of **delivery and logistics**, the main opportunity highlighted by respondents was in relation to particular benefits to rural businesses. It was suggested that collaborative platforms may support goods provision and delivery that would not otherwise be feasible. This was noted specifically in relation to rural tourism and food/drink sectors.

Other potential opportunities and benefits mentioned by respondents for transportation and logistics were:

- Wider benefits to the local economy through **creation of new (direct and indirect) employment opportunities**.
- The **potential role of collaborative transport approaches for public, third sector and social enterprises**. In relation to public services it was noted that there may be a role for collaborative approaches to increase use of transport assets across health and social care, non-emergency patient transport, community transport, demand-responsive transport services, and “socially necessary” public transport. In relation to third sector and social enterprises collaborative arrangements can be important to the sustainability of these organisations. A public sector respondent noted that such arrangements may be in place at a micro level and there is potential to expand these.
- Respondents made reference to a number of **specific projects in Scotland**, other parts of the UK and outwith the UK, focused on using the collaborative economy to deliver benefits for transport systems¹².

¹² TripshareSEStran (a regional car share portal); SHARE North (focusing on Shared Mobility) a ‘Green Deal’ Initiative (Flanders); Changing Habits for Urban Mobility Solutions (carpooling); the Social Car project (a single information source); SPTJourneyShare; NextBike; a Mobility as a Service model in the West Midlands area; and the Bramble smartcard.

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In terms of benefits and opportunities for transportation in the collaborative economy, respondents made the following points in relation to the **vehicle sharing**:

- A substantial number referred to potential benefits around supporting more **sharing of resources** particularly in relation to car sharing and bike sharing. Vehicle sharing was seen as having the potential to improve sustainability of transport systems, and to reduce pressure within some systems, which could lessen the need to introduce demand-restraints such as workplace parking charges. Reference was also made to the potential to improve efficiency of transport in rural areas with the provision of community transport or lift-sharing through collaborative economy platforms.
- Respondents also highlighted the potential to reduce the **environmental impact** of transportation, noting that reducing traffic congestion and emissions is a key strategic focus across Scotland. Reference was made to the potential for car sharing (increasing average car occupancy) and bike sharing to reduce car use, and to encourage more use of lower or zero emission vehicles. Wider benefits for local neighbourhoods and communities were also noted, for example, reduced congestion, reduced on-street parking, and lower demand for car parks. The potential for car-sharing to expand social networks and potentially improve community cohesion was also highlighted.
- Car-sharing was also seen as having the potential to **reduce the overall cost of car ownership**, and potentially to make car use or ownership accessible to those for whom it may be otherwise unsustainable.
- A small number of business and individual respondents referred to the potential for **increased purchasing power** for car-sharing groups.

Challenges

Key points raised in relation to challenges for transportation and logistics within the collaborative economy are noted below.

- Some respondents saw a need for **changing attitudes and behaviour** across the Scottish population, if collaborative economy based transport models are to become truly mainstream. This was highlighted specifically in relation to peer to peer car sharing models. Concerns were also raised that media attention and support has focused on commercially focused platforms; some suggested that this could be at the expense of models focused more on achieving efficiencies described by some respondents as the pure sharing economy.
- A number of respondents raised concerns that **current regulation and enforcement is not appropriate** for new business models, and that clarity is needed on how collaborative economy businesses are classified (for example whether Uber should be classified as a technology company or transport provider). Concerns included some reference to ensuring appropriate consumer protections, but were most commonly related to the employment status of drivers and others contributing to collaborative transport or logistics services. Some respondents suggested that existing traditional operators may be subject to unfair

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competition if new business models are able to reduce their regulatory and taxation burden.

- **Challenges for those wishing to introduce or join innovative business models** were also mentioned by a small number of businesses. This included reference to a lack of suitable insurance products, challenges around access to funding (and a potential need for on-going subsidy for businesses which meet a social need), and a lack of support or promotion for peer to peer car sharing by local government (in contrast to corporate car sharing models).
- Several public sector respondents saw a need to **balance the development of collaborative economy based transport models against protection of public transport networks**. These noted the potential for new business models to improve access to transport, for example in rural areas and/or for those with limited mobility. However, several public sector respondents noted a risk that these new models could be over-promoted at the expense of public and active travel options.
- A small number of respondents suggested that there is a **lack of data and research** to make informed judgements about new business models. This included specific reference to the need to assess the extent to which new models will increase or decrease the number of cars on the road.
- A concern was raised around the potential for collaborative economy transport models to **lead to the widespread use of automated/driverless vehicles**, and the potential impact of this on those working in the transport sector.

Protection of contributors

Responses focused primarily on either the protection of providers or consumers and each group is considered in turn.

