



DIRECT EMPLOYMENT A STUDY OF ECONOMIC, BUSINESS, AND SOCIAL OUTCOMES

BASED ON THE ELECTRICAL CONTRACTING SECTOR

Report to the Joint Industry Board for the
Electrical Contracting Industry

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The Electrotechnical JIB
Setting employment standards





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FOREWORD

This authoritative and compelling report holds up a mirror, not just to the electrical contracting industry, but also to UK construction as a whole and indeed to wider areas of British industry. Commissioned by the JIB, the report outlines how, over the past two generations, the UK has seen levels of direct employment decline steeply – far more so than in any other comparable economy.

In assessing this trend, Professor Gospel argues convincingly that the UK's retreat from direct employment cannot be explained away as some sort of 'natural' phenomenon or the 'inevitable' consequence of increased market competition. Rather, he concludes, it is the result of specific actions and decisions taken over many years by industry clients, contractors, and successive Governments – not least in the key policy areas of procurement, tax, social security, and employment law.

A shift in employment practice on this scale is bound to be of interest to social scientists, employment relations practitioners, and trade unionists – but should the rest of us be concerned? Professor Gospel's clear conclusion is that yes, we should.

Drawing on extensive interviews, peer-reviewed research, and his own insights as one of the UK's most distinguished labour market academics, Professor Gospel constructs a powerful case for the benefits of direct employment – not just for workers, but also for employers, clients, Government, and the wider economy and society.

The report acknowledges that subcontracting and self-employment remain essential features of electrical contracting and other parts of construction. Over recent decades, however, the balance has been allowed to tip too far away from direct employment. If the industry's and the Government's priorities for this and future decades are to be achieved – for example, in safety, quality, skills, efficiency, and innovation – then a healthier, more sustainable balance now needs to be restored.

So, what must be done? Some of Professor Gospel's recommendations are targeted specifically at the electrical contracting industry, the JIB and the two parties to the JIB Agreement: ECA and Unite the Union. We commend these to the industry and the parties and wish you well in your endeavours.

Other recommendations are broader in scope, and focus attention on the role to be played by other industry bodies and stakeholders, including clients, main contractors, and Government.

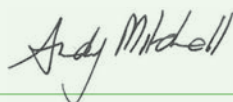
The trade union movement has long called for higher levels of construction direct employment. In the past 18 months, the Construction Leadership Council has added its voice to this call – explicitly acknowledging direct employment not just as a good thing on its own, but as an essential 'enabler' of other goods, including 'apprenticeships, digital upskilling, and competence'.

This report is therefore a very timely one, and we are grateful for its publication and to ensure we seize on the opportunity to move towards an environment that will help to deliver society's future construction and infrastructure requirements. The opportunity, for all, is to make sure that this report doesn't sit on a virtual shelf but becomes a catalyst to action in the work we are all embarked upon to create a more innovative, productive, sustainable, and attractive industry.



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EXECUTIVE SUMMARY

Over the last 30 years, there has been a steady growth in non-direct, off-payroll working in the electrical contracting industry in particular and in the construction industry more generally. This takes various forms – real self-employment, false self-employment, and what this report refers to as false employment through intermediaries of various kinds. This results in a highly complex system of employment and working.



These changes reflect some broader trends in industry more generally, but they have been taken further in electrical contracting and construction than in other parts of the economy. In recent years, such forms of non-direct working have caused concerns, in the industry and also in public policy debates.

Commercial and labour-only subcontracting are a long-term feature of construction and electrical contracting, signifying that an element of such working is a fact of life in this sector. However, this report concludes that the balance has shifted too far away from direct employment, with negative consequences. This has been particularly marked in certain parts of the country and down the subcontracting chain from large firms on large sites.

This growth has been driven by various factors – increased competition, the search for more flexibility, and the UK employment and tax law system which permits and incentivises such forms of labour engagement. However, these developments are not predetermined. There are choices which are made, as is shown by differences between parts of the UK, between firms within the same area, and, within large multinational contractors, differences in their operations across countries. There are also differences between the UK and other advanced economies, with the UK having a higher level of such forms of non-direct working.

This report argues that, in industries like electrical contracting and construction, some degree of non-direct working is necessary to meet peaks and troughs and to finish jobs on time. Also, some individuals may prefer this way of working. However, in many instances, the mix between direct and non-direct has become unbalanced and detrimental to the industry and its future. The report estimates that around 50 percent of workers in the electrical contracting industry, as covered in this report and for England and Wales, are genuinely directly employed.

