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**Article:**

Moore, S., Tailby, S., Antunes, B. et al. (2018) 'Fits and fancies': the Taylor Review, the construction of preference and labour market segmentation. *Industrial Relations Journal*, 49 (5-6). pp. 403-419. ISSN: 0019-8692

<https://doi.org/10.1111/irj.12229>

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This is the peer reviewed version of the following article: Moore, S., Tailby, S., Antunes, B., and Newsome, K. (2018) 'Fits and fancies': the Taylor Review, the construction of preference and labour market segmentation. *Industrial Relations Journal*, which has been published in final form at <https://doi.org/10.1111/irj.12229>. This article may be used for non-commercial purposes in accordance with Wiley Terms and Conditions for Self-Archiving.

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**‘Fits and fancies’: The Taylor Review, the construction of preference  
and labour market segmentation  
paper for Industrial Relations Journal**

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**INTRODUCTION**

*Good Work: The Taylor Review of Modern Working Practices* opens with a statement of the Review Panel’s ‘single overriding ambition’, that ‘All work in the UK economy should be fair and decent with realistic scope for development and fulfilment’ (Taylor 2017:7). Bales et al. (2018:56) note the borrowing of terminology from, without effort to align with, the notion of ‘decent work’ advocated by the International Labour Organisation. Its *Decent Work Agenda* is based upon job creation, the promotion of rights at work, social protection and social dialogue with gender equality as a crosscutting objective (ILO, 2008). With the exception of job creation these principles have little interest for the Taylor Review. This evasion is most obviously because the Taylor Review finds virtue in ‘the British way’ of minimum statutory labour standards and associated minimal regulation of work relations and employment. ‘Labour market challenges’ are acknowledged; a relatively high rate of low pay, incidence of in-work poverty, stagnant real wage growth, poor productivity performance. Yet (and now invoking international comparison) emphasis is given to the success of the UK’s ‘flexible’ labour market, identified in terms of ‘creating jobs, including flexible jobs, which open up work to people with different needs and priorities and at different stages of life’ (Taylor 2017:7).

Indeed, the ‘shift towards more flexible forms of working’ – or ‘atypical employment’ - in recent decades (2017:23) is cast as supply-side led. As the labour force has become more diverse, people are looking for work ‘that suits their individual lifestyle and preferences’ (2017:26). They choose to make ‘trade-offs’ in the ‘rewards of work’ – as between pay and hours, job security and flexibility – in pursuit of their lifestyle preferences. On the principle that ‘society benefits from allowing individuals to participate in the labour market in a way that suits them’ (2017:26), the recommendation is for the law to remain permissive, enabling workers to strike individual bargains with employers rather than being constrained by prescriptive statutory standards.

This paper focuses on the Taylor Review’s claim that:

Certain groups are also more likely to place greater importance on flexibility such as carers, women, those with disabilities and older workers ... Flexibility can allow these groups to participate more fully in the labour market by enabling them to balance work around other priorities’ (Taylor 2017:15).

Section two, following this introduction, begins to unpack the claim, first by examining the way preference is constructed. Taylor’s methodology imputes preference of lifestyle to individuals on the basis of extant patterning – by gender, age, dis/ability - of employment at the macro level. It assumes choice without attending to constraints. It usurps, we argue, the discourse of work-life-balance to provide justification for employer freedom to use ‘atypical’ contracts to shift the risks and costs of employment to workers. Following a discussion of methods, the critique of the Taylor Review’s analysis and recommendations is supported by qualitative data in the form of worker case studies, gathered over 2016/17 in research for the Low Pay Commission concerning the impact of non-standard contracts (‘atypical’ employment in Taylor Review terms) on the National Living Wage. The findings explore the construction

of preference firstly through the lens of labour market inclusion and secondly through the lens of work-life-balance (WLB), distinguishing between employer-orientated and worker-orientated temporal flexibilities.

### **Labour market inequality as life-style choice**

Taylor encourages a view of *quality work* less in terms of objective measures than through the perspective and preferences of the job seeker or job holder. This is on the principle that individuals' motivations (or what economists would call 'tastes for work') differ and their ranking of job quality dimensions will be personal or idiosyncratic (2017:12). For Taylor 'people look for work that suits their individual lifestyles and preferences' (2017:28).

Work preference is a focus of academic debate that has been characterised by controversy. In addressing 'preference type' theories of women's disproportionate representation in part-time employment (Hakim 2002) and explanations in terms of structural constraint (Ginn et al. 1996; McRae 2003), Gash (2008) sets out the challenges of working preference measurement. These include the inability of current data to distinguish between 'real' and 'accommodated' preferences, the last denoting choice in the absence of alternatives (e.g. access to affordable childcare). Gash observes that without accurate measures of preferences before outcome and ex post, it is 'impossible to determine whether preferences determine outcome or whether preferences shift to reflect outcome' (2008:658). She suggests that, given the considerable risk of reverse causation in preference formation, preferences should only be used as causal explanation of outcome if it is clear they have not been affected by outcome (2008:669). Gash concludes that preferences are weak predictors of worker outcomes, but that market rigidities and family care responsibilities are likely to impede working-preference attainment –

contingent on national context, policies and practices supportive (or otherwise) of maternal employment.