Several respondents expressed concerns around a **perceived lack of protections for drivers or providers** within collaborative economy based transport models. This included a suggestion that the sector includes some of the youngest and most vulnerable workers. These respondents felt that the absence of restrictions on numbers of operatives contracted within the sector means that there are no protections to ensure sufficient work to sustain all contributors and this increases the likelihood of earnings below the minimum wage. Reference was also made to the potential for ratings systems to negatively impact on providers' ability to earn.

Respondents also referred to a **lack of control for providers** in relation to how much they will be paid for a trip, and when and by how much commission charged by platforms will increase. Several respondents suggested that providers are effectively dependent contractors, bearing risks such as substantial costs associated with finance, insurance, licencing, maintenance and fuel, while lacking the rights of an employee. Respondents referred to several specific cases as illustrating an absence of protections for providers

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(such as couriers facing substantial charges if they cannot secure sick cover, and contract terms described as incomprehensible), and to specific research reports.¹³

Concerns were also raised around lack of suitable **insurance protection**, and suggested that this may act as a barrier to those who may wish to contribute to car sharing models. This respondent also noted uncertainties where the distinction between doing business and sharing is blurred. This included reference to a new tax framework for the sharing economy in Belgium as having provided greater clarity¹⁴.

Respondents made a range of points in relation to **improving protections for providers**. The key issues were:

- stronger regulation and/or enforcement, with reference made to the disparity in protections for providers considered to be self-employed, and those classed as a worker or employee (the resourcing of enforcement to deal with an expanding sector was noted);
- restricting numbers of licences issued to collaborative economy businesses;
- a 10% upper limit on commission charged by platform operators; and
- a requirement for all drivers to use meters to ensure they are paid correctly for each trip.

Respondents raised a range of concerns around **a lack of consumer protections**. It was also suggested that the sharing economy does not currently provide a consumer standard (similar to the Kitemark model), nor an independent regulatory or resolution process. Reference was made to the Code of Conduct developed by Sharing Economy UK, but this was not seen as a substitute for formal consumer protections.

Respondents also suggested that there is a lack of consumer **protections around pricing of collaborative economy transport services**. Some also expressed concerns around the potential for collaborative economy providers to develop a monopoly through use of artificially low pricing supported by investors' funds, which could ultimately lead to substantial price increases for consumers.

In terms of **improving protections for consumers**, respondents made a range of specific suggestions:

- A need to consider consumer safety.
- Enhancing background checks for drivers/providers.
- Improving provision for consumers with mobility impairments.
- Enhanced training for drivers - although it was noted that mandatory training could affect drivers' status as self-employed.
- The Consumer Scotland taskforce as a potential opportunity to consider setting performance outcomes for the sector to enhance consumer experience.

Balancing regulation with competition and innovation

¹³ Sweated Labour: Uber and the gig economy (2016), Frank Field and Andrew Forsey.

¹⁴ [Belgian Government Approves Simple and Low Tax Rates for Sharing Economy. \(June 2017\)](#)

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Comments made in relation to transportation and logistics indicate that a range of respondents see a need for change to or extension of regulation. Some suggested that collaborative economy business models can be accommodated within existing regulations, while others expressed concerns that regulation is not keeping up with the development and growth of collaborative platforms – and indeed that organisations may be exploiting this to grow their business. Most of those addressing transportation and logistics indicated a need for some degree of regulatory change and a number of these were similar to the comments made more generally around worker's rights across the collaborative economy .

In terms of the specific regulatory issues raised by respondents, the key points were:

- A small number of respondents referred to the need for **protection of workers' rights** within the collaborative economy.
- Several business, business representative and individual respondents referred to the risk of the **creation of monopolies**. These respondents suggested that traditional businesses and other local providers struggle to compete against the scale and resources of larger collaborative platforms. Some also raised concerns around the ability of larger platforms to influence policy direction and regulation.
- A small number of business respondents raised concerns around **inequality of regulatory and tax burdens** between collaborative and traditional providers. Reference was made to the well-developed regulatory framework for the taxi sector including the focus on consumer and driver protections. This was contrasted with what were seen as more limited regulations applying to private hire operators working within the collaborative economy. It was also noted that international platforms do not face the same tax burden as local providers.
- The trend towards **automation and self-driving** vehicles was seen as an area where additional regulation may be required.
- A business respondent drew a **distinction between eHailing models and peer to peer sharing**. This respondent suggested that the former do not represent a fundamental change to current business models and can be accommodated within existing legislation, while the latter may require additional regulation.
- Several respondents referred to the **importance of data and research** to improve understanding of new collaborative economy models, and their impact on traditional providers. The extent to which data is controlled by a small number of larger platforms was also raised.