The report uses extensive interview evidence, industry materials, authoritative government

reports, and peer-reviewed research. It puts together the most comprehensive study to-date of these developments.

The system of non-direct working is such that, for employers who utilise these arrangements, there are short-term cost advantages, in terms of flexibility to take-on and lay-off labour. There are also advantages in terms of providing fewer benefits in terms of paid holidays, sick pay, and pensions. Above all, for employers, there are tax advantages especially in terms of NI contributions. There may also be advantages for individuals of such forms of working in terms of higher net pay for some, but without the aforementioned benefits and without the security of income.

In the case of individuals, their decisions as to employment status should result from informed choice and not be constrained by employers and intermediaries and incentivised by the tax system.

On balance, the negative effects of non-direct working predominate. Though non-direct working can increase numerical flexibility for employers, it has a long-term negative effect on productivity and resilience. Though take-home pay may be higher for some individuals, this is not always the case and is not the case over a working year or over a working life.

Negative effects also predominate in terms of skill formation and, in particular, threaten apprentice training and thereby the collective future of the industry. The research evidence also suggests that non-direct working has a negative effect on health and safety and individual well-being. Furthermore, it undermines the ability of firms to develop integrated human resource strategies. It also undermines the regulation of the industry and the positive effects such regulation has had in terms of setting a floor of standards. From a societal point of view, non-direct working has a negative effect on tax receipts which fund public services and on investment in people and good jobs in our society.

› [Table 2 of the report provides a summary of outcomes. See page 47.](#)



COVID-19 has highlighted some of these negative effects. It has exposed the precariousness of the falsely employed and self-employed. Moreover, there is a danger that the recovery from the virus will lead to more non-direct working, as employers seek to deal with uncertainty and if they deviate from national agreements. But, with COVID-19, there are also opportunities to consider and develop different future trajectories.

There are measures which the parties in the industry can take to mitigate these negative effects. The Joint Industry Board (JIB), the employers and their stakeholders, the Electrical Contractors Association (ECA), and Unite the Union all have major roles to play. These include augmenting skills training routes, updating working rules, and modernising aspects of the national agreements. There may also be a role for the very successful Electrotechnical Certification Scheme (ECS) card in recording non-direct working.

Very important is the role of large firms in setting standards and implementing them down through their supply chain. Also important is the role of clients and here there are various models and initiatives when it comes to procurement. However, in the case of both large firms and large clients, espousal of direct working must be 'real' – transparent and enforced. This should also be in conjunction with leadership in the wider construction industry.

Last, but certainly not least, especially in the context of the virus, there is the prospect of greater government intervention in terms of the regulation of intermediaries and possible changes in employment law. Reforms of tax law might have the biggest effect, and some changes are already underway in this respect. The industry should consider and plan for these changes.

› Figures 3a and 3b of the report provide a summary of recommendations. See page 45.

“This report concludes that the balance has shifted too far away from direct employment with negative consequences.”





1

SCOPE OF THE STUDY





The terms of reference of the study state:

‘The purpose of the proposed research is to survey the existing literature on direct employment, including the apparent benefits of direct employment and/or disbenefits of non-direct employment, and ending with key conclusions and recommendations to assist the JIB in promoting increased take-up of direct employment in the future’.

Two additions were later made: a series of interviews; a consideration of wider corporate and social implications of non-direct working¹.

I make several initial points.

- I am a Public Interest member of the JIB. However, I have written this report independently, as someone with a long interest in the industry, but who has no particular axe to grind.
- The report has used various sources: documents, both public and private; government reports; interviews with individuals; the independent peer-reviewed research literature.
- Those who were interviewed were suggested by the JIB, the ECA, and Unite the Union. Further names were added. Both JIB and non-JIB companies were interviewed. I would like to thank all those who gave of their time. See **Appendix 1** for a list of names.
- Everyone spoke in confidence. However, anonymised quotes are included to elucidate a point and to give industry perspective. It also allows me to say things I myself do not have the knowledge to say. Overall, I try to present a composite picture of the views of those interviewed.
- The report is set in a broader context of national trends, of British industry and the construction sector in general and of electrical contracting in particular. There are some references to other countries, notably the US, Canada, Australia, and EU countries.
- A gap in the study has been the fact that few employees were interviewed, all members of the Unite Combine Committee. Only one client was interviewed.
- Throughout I use ‘he’ and ‘him’, for convenience, but also reflecting the gender of most working in the industry.
- In suggesting ways forward and alternative models, I have come to my conclusions independently. Any mistakes are entirely my own.



2

DIRECT EMPLOYMENT V. NON-DIRECT WORKING





The terms of reference suggested a broad definition.