In a similar vein, although with a focus on job quality evaluation, Piasna et al. refer to *adaptive preferences* as among the limitations of reliance upon subjective measurement (e.g. job satisfaction surveys); that is, unless the aim is to capture workers' opinions, values and attitudes towards their jobs rather than the 'reality and actual features of jobs' (2017:172). Job satisfaction surveys are suspected of capturing workers' preferences formed in relation to expectations, which may explain 'why some less-advantaged groups of workers (e.g. women) display higher satisfaction levels than others enjoying objectively better working conditions' (2017:171-2). Piasana et al. favour objective measurement, with workers' self-report a basis for auditing the quality of jobs generated. They advocate a multi-level approach recognising that work and employment are shaped by institutional arrangements and wider social environment (2017:177-8). Their project aims for a common methodology, supporting cross-national job quality comparison and evaluation.

Reflection on opportunity and constraints in socially constructed and historically 'situated' labour markets prompts consideration of the adequacy of current data for assessing voluntary and involuntary part-time, or temporary, or employment on zero hours contracts (ZHCs) (Cam 2012). Indeed, it can be argued from a rational choice perspective that motives for workers to take up temporary employment are 'essentially non-voluntary'. Given the option of two identical jobs, one with an open-ended contract and the other with a temporary contract, the rational choice is to take up the open-ended one, as employment protection places obligations on the employer, not the employee (Eurofound, 2017: 9). The Eurofound assessment advises

caution in drawing conclusions from Labour Force Survey data, ‘as interview questions on motives can be open to many interpretations’ (see also Rubery et al. 2016: 238).

Taylor imposes lifestyle preference for ‘flexible work’ on whole population groups – women, carers, young workers, older workers, the disabled – and as though each group is internally homogeneous, and none intersect. There is no assiduous investigation. Chapter 12 includes a sketch of the workforce with ‘atypical’ employment, although the purpose is to fulfil the Review’s terms of reference – ‘to look at the opportunities that new ways of working and technology could offer those currently under-represented in the UK labour market’ (2017:93) – rather than to substantiate the preference claim. Women – in fact virtually half the UK’s workforce – are the great majority of the 26 per cent with part-time employment, and a majority among each of: workers with ZHCs, temporary jobs and fixed-term contracts. Young workers are shown to be over-represented among ZHC workers and agency workers. Workers with disabilities have a high rate of unemployment. Workers in their 50s or 60s are twice as likely to be self-employed in comparison to younger workers. Black and Minority Ethnic (BAME) appear for the first time in Taylor’s report at chapter 12 and are discussed (together with young workers) as more likely to work in the ‘gig economy’.

The patterns in ‘atypical’ employment identified might prompt questions leading to analysis of social structure between the individual and labour market position occupied. Taylor does refer to women’s disproportionate representation in part-time employment and to occupational segregation as contributors to the gender pay gap and could observe that penalties accumulate over a work-life and into retirement (the gender pensions gap). However, there is no consideration of how such segregation shapes identities or provides a context in which choice takes place.

In addressing the issue of labour market segmentation, Grimshaw et al. (2017) reject accounts that focus on the labour supply side and that are modelled within a framework of individual (or indeed, 'head of household') rational choice in response to market signals. Such accounts do not address adequately the power and choices of employers or the role of employing organisations, institutions and wider economic conditions in shaping labour market inequalities and employment outcomes. These include under-investment in productive structures and the undermining of worker organisation. Labour markets are thus social constructs and these practices lead to a 'continuous regeneration of inequalities through the construction of 'non-competing groups', variously based on 'social class, race, gender, migrant status, age and disability, among others' (2017:3).

Discrimination in the labour market (with the exception of that on the basis of pregnancy and maternity) is another Taylor report evasion. TUC research (2017) shows BAME workers are disadvantaged in respect to the quantity of work they have access to as well as the quality of jobs. Workers past state pension age (rising for women from 2010) account for a substantial proportion of the increase in self-employment which, over 2010-14, made a significant contribution to employment 'recovery' from the 2008-9 recession. Yet, a multiplicity of influences have been identified, including discrimination in the labour market and pensions too low to sustain subsistence (Cory 2012; Chandler & Tetlow 2014). These need to be weighed against Taylor's emphasis on older workers' quest for autonomy through self-employment. Taylor emphasizes student involvement in ZHC employment, conferring on them the motivation of earning to finance for example a night out, with no mention of student loans and debt that have constructed students as a labour market.

Grimshaw et al.'s framework is informed by feminist analysis of the way that the division of the costs of social reproduction fundamentally shapes women's participation within the labour market. As noted, there has been heated debate about women's labour market participation, pitching preference and constraint, agency and structure. Theories of choice guard against substituting structures for human agency, although can present 'one-sidedly voluntaristic' accounts (Crompton & Harris 1998:131). Yet it is possible, as Hughes (2002:105) suggests, 'to avoid the 'choice' of either structural or agentic accounts by holding both agency and structure in simultaneous relation'. Preferences may shape choices but do not determine them. Women 'actively construct their work-life biographies in terms of their historically available opportunities and constraints' (Crompton & Harris 1998:448). Thus, the fact that part-time work – or in degenerative form, zero hours contracting – is 'chosen' by some workers as means of achieving WLB does not imply women's preferences for part-time jobs (ZHCs) but rather the absence of alternatives, given family responsibilities (Burchell et al. 1997; Gash 2008).

