

The importance of a single legal status for workers in delivering employment rights

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Introduction

Key points

- ‘Labour’s Plan to Make Work Pay (2024) promises a ‘single status of worker’
 - UK ‘worker’ definition(s) in flux but also in disarray
- Employment Rights Bill 2024 (ERB) lacks unified ‘worker’ definition
 - Consequence: The Bill’s effectiveness is somewhat undermined
- In July 2025 a dedicated consultation on single worker status was announced by Baroness Maggie Jones, ‘by the end of this year’

The Problem

- ERB lacks comprehensive 'worker' definition
- Without it, protections apply inconsistently – a concern raised by academics and MPs alike
- Equity and fairness aside, the effectiveness of our labour law system is also affected by the complexities surrounding employment status classification
- The issue is more pronounced since NI hikes in April 2025.

Labour's Commitment

- Labour's Plan to Make Work Pay (2024) promises a 'single status of worker'
- Goal: Simplify current fragmented system
- Framework: Two-part – workers vs genuinely self-employed

Fragmented Current Landscape

- Multiple overlapping definitions: ERA 1996, TULRCA 1992, NMWA 1998 ...
- Case law adds complexity - *National Union of Professional Foster Carers v The Certification Officer* [2021] EWCA Civ 548
- Particular complexities surround
 - ‘limb-b worker’ status – see *IWGB v CAC* [2023] UKSC 43
 - And the use of PSC – see *Partnership East London Co-operatives Ltd v Maclean* [2025] EAT 142
- Case law is also in flux - *HMRC v Professional Game Match Officials Ltd* [2024] UKSC 29
- Result: Inconsistent rights and confusion – enforcement challenges

The challenge ahead – the need for a Broad and Flexible Definition

- Must capture breadth of employment relationships
- Be future-proof and resistant to avoidance tactics
- should include gig, zero-hours, and agency workers

The 'Genuinely Self-Employed'

- Labour's plan grants limited rights: contracts, late payments, H&S coverage
- But note risk: creation of 'self-employed plus' – partial rights, renewed fragmentation

Impacts of the Omission

- Rights limited to employees (e.g., unfair dismissal, fire & rehire)
- New terms ('zero-hours arrangements') add confusion
- Fragmentation and legal uncertainty persist

The Consultation Hurdle

- Adoption postponed pending consultation – now imminent
- Note: there have already been two consultations in the past decade – Matthew Taylor Review in 2017 and joint DBT, Treasury, and HMRC consultation
- What is the consultation likely to be about
 - Current definitions and their limitations
 - Contract/relationship, mutuality of obligations, substitution clauses, sham arrangements (and sham substitution), genuinely SE
 - Use of PSC and umbrella companies
 - Relationship between employment and tax (and social security)

What a Single Status Should Do

- Move beyond contractualism – include informal/relational work
- Relax strict personality requirement (allow limited substitution)
- Replace 'employment' with broader concept of work/labour

Lord Hendy's Status of Workers Bill

- Proposed by Lord Hendy as a coherent model
- Defines workers as anyone providing labour not operating a business
- Employer presumed unless proven otherwise
- •overs labour through intermediaries

Conclusion: Waiting for Godot

- Still awaiting consultation – reform delayed
- Risk of growing complexity
- Risk of enforcement of ERB/Act
- Risk of new labour (and tax) evasion strategies emerging
- Not coping with the challenges ahead – platform and AI at work