- Direct employment is an employment status for tax and employment law purposes. It contrasts with self-employment, agency worker status, etc.
- More widely direct employment is to be seen as part of a broader strategy of retaining a greater proportion of work activity – and hence employment – in-house, in contrast to commercial outsourcing / subcontracting.

From a legal perspective, the law is relatively clear on the definition of direct employment. Both employment law and tax law are less clear on other forms of non-direct working.

In employment law there is a distinction between an employee and a self-employed independent contractor. There is also an intermediate category of ‘worker’ who may be seen as a dependent contractor. In tax law, there is only a distinction between an employee and a self-employed independent contractor² – however in practice there is considerable contention over this and over whether an individual is indeed genuinely self-employed or in fact dependent on an employer³.

Non-direct engagement via self-employment may be ‘real’ i.e. the individual is truly an independent contractor or sole trader who works for multiple companies / clients. On the other hand, the individual may work predominantly or wholly for one company and this may be a way of avoiding or evading taxes. In this report, this is referred to as ‘false’ self-employment.

Direct employment may also be ‘real’, i.e. with a contract of employment, PAYE, NIC, employment rights, individual and collective. On the other hand, it may be a way of employing someone on a contingent, on-call basis, where the individual only receives pay when ‘on assignment’ to a particular job, with no guaranteed hours, viz a zero hours contract. In effect, this is a way of avoiding or evading taxes by both the individual and the contractor. In this report, this is referred to as ‘false’ employment.

Below I simplify the various arrangements.

- On medium and small jobs an electrical contractor will often be the only firm doing electrical work on a site. On bigger jobs, a Tier 1 construction company subcontracts work to a Tier 2 company which will in turn subcontract to a Tier 3, 4, 5 etc. If all these directly employ labour, this is direct employment. But, it is more complex, especially as one goes down the subcontracting chain.
- Subcontractors will mainly be businesses which provide various building, electrical, and mechanical services or they may be labour-only subcontractors.
- A subcontractor may employ all or some or none of its operatives directly. A subcontractor who employs all or most of its operatives may also occasionally use non-direct labour to ‘top up’ or ‘get a job over the line’.
- There are various intermediaries in the sector which often overlap.
- There are two types of recruitment companies.
- (i) Employment agencies find individuals permanent work and are essentially people-job matching organisations.

“In tax law there is only a distinction between an employee and a self-employed independent contractor – however in practice there is considerable contention over this.”



- (ii) Employment businesses (sometimes known as temping agencies) supply labour to a client, usually on a temporary basis.
 - The term 'agency' is often used to refer to both, though the JIB uses the term 'employment businesses' to refer to (ii).
 - Some employment businesses may employ construction personnel themselves. However, this is on long-term projects, while the project lasts, and is a minority practice.
 - Some electricians may therefore for a time be directly employed by an employment business. More may be employed by a so-called 'umbrella' company which organises payments from the construction company and deals with tax, insurance, and other matters. Under an umbrella company, individuals are employees paid by the umbrella, but they will work for a number of different construction companies on assignments and are only paid when on assignment. These individuals nominally have certain legal employment rights, but these have little effect because of their zero hours contracts. Discipline, grievance, and redundancy rights are rarely implemented, as, in such circumstances, the flow of work is likely to cease.
 - Some self-employed administer their own affairs and may do their own taxes. Some hand this over to tax accountants or so-called 'payroll companies'. Many of these operate through the HMRC Construction Industry Scheme (CIS) which is an industry-specific scheme intended to facilitate payment of taxes in a fast-changing, project-based industry.
 - Some self-employed individuals constitute themselves as limited liability companies (sometimes also called 'personal service companies') and pay themselves a wage and a dividend. These individuals normally pay tax at the end of the year. They have no statutory employment rights against those who engage them.
 - Payroll companies handle tax, though this can also be done by employment businesses and by umbrella companies. According to one interviewee: 'they do the clever stuff' with tax, expenses, and allowances.
 - All these intermediaries in various ways retain a margin or take fees, from construction companies, from other companies in the chain, and from individuals.
 - Some of these intermediaries are closely linked via ownership or trading arrangements with one another and recommend one another. Employees say contractors will often only work through certain intermediaries and job applicants are directed to these.
- This is therefore a complex story. As one employer *interviewee* said: 'It's all rather murky, many people in the industry even don't understand it.' Another stated: 'There's a lot of skulduggery ... some very questionable practices, especially as you move down the supply chain'. Another said: 'brown envelope stuff – some verging on illegality'. One intermediary *interviewee* even said, 'there are some very dodgy set-ups in this industry'
- › Figure 1 provides a simple representation of the above, see page 43.