Research interrogating hypothesised motives for and worker outcomes of non-standard employment has tended to favour demand-side rather than labour supply side accounts. Hosking and Weston's (2008) study of non-standard employment in Australia found employers' demand for workplace flexibility was the driving influence and that work-family tensions for parents were exacerbated by flexibility regimes. Lyness et al.'s (2012) cross-national study found control over hours and job schedules was a key antecedent of job dissatisfaction and 'strain-based work-family conflict', with women having less control over job schedules. With regard to disabled workers and their 'fit' with non-standard work, Schur's (2002) research in the USA indicated that while such jobs could assist transition to standard work, they provided lower pay and fewer benefits. Non-standard workers with disabilities were more likely to desire full-time work. Hoque et al.'s (2014) UK study showed employer

willingness to make adjustments (required under legislation) or to provide worker-orientated flexibility appeared to be low. Harwood's (2016) research, also for the UK, suggests demands on workers to be more adaptable (e.g. to work more varied and unpredictable hours) inhibited workplace adjustments; disabled workers were perceived by employers to be relatively more costly and workers were more fearful of the possible consequences (being sacked, facing benefits sanctions) of pressing for their rights. Taylor emphasises the publicly funded support-to-work services available for disabled workers; a view at odds with those from disability activists highlighting austerity welfare cuts (Bates et al. 2017). Jones (2017), responding to the Taylor Review, argued on behalf of older workers that while self-employment could work well for those with marketable professional expertise, for others it is low-paid and low-grade and can drive the individual or household into increased debt. It was 'a last resort, not a positive choice'.

### **Flexibility as Work-life-Balance Discourse**

Flexible work constitutes the primary narrative of the Taylor Review; flexibility allows workers to balance work with other commitments such as caring. Crompton in 2002 argued 'the more negative aspects of neo-liberal numerical flexibility [were] being glossed as a positive contribution to the reconciliation of employment and family life' (p.546). She identified as among the aims of neo-liberal flexibility capacity for the employer to push employment costs onto the individual and families. Similarly Taylor's discourse resonates with Fleetwood's (2007) critique of flexibility as constructed discursively to underpin the interests of employers rather than workers. Fleetwood distinguishes WLB and flexibility as a set of practices and as a set of discourses. He argues that flexibility as discourse became hegemonic in the 1990s when it became associated with family-friendly policies that benefitted employees. From the late 1990s, however, the discourse started to become detached from practices, which

were now largely employee-unfriendly and which constrained WLB. The discourse now served to legitimate practices such as unsocial hours working, overtime, ZHCs, involuntary part-time or temporary working as pro-employee flexibility. Recalling Crompton, Fleetwood (2007: 396) proposed:

‘... the discourses of WLB conceal, while promoting, the now ‘rehabilitated’ discourses of flexibility. Employee-unfriendly flexible working practices remain but are veiled by the mask of WLB discourses with their employee-friendly connotations’.

Rubery et al. (2016) reinforce critique of the construction of flexibility as adaptation to an increasingly diverse labour force through provision of opportunities for WLB. They agree that for policy-makers flexibility is about reducing costs and freeing employers to deploy labour according to demand. The apparent use of flexibility to facilitate inclusion of workers seeking non-standard hours is not balanced by employer willingness to reorganise work to facilitate worker commitments outside work (Rubery et al. 2016:236). In terms of preference, the involuntary character of employment may be recast by a worker as the best available option.

Taylor’s brief included attention to groups under-represented in the UK labour market. A decade on from Fleetwood, after crisis and austerity, welfare and benefits reform, further deregulation of employment rights and curbs on trade unions, Rubery et al. (2016) elaborate on Fleetwood’s (2007) schema. They add a y axis of labour costs (pay, conditions, social security and pensions) to a x axis of temporal flexibility, to locate low-paid ‘non-standard’ contractual forms within the vector of employer-orientated temporal flexibility. As if anticipating Taylor and his subsequent evasion, Rubery et al. expose six supposed policy benefits of flexible labour markets, two of which are pertinent to this paper.

First is the argument that flexible labour markets can promote inclusion of ‘outsiders’, whose role hitherto has been to shelter a core workforce in standard employment relationships underpinning a dualized labour market. Rubery et al. (2016) point out the flaws in the logic. In a context in which regulatory change affects all workers, ‘outsider’ groups (women, ethnic minorities, older and younger workers and the disabled) do not end up competing with the ‘core workforce’; rather, existing divisions in the labour market are reinforced. Second is the proposition that flexible work promotes diversity and labour market inclusion, to assist government objectives for reduced welfare expenditure, by: allowing workers to combine work with education and caring; accommodating disabled workers’ capacity to work; and enabling older workers to remain in the labour market following the rise in the state pension age. Rubery et al. argue again that such policy logic perpetuates extant gender relations and the lower pay inherent to part-time work. Job characteristics are treated as fixed.