Several respondents made **specific suggestions for regulation and/or changes to support enforcement action**:

- In terms of specific areas where change to existing regulation may be required, respondents referred to consumer safety, use of data, and Disclosure Scotland.
- In addition to ensuring the welfare and safety of participants, regulation should also seek to encourage collaborative economy businesses into markets that benefit society.

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- The development of a national licensing regime across transport sectors to ensure consistency for all providers, and to support enforcement activity.
- It was suggested that engagement between the collaborative economy transport sector and insurance providers may be providing a level of regulation across the sector. Some elements of self-regulation were also highlighted, such as Sharing Economy UK's development of a Code of Conduct and kitemark equivalent.

Barriers to growth

Respondents highlighted a broad range of potential barriers to growth including reference to finance, regulation and the distinction between non-collaborative and pure sharing models.

- The most commonly noted **barriers related to finance**. This included that a lack of subsidies or inward investment for transportation businesses is preventing growth and experimentation; a reference to start-up funding being particularly difficult to access; and a suggestion that access to subsidy is a particular issue for models focused on social innovation.
- A small number of respondents referred to a distinction between what were described as **pure sharing models**, and collaborative economy businesses which were seen as replicating established commercial activity. This included a suggestion that there is a need for more support to enable pure sharing activity.
- **Social and behavioural barriers** to growth were referenced by a small number of public sector respondents. This included a suggestion that there remains some resistance to use of peer to peer transport models for commuting or business use, and a suggestion that policy development has been somewhat slow to support new business models.
- Limitations on **access to high speed broadband and 3G/4G** was highlighted as a barrier to growth, particularly in rural and remote areas.
- A small number of respondents referred to **the role of regulation** in managing development of new sectors, and in ensuring growth is sustainable and delivers the desired outcomes. This included a suggestion that a lack of effective regulation may have enabled sectors to grow too quickly, potentially to the detriment of levels of pay and workers' rights.
- Reference was made to **negative representations of the transportation and logistics sectors**, including through what was seen as misuse of review sites.

The role of government

Respondents highlighted a range of points including a number of suggestions for government intervention around regulation and the creation of appropriate structures to support growth. The main issues raised were:

- **Implementation of effective and appropriate regulation** was seen as an important role for government. This included a perceived need for a clear strategic vision that places the collaborative economy within a wider public transport framework, and for steps to prevent the dominance of large multinational providers with international links and agreements highlighted. One response

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cautioned that Scotland should not follow other parts of the UK, where the influence of large providers was seen as having led to deregulation.

- A suggestion that the **government could play a stronger strategic role**, for example in setting car occupancy targets and supporting workplaces through passenger allowances and parking space schemes.
- Several respondents saw a need to **stimulate research and innovation** in these sectors with reference to additional funding and incentives, particularly for those with the potential to deliver social benefits. This was seen as ensuring a greater balance between commercial and 'pure sharing' models, and reducing the risk of monopolies.
- **Taxation** was raised as a particular issue for transportation and logistics sectors. However, respondents made quite different suggestions here – one business respondent wished to see tax breaks for individuals participating in the sharing economy, while another business saw a need for taxation of the collaborative economy to be brought in line with traditional providers.
- A small number of public sector respondents suggested that government should provide **frameworks for collaboration and innovation** at a national and regional level.
- A business respondent suggested that the government should seek to **achieve a more equitable balance of risk between employers and workers**. This was linked to concerns that workers or providers currently bear a substantial share of the risk.

Key considerations for discussion during evidence session

A number of stakeholders have been invited to provide additional evidence at the third meeting of the Expert Advisory Panel on the Collaborative Economy. Invited stakeholders have been asked to consider the following questions and will be given ten minutes to outline their responses.

1. How could peer to peer transportation & logistics help connect rural locations such as deliveries or transport where it is not financially viable to have year round public transport infrastructure?
2. Should there be a minimum fare set for peer to peer transportation/private hire and taxis so that all drivers receive a living wage?
3. How can peer to peer transportation & logistics help meet Scotland's Greener Scotland targets on emissions and congestion?
4. How could bike sharing and similar models help Scotland's population become more active and healthier?

Legislative position on licensing of taxis and private hire cars

1. Taxis and private hire cars are licensed under the Civic Government (Scotland) Act 1982.
2. The day to day administration of taxis and private hire car licensing is undertaken by local authority committees, made up of locally elected councillors. The 1982 Act allows for considerable local authority discretion.
3. The legislation provides for separate licences for the driver, for the vehicle and for booking offices. It also sets out the difference between taxis and private hire cars, namely that taxis are able to use taxi ranks and be hailed in the street, whereas private hire cars must be pre-booked. Local authorities are able to provide a cap on the number of taxis, and many urban authorities have done so.