3

TRENDS AND DRIVERS





For the next sections, I use the following.

(1) *Interviewee evidence*. This is used to provide facts, insights, and critical comments.

(2) *Non-interview evidence*. This uses peer-reviewed and non-peer reviewed studies and also cites authoritative government and other sources, prioritising quantitative evidence wherever possible. It takes evidence from electrical contracting, wherever possible, and then construction, but also uses studies from other industries.

› See Table 1 for an outline of evidence sources. See page 46.

3.1. Historical Origins and Recent Trends

Forms of commercial and labour subcontracting have a very long history in the construction industry⁴. For these reasons, some interviewees suggested an ‘inevitability’ of such arrangements in an industry characterised by projects, of varying stages and lengths and involving multiple sub-trades.

The balance of direct and non-direct has shifted over time and differs between types of work and parts of the country.

- Over the last 40 years, there has been an increase in non-direct labour engagement in the construction industry and in electrical contracting. *Interviewees* generally suggested that this began in the early 1980s and has doubled since then. Though there might be cyclical elements (non-direct rises in recessions), there is a long-term upward trend.
- It is hard to identify good official figures for electrical contracting which are relevant to this report. ONS figures cover different types of electricians and include different classes of labour, including off-site personnel. Official figures do not distinguish employed and self-employed and certainly not the categories of false self-employed and false employed. Having received estimates from employers interviewed and from non-employer interviewees and having looked at all the other evidence, I would estimate that around 50 percent of workers in the electrical contracting industry, as covered in this report and for England and Wales, are genuinely directly employed⁵.

- The proportions differ across the country – there is more non-direct labour in London and the South East and in other bigger cities. There is less in Scotland – where it was pointed out that firms and projects are smaller. But parts of South Wales were said to have high levels of non-direct working. Interviewees stated that in London a majority are non-direct and this rises as high as 90 per cent on some sites. However, usage of non-direct labour is to be found in all parts of the country.
- From the interviews, use of non-direct is to be found more among larger contractors and on larger sites. However, as required by some major clients, some large sites have been predominantly direct e.g. from Heathrow T5 onwards through the Olympic Park to Crossrail – though the latter was said to have some parts where non-direct has also been used.
- It is important to note that in some instances firms of very similar size, doing similar work, and in the same part of the country, make different choices as to the balance of direct and non-direct.
- Some interviewees said that family firms or firms with a continuing family ethos were more likely to employ direct. It was also suggested that larger companies, themselves or their parents quoted on the stock market, are less likely to be direct employers⁶. However, I found instances to the contrary of these observations.

“Over the last 40 years, there has been an increase in non-direct labour engagement in the construction industry and in electrical contracting.”

I have not been able to obtain numbers for these various arrangements.

› However, Figure 1 provides a rough representation of present stocks and trends. See page 43.

Two further points are added.

- Similar trends are observable in other countries, in industry in general and in construction in particular. However, most of the evidence suggests that the UK has more non-direct working⁷. In addition, several *interviewees* who have worked in other European countries or who are part of companies with continental operations confirmed this.;
- In recent years, contingent / on-demand forms of employment have increased in other sectors of the economy, leading to a growth in the number of ‘freelancers’ or ‘gig’ workers. Some of this is skilled such as freelancers in IT; some of it is less skilled such as workers in retail and hospitality; some is also to be found in sectors such as education, health, and social care⁸. There is a big literature in this area, to which some reference will be made.

3.2. Drivers of trends

The following factors have encouraged the use of non-direct engagement.

● Employers

On the part of employers, in an increasingly competitive environment and growing competitive tendering, there has been a search for greater flexibility. This is of two kinds: (1) external – numerical flexibility in terms of varying the numbers employed; (2) internal – functional / efficiency flexibility in terms of how work is carried out within the firm. These have pushed some employers, not least site managers and supervisors, towards greater use of non-direct working as an option.

Interviewees observed the following. There is more commercial subcontracting than in the past and a greater desire to pass on risks to others. The use of non-direct labour obviates legal issues and perceived constraints in terms of law and contracts. As one employer said: ‘If they’re not yours, they’re not your problem’.

Employers referred to the higher on-cost of direct labour, especially with NIC, paid holidays, pension contributions etc. All employers stressed the challenges of meeting ‘peaks and troughs’ in the industry. Another said, ‘we’ve just become habituated to this’.