Lewis et al. (2007) address the assumption of individual choice and personal responsibility implicit in the WLB discourse. They argue that choices are always socially embedded, that the assumption of choice neglects gendered contexts and also the changing nature of work, and employer practices that constrain choice. The discourse of choice masks ‘persisting organisational and societal control and constraints’ and is often used as ‘a rhetorical device to encourage the acceptance of procedures that are in practice double-edged ...’ (2007:366-67). Important is Fleetwood’s suggestion that workers may accept the ‘apparent fairness and symmetry’ of flexibility and then ‘find themselves trapped, not by a legal, but by a quasi-moral, obligation’ (2007:397). They may feel that having being granted some form of flexibility that may fit with their lives, they are then obliged to reciprocate. Fleetwood relates this more directly to New Labour’s legal *Right to Request* flexible working (for *full-time employees* with 26 weeks continuous service with the same employer). Yet this sense of obligation permeates

testimonies presented below. As outlined, a narrative approach was chosen in order to explore the nuances of human motivations and preference, recognising that these can shift within a complex terrain between individualised and subjective needs and social and collective understandings (Ross & Moore 2014). We draw on research for the Low Pay Commission (Moore, Antunes, White, Tailby & Newsome 2017) to interrogate preference and the orientation of temporal flexibility in respect to Taylor's 'work-life style' groups in the light of this quasi-moral culture, but also work design and contractual forms that facilitate employer appropriation of unpaid labour time.

## **Research Methods**

The research for the LPC addressed the relationship of non-standard contracts to the National Living Wage (NLW). Its qualitative approach involved 36 worker case studies drawn from six low-paying industry sectors known to use non-standard contracts in the forms of ZHCs, minimum hours contracts (MHCs), agency work, and/or dependent self-employment. Descriptive and evaluative in type (Merriam 1998) the case studies were based on face-to-face interviews with two workers from one organization in each of the six sectors in three regions. They formed a purposive sample, but having six in each sector across three regions enhanced the representativeness of sectors and allowed local labour market contextualization. The regions capture concentrations of dependent self-employment (London), ZHCs (the South West) and areas of low pay where there were disproportionate gains from the introduction of the NLW (South Yorkshire) (Citizens Advice 2015; Resolution Foundation 2016).

Table 1 around here

Given word-length restrictions, this paper focuses on case studies in three of the six sectors; homecare, retail, and logistics. *Homecare* has a high proportion of workers on ZHCs (56% of

care workers according to Skills for Care, 2017). Women predominate in the care workforce which has included a high proportion of workers born overseas. Online shopping has increased demand for home delivery services and the *logistics* sector has seen a proliferation of owner-drivers working for large delivery companies alongside directly employed drivers but paid by delivery (Moore and Newsome, 2018). Four of six individual case studies are parcel delivery drivers attached to large national or international logistics companies. *Wholesale and retail* have eight per cent of those employed on ZHCs, but retail is particularly dependent upon Minimum Hours Contracts (USDAW 2014). All six worker case studies in retail were employed by large national chains. Over half of retail jobs are held by workers aged 34 or younger (Office for National Statistics, 2015). A substantial proportion will be students; nearly one quarter (877,000) of the 3.91m 16-24 year-olds working in the UK are full-time students in part-time jobs (ONS 2017).

The sensitivities of the issues addressed and fact that low-paid workers with non-standard contracts may have few organizational or institutional ties made research access challenging. Approaches through employers and trade unions assisted. A snowballing approach was used; in all cases once one worker was identified they were asked if they had a colleague who might be prepared to be interviewed. The analysis draws on interviews with managers in retail, which helped to contextualise the scheduling of work, and three interviews with trade union officers, providing a wider context on contractual status. Few workers had fixed workplaces where they felt comfortable being interviewed, so interviews were conducted in public places (e.g. for homecare workers in the cafes where they based themselves between client visits).

In retail, all but one worker in the sample was under 30. The age profile was more diverse in the other two sectors (see Table 2). Table 3 shows the sample is diverse in terms of gender and race and ethnicity, broadly reflecting the overall make-up of the sectors. The organisations

represented are small and medium-sized as well as large. Three of the 18 workers in the sample had degrees and two were full-time students. Two workers were recent migrants from Eastern Europe.

Tables 2 and 3 around here

Methodologies adhered to the Social Research Association Ethical Guidelines based on voluntary participation and informed consent. Organisations and individuals have been anonymized and participants given pseudonyms. Gift cards were offered to acknowledge the time workers gave to the research in interviews. These took place between October 2016 and July 2017, lasted an hour on average, were recorded and fully transcribed. The case studies were written up in a standardised format around key emergent themes eliciting common or contrasting experiences, perceptions and interpretations, with each located in an organizational context.

Interviews gathered work histories and allowed exploration of factors that drive 'flexible work' and extent to which these result from preference or are involuntary. Examined in the case studies are the impact of variable contractual arrangements, with work located within the wider household context, illuminating how working hours fit with caring responsibilities and the interaction with in-work benefits. An approach based upon work histories highlight contradictions and tensions between hegemonic, subordinate and counter-hegemonic discourses which, as highlighted in following sections, workers could move between in the course of an interview. Testimonies convey consent and dissent and may focus on individual choice or perceived failure rather than wider structural issues and inequalities (Ecclestone 2004). There is variation in the extent of politicised and social understandings, yet these are evident in testimonies. This narrative approach, being resource-intensive, is based on a small

number of worker participants. The intent is to encapsulate rich detail in specific contexts, rather than to generalise from individual case studies.

### **Preference, Diversity and Inclusion?**

The Taylor Review suggests that work can vary in quality according to worker motivations for seeking it, that motivations are defined by the characteristics of groups in the labour market, and that flexible working can accommodate diversity in terms of capacity and availability for work. One group with constrained availability are those in higher education. For Taylor, student motivation for working might be to earn money for ‘extras’ such as concert tickets (2017:12). This would suggest students work limited hours.

Orla was in higher education and worked 36 hours a week (four or five shifts of 7 to 9 hours) as a shift-manager in fast food retail. She appreciated the flexibility of a ZHC or, more precisely, the employer’s willingness to schedule shifts around her university attendance. She said that *‘as long as they’ve got the labour to spend on you, they’ll give you the shifts that fit your availability’* (Orla, YorksRetail2). Lisa, aged 24 and not a student, had a ZHC with the same retailer as Orla. She worked eight-hour night-shifts, five days a week. She reflected on the perceived flexibility of ZHCs for particular labour market groups:

‘ *A lot of people who work in the fast food industry are young students, migrants who, I think just see it as normal, especially young people - it’ll be one of their first jobs and in this current climate with zero hours, they’ll take it as normal and they’ll be used to it. I don’t think it’s right to say that no one likes working on a zero hours contract; I think there’s definitely, people that it works really well for, but I think those people are a minority. But I think also, a lot of people are just used to it and don’t know anything different’* (Lisa, YorksRetail1).

Case study workers in supermarkets had MHCs with core or guaranteed hours, but were expected to state their wider availability and to 'flex-up' as required. Preference could be constrained. Romesh, a full-time student employed by a national retailer, was contracted to work three night-shifts a week and regularly worked an extra two. He wanted to work fewer nights, to limit the impact on his academic work, but was reluctant to turn down shifts as he felt his job was not 'fully secure' (he had not as yet received a formal contract). Living with his mother – who had three jobs - and his two siblings, Romesh felt he had to contribute to the household income.

Work was a necessity for Romesh, chiming with wider findings on the importance of financial motivations for student labour market participation including avoiding student debt (Evans et al., 2012). Romesh's need to work placed him in a dependent relationship in which the employer benefitted from his need for flexibility. A store manager described how having staff on flexible contracts 'works well for the company'. Holiday entitlement could be based on contractual rather than actual hours. Staff hours could be 'flexed-down' to the contractual - a manipulation that could be 'frustrating' for individuals:

*'An employee could work, one week they could work 36 hours, the next week they could work 14 and then up to 21, depending on the need of the week.'*  
(Manager, London Retail).

Taylor proposes that flexible working is advantageous for older workers wishing to remain in the labour market. Three workers in the sample were over 60 and had taken their pensions. Janice worked on a self-employed basis as a 'home courier' for a multinational parcel delivery company that advertised the work as flexible with choice over the number of days worked and the timing of working hours. She had thought she would be *'very much in control of my business'*. In practice she had found *'you don't have the freedom of your day'*. She currently

worked seven days a week on two contracts. There was much preparatory work, but she was paid by actual delivery or collection (not for non-delivery). Janice felt *'like it's taken over our lives and the stress and anxiety and the fatigue that it causes is huge and I just feel that we're missing life.'* (Janice, SWLogistics1). She had wanted *'a little part-time job'* to supplement her state pension and thought she would struggle financially without it, raising issues about flexible work subsidising poor pension provision, particularly for women.

Jim, a retired police officer who had taken his pension, and Tom, one of three workers in the sample who had second jobs, worked on ZHCs for a leading European vehicle rental company delivering hire cars. They could be sent home if there were no deliveries to make. Jim was not dependent on the income: it gave him *'a bit of pocket money'*. Tom's full-time public sector job was, he described, low paid and he had young children to support. He needed additional income and worked 14 to 15 hours on car delivery although emphasised how:

*'... it's up and down all the time, it's as and when required, you can be half way through a shift and they can say we don't need you anymore, and you've no rights really ...'*  
(Tom, YorksLogistics1).

Terri worked in homecare and also cleaning. She would have preferred to work full-time in homecare but could not afford to: she earned £8 an hour compared to £10 for cleaning. She said she did not *agree with use of ZHCs*, but that *'at the moment strangely enough it suits me in that I can fit the cleaning work in'*. (Terri, YorksHomecare1)

The case studies suggest a preference for flexible work can be a matter of financial exigency. The associated low pay (generally the NMW for under 25s, at or near the NLW for those over 25) may be subsidised by other forms of income – from pensions, another job, student finance or state benefits - which in turn are not enough to live on. Workers wholly dependent on such

work for survival may feel obliged to tolerate long or unpredictable hours. Jim referred to ‘other lads’ at the car rental ‘*who are sort of full time if you like, they’re there until eight, nine o’clock at night sometimes, from half seven in the morning*’ and paid the basic minimum wage throughout. He commented that ‘*they are sort of, not held to ransom, but they feel that if they don’t put the hours in they won’t get the money that they want*’. (Jim, YorksSecurity2).

Characterisation of flexible work as reflecting the preference of certain groups in the labour market stigmatises these groups, and in the literature has cast them as labour market ‘outsiders’ (Rubery et al. 2016). While such jobs may be seen to accommodate availability or capacity at certain points in the life cycle, the case studies suggest that they offer few routes to insider status. Episodic working time is not conducive to training or workplace learning. Roshane, working for a national supermarket, said ‘*I didn’t know much and I couldn’t learn, I couldn’t train when you are doing five hours a week*’ (LondonRetail2). The research found evidence of the compression of grading and differentials and of workers having little incentive to take on supervisory or managerial positions. The delayering of supervisory and managerial grades increased the work of all staff. Romesh’s experience in retail had not encouraged him to pursue promotion:

*‘I’ve got people in my retail saying become a manager. But I’ve seen them, how it was and they’re stressed as well. By observing them, I can see how hard the job is. They don’t have time for family or anything’.* (Romesh, LondonRetail1)

The suggestion that the demographics of the labour market define choice and job characteristics reinforces divisions of labour and insider/outside status and degrades the flexible jobs that these groups and others depend upon. Particular groups of workers are required to adjust to jobs, rather than organisations adjusting jobs to the reality of worker lives (Rubery et al. 2016). This reflects Fleetwood’s (2007) arguments on the narrative of WLB.

### **Work-Life Balance – whose flexibility?**

Taylor argues that flexible working patterns enable workers ‘to balance other commitments in their life, such as around family or other caring responsibilities’. He proposes that ‘In conjunction with active labour market policies around welfare to work, this has led to very positive increases in employment for groups such as lone parents’ (2017:93). Alexis, a lone parent working for a national retailer, coordinated her shifts with her mother’s, so that they could share care for her two-year old daughter. Alexis wanted to work additional hours for financial reasons, but been told the store did not have the funding. She struggled on her income and also worried that there were limits to what she could earn without putting her benefits at risk.

*‘I’ve been told I can’t do more than 16 hours, not if I want to keep my benefits rolling with my house which I need to because it’s a private property. I can’t afford to mess it up, I really can’t afford to.’ (Alexis, SWRetail2)*

Homecare worker Terri’s partner was on disability living allowance and she had to be mindful of her working hours and the issues raised when these fluctuated:

*‘I’m only supposed to work 16 hours otherwise his benefits are affected, so that’s like 64 hours a month, but this month I’ve done 80 hours because they’re short staffed and he’s done his nut.’ (Terri, YorksHomecare1)*

They relied on his benefits for ‘a little bit of help’ with rent and council tax.

For Taylor flexibility underpins WLB and there may be a trade-off between aspects of quality work like pay and the need to balance work around other priorities. Workers in this study, however, emphasised that unpredictability of work schedules precludes such balance. In homecare, ZHCs accommodate fluctuations in the care commissioned by local authorities

within constrained budgets. Homecare workers were paid for time in clients' houses: when clients were hospitalised, or died, or did not want to receive a visit, workers lost hours and pay. Despite this, in the South West, Mary and Linda reported they were required to demonstrate unlimited availability:

*'We're actually being told now that this is a job that's 24/7. If you don't particularly want to do those hours you shouldn't have come to the company'.*

Being available does not guarantee hours, but can be experienced as being 'on call'. Mary explained that insecurity in respect to hours and pay was a function of the work:

*'It goes through fits and fancies. You could be doing 15 or 30 hours for quite a while and then suddenly, obviously in this job people go into respite, people pass away so you can lose hours quite quickly. And then it could take quite a long time to build those hours back up or it could happen very quickly again, it just depends. There's never a structure, there's no rhyme or reason. They can take people away from us at any time because they are not our permanent jobs - we are told "no job is your own"'. [Mary, SWHomecare1]*

Mary's weekly hours and hence pay had fallen over the previous year, as client numbers had contracted. She had been obliged to work a weekly 'waking sleep-in' (9 hours) in order to make up earnings. In homecare in Yorkshire, Bob's schedules were sent to his mobile at three days' notice, so *'you can't plan a life at all'*. In London Margaret recalled a period in the previous year where three clients were in hospital and she lost nearly four hours pay per day.

MHCs imply more formalised availability to the employer than ZHCs. In retail contractual hours were low and some respondents wanted more, yet were obliged to take on extra hours at short notice. Lisa in the fast food sector referred to the 'instability' of shifts, which could be

scheduled three days in advance. Kevin worked in security, but also for a national homeware chain<sup>1</sup>. Rotas were fixed a week in advance but shift patterns could be chaotic, so that work made incursions into social life. Kevin recounted being ‘phoned on his mobile on his day off when he was in a pub about to enjoy a night out and asked why he was not at work:

*‘I’m just like “no it says on my rota it’s my day off because I’ve not been given a new rota”... In the end, I had the right to say no, but I still went in to work anyway - it’s still money at the end of the day’. (Kevin, YorksRetail/Security2)*

Kevin’s decision may suggest Fleetwood’s (2007) ‘moral obligation’ as well as financial motivation.

So-called ‘self-employment’ did not necessarily give workers control over their work. The company’s surveillance of delivery work (tasks and their completion) meant for Janice *‘I don’t feel like I’m self-employed’*. John, a ‘home courier’ with the same company, explained his six-day week was not his choice but rather *‘it’s the contract.’* Bicycle couriers discussed the intensity of work promoted by payment by results or piece work. Olsi cycled 45 hours a week, 80 miles per day and, paid per delivery, took few breaks.

*‘...it’s mostly like cycling, eating and sleeping and cycling, eating, sleeping’*  
*(Olsi, LondonLogistics1).*

He would like to have worked less, but needed to put in those hours of cycling to make ends meet.

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<sup>1</sup> Kevin was included in the wider LPC sample because he worked in security, but his second job in retail meant he straddled our categories.

The concept of WLB implies a recognition of unsocial hours and excessive overtime and that both should attract compensation. However, the research suggested that some employers had moved to reduce or remove unsocial hours' premia, possibly in response to the introduction of the NLW. For Roshane in retail, the night shift allowance had been halved to £1 per hour. A manager in another of the company's stores confirmed that premia for evening work had been removed in November 2016 and now applied only from midnight to 6.00 a.m. In fact, the night team had been disbanded and long-service workers who could not get full-time day shifts to replace their hours and pay had left. The manager reported that full-time standard contracts were being displaced by flexi-hours. In homecare in the South West, Mary described how the organisation's proposal at the end of 2015 to eliminate the weekend premium rate had met with opposition: *'the girls refused to work'*. The employer's subsequent offer of £10 an hour was accepted, despite the worker's appeal *'against all these cuts'*.

Related to WLB are the issues of holiday and sick pay. Workers on ZHCs and MHCs have rights to paid holidays, but some in the sample had been told the hourly rate already contained an element of 'holiday' pay. While there are rights to Statutory Sick Pay (SSP) after four continuous days of sickness, this may not reflect working patterns. ZHC workers have no right to occupational sick pay because there is no obligation to work and therefore can be no absence from work on account of sickness. A number of workers were unclear about holiday and sickness entitlement and there was some reluctance to go sick, because of the loss of pay, but also employer responses, which might affect the future allocation of hours. In homecare workers were aware of the implications for the quality of care of going into vulnerable people's homes when sick themselves, but countervailing pressures – both financial and their commitment to clients - often prevailed.

Dependent self-employed workers have no entitlement to sick or holiday pay and are often required to find substitutes if they take holiday or sick days. Janice (*SouthWest, Logistics1*) had not had a holiday in the time she had been in courier work; she would lose income and confront the difficulty of recruiting someone sufficiently familiar with the work and the round to cover in her absence (the company was exploring the option of allocating a substitute for every round).

The Taylor Review concedes that a culture of unpaid overtime has developed. Yet this is a function of ZHCs and ‘self-employment’ where there are no set hours on which overtime can be based or calculated. Lisa referred to ‘forced overtime’ in fast-food retail; people were asked to stay on after their shift, which could be in breach of working time rest-period regulations.

*‘...if they ask us to stay on or say we can’t leave, obviously they can’t legally, but then we all know that we could just get our shifts taken off us’.* (Lisa, *YorksRetail1*)

### **Employer-orientated flexibility, workers’ additional and unpaid labour**

Flexible contractual arrangements facilitate unpaid labour. In homecare pay can be on the basis of client contact time alone, with travel time between clients, supervision, training and staff meetings unpaid (Hayes & Moore 2016). Care workers may dip below the NLW when time and pay are averaged out. In London Carol was not paid for travel time between visits; *‘I know it’s not good, but what can you do?’* In Yorkshire, Bob’s organisation added a sum of money for travel, but this did not reflect his actual travel time, which could be 10 hours per week. In the South West, Mary was paid for travel time, but at £6.70 an hour - lower than the NLW. A lack of transparency had been raised by her trade union on the basis that a new electronic ‘web roster’ system had been introduced with no itemisation of paid time on the pay slip.

Another aspect of homecare can be the episodic nature of work; so-called ‘down-time’ or ‘waiting time’ during the day where workers may not be able to go home and are effectively available to the employer. Mary reported that care workers used to be paid to go back home and come out again if there was a ‘break’ between clients above an hour, but with the change in company ownership the ‘rules’ were unclear. Linda recalled that on the most recent Sunday worked she had visited seven clients, the first at 8.00 hours and the last between 20.50 and 21.20. Her client contact time over the day was 4.5 hours. There was ‘a gap’ from 12.30 to 1600 hours which Linda liked – whilst recognising some colleagues preferred to work the day without a break. Yet she qualified that:

*‘I can’t go home and relax because I’ve got my working head on so I’m ready to go back out. I’ll go home and cook the meal but I don’t change out of my uniform’.*  
(Linda, SWHomecare2)

Workers described a variety of ways whereby elements of unpaid labour were introduced into their work and ZHCs, in inducing availability and episodic work, facilitate this. Self-employment where pay is based on output (for example *actual* parcel delivery) necessarily means that workers’ ‘non-productive’ time is unpaid.

Availability to the organisation on an unpaid or paid basis reflects the predominance of employer-orientated flexibility over worker-orientated flexibility and the asymmetry of power between employers and workers that Taylor’s notion of preference downplays. The perception of availability to employers could be experienced as subtle expectation for reciprocity. Roshane described how expectations of availability are transmitted apparently informally by line managers:

*'You know when someone tries to ask you something and keeps on asking and asking and asking? It's almost like they want you to do it, so they force you to do it'.*

*(Roshane, LondonRetail2)*

Other workers had a clearer critique of the way non-standard contracts shape the employment relationship. For Bob, who worked for a homecare provider on a ZHC, 12 days on with two days off, the issue was less about hours than the imbalance in the employment relationship and resulting insecurity:

*'Zero hours gives them more power, that's what he [the employer] thinks anyway, because it's like hire and fire and he can just give me zero hours one week and he can just change things very quickly using those contracts'*

Bob understood the business case for ZHCs and critiqued the short-term horizons. Should the employer have ambition *'to build a longer-term business and better quality staff, more committed staff, he should have proper contracts'* (Bob, YorksHomecare2). Alan, a self-employed courier, belonged to a trade union that had been negotiating around employment status and stated: *'The argument is that self-employment isn't without employment rights - it's not mutually exclusive'*. What he decried was treatment of the self-employed as *'second-class citizens'*. Instead of thanks for the work contributed over the year *'you don't even get invited to any sort of Christmas parties'*. *You are 'not part of the company until it suits them'*. (Alan, LondonLogistics1)

## **CONCLUSIONS**

The workers' testimonies expose Taylor's rhetoric that non-standard contracts assist reconciliation of paid work with other commitments and desires. WLB is employer-orientated temporal and financial flexibility that, through unpredictable scheduling and demands for

availability to the employer, generates conflict between work and other priorities. Workers highlight the capacity of ZHCs and MHCs to induce their availability to employers and to facilitate episodic working sometimes linked by periods of unpaid labour. Historically, standard contracts have offered protection from employer abuse of the employment relationship (Fudge 2017). Many workers in the sample understood their contractual situation increased their dependence upon employers and managers. Whatever choice over work they might have in theory, the balance of power in the workplace was not in their favour. Their dependence upon employers to allocate hours made them vulnerable and diminished their control over working lives with concrete implications for WLB.

Evidence of beneficial flexibility is limited. Even where workers conceded that contracts fitted around study, retirement or caring responsibilities, in only three cases did hours provide the regularity and predictability that workers desired. Overall ZHCs and MHCs meant uncertainty and insecurity, particularly for those wholly dependent upon them. The worker case studies confirm Taylor's 'culture of unpaid overtime' and retreat from acknowledgement of unsocial hours through premia. Generally these contracts were not progressive for work-life balance and if there was a 'trade-off', it provided little reward. Preferences were constrained by the welfare system, caring commitments, inadequacy of pensions and pay in primary jobs and the cost of full-time higher education. All placed limitations or pressures on working hours. Many workers in the sample could not live independently of families or other adults (in multi-unit households) or realistically aspire to home ownership.

Depictions of job quality as individual taste are not borne out. Structural constraints on preference persist and are not independent of institutions and markets or socialisation (Gash 2008). They underpin and reproduce labour market segregation based upon gender, race and

ethnicity, age and disability. This is not to say that agency is unimportant; the testimonies articulate preferences and in some cases satisfaction. Some simultaneously convey consent and dissent and others are apparently contradictory in wanting both flexibility and full employment rights within their current contractual relationship. There are traces of Fleetwood's quasi-moral, obligation' to provide what is seen as reciprocal flexibility, and such reciprocity is embedded in the reality of ZHCs and to a lesser extent MHCs. Younger workers in particular suggested these contracts had been normalised; as Roshane put it, *'It shouldn't be normal, but it is normal'*.

A significant finding was the reluctance of workers to progress their careers, perceiving that reward for supervisory or managerial responsibilities was not worthwhile financially nor in terms of WLB. The limitations on training and learning that appear to be inherent in low-paid non-standard work have wider implications for labour market inclusion and workforce skills. The depressing implication of Taylor's statement cited at the beginning of this paper is his suggestion that the demographics of the labour market define choice and job characteristics and that this relationship is fixed. In contradiction, non-standard contracts entrench divisions of labour on the basis of gender, ethnicity, age and disability and encourage stigma in the labour market. They signify a retreat from organisational responsibility to provide jobs that facilitate WLB or reasonable adjustment, as well as any 'business case for diversity'. Those with responsibilities generated by extant relations of social reproduction will face constraints in labour market participation in the absence of national policies or employer practices that support parental employment or provide workplace adjustments.

Table 1: The Sample of Workers

Sector	Age						Total
	Under 25	25 -29	30 - 39	40 - 49	50 - 59	60 plus	Total
Retail	2	3	1				6
Social Care				2	3	1	6
Logistics			1	1	2	2	6
<b>Total Worker Case Studies</b>	<b>2 (11%)</b>	<b>3 (17%)</b>	<b>2 (11%)</b>	<b>3 (17%)</b>	<b>5 (28%)</b>	<b>3 (17%)</b>	<b>18</b>

**Table 2: The Sample of Workers by Sector and Age**

Sector	Gender		Race and Ethnicity				Total
	Male	Female	Black British	Black other	White British	White European	
Retail	2	4	2		3	1	6
Social Care	1	5		1	5		6
Logistics	5	1			5	1	6
<b>Total Worker Case Studies</b>	<b>8 (44%)</b>	<b>10 (56%)</b>	<b>2 (11%)</b>	<b>1 (6%)</b>	<b>13 (72%)</b>	<b>2 (11%)</b>	<b>18</b>

**Table 3: The Sample of Workers by Gender and Ethnicity**



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