Research evidence based on construction and electrical contracting is limited. More general research suggests that increased competition has a major effect driving employment and working arrangements⁹. Specifically in construction, in the case of Tier 1 contractors, research shows how big firms have become hollowed out and do not employ directly¹⁰. It might also be added that these are also companies most susceptible to financial market pressures¹¹. At the level of site managers and supervisors, it is easier to outsource people management matters to intermediaries. Over time, internal management capabilities are lost and the use of the ‘easier’ option of outsourcing employment matters is cumulative¹².

● Employees and workers

On the part of employees and workers, the point was put to me that there has been an increased demand by some for both higher take-home pay and more flexible forms of engagement different from direct employment.

Employer interviewees made the following points. More and more personnel, especially younger men, want higher net wages. They also want greater flexibility in where and when they work – ‘They want to be their own boss’. Another said, ‘it’s a lifestyle choice – they want to do the jobs they want to do, where and when they want to do them’. As a result, companies can often not get workers to ‘come on the books’. ‘We’ve offered it, but they refuse’.

Union *interviewees* conceded there might be some truth in this, but said that increasingly there was little choice: job applicants come through agencies and were ‘invited’ or ‘directed’ towards self-employment or false employment; they then become ‘habituated’.

There is some *research evidence* on this. For electrical contracting, a survey of agency workers showed they preferred to work for a direct employer, citing steady work, holiday and other benefits, and employment protection rights as reasons¹³. Broader research evidence on worker preferences for the UK and other countries suggests the following. Those who go into self-employment in early working life might see it as an ‘opportunity’ to maximise take-home pay; those who go into self-employment in middle and later life see it as a ‘necessity’ or ‘last resort’¹⁴. Recent UK research suggests that most individuals prefer more traditional employer-employee relationships viz. permanent contracts, more security, more non-wage benefits, more voice than alternative forms, even if paid less. Declaring taxes as a self-employed person is seen as risky¹⁵.



US and Australian evidence supports this and shows that individuals who experience more unemployment spells are more likely to opt for alternative work arrangements and again workers prefer to trade freedom and favourable tax treatment for more security¹⁶.

The preferences of individuals may be one, but not a major, driver of the trend towards non-direct working¹⁷.

● Intermediaries

On the supply side, in recent years, the growth of various intermediaries (agencies, employment businesses, and umbrella and payroll companies) has facilitated non-direct working.

There is little *research* evidence on this. What there is suggests that various forms of intermediary have increased over the years and there is more competition between them, which may result in lower prices for users¹⁸. In recent years, technology and the development of internet platforms has also facilitated these arrangements.

● Industry institutions

Over the last decades, the institutions in the industry have been less able to regulate the industry and enforce direct employment.

Interviewees made the following points. Unite the Union has low levels of membership and organisation, except on large sites, and less discipline over members. Equally, the JIB has seen membership fall and the coverage and tightness of the collective agreement has shrunk. As one employer said, 'if the JIB tries to enforce impossible rules, members will just leave'. As will be suggested below, the ECA has been less affected by falling membership and weakening organisation. The ECS card has developed in numbers and capability, but is not used to regulate employment status.

Research evidence corroborates these trends. Union membership in the UK private sector has fallen since the early 1980s, especially in construction. Employer organisation membership has also declined. As a result of these changes, collective bargaining has weakened, throughout the UK private sector, with a greater decline in construction. The rise of subcontracting, self-employment, and false employment have been factors behind these trends in UK construction, especially in the context of government policies which have been less supportive of collective regulation than in some other European countries¹⁹.

● Government

Last, but certainly not least, government action and inaction has encouraged the greater use of non-direct labour.

Interviewees referred to the advent of compulsory competitive tendering and outsourcing in the public sector from the 1980s onwards. Conversely, a number also pointed out that large government contracts, such as with the NHS or MoD, are major supporters of direct employment.

Above all both employer and union *interviewees* stressed how changes in tax law, from the 1970s onwards, have been a key driver of trends. This starts with the CIS system. However, interviewees stressed the mis-categorisation of employment status for tax purposes by both employers and individuals: the former do not pay PAYE or NIC if using non-direct labour; the latter hope to pay less tax via devices such as limited liability and the use of umbrella and payroll companies.

A number of employer *interviewees* claimed there was no alternative and that clients and higher tier contractors just turn a 'blind eye' to such activities. One tax expert interviewed said 'the tax system twists the whole employment system'.

A number of interviewees added that employment law has also played a role. Several employers said that employment rights, e.g. consultation and redundancy pay, discourage direct employment. On the other hand, several referred to the 'vagueness' of the laws on employment status, one saying 'it gives us a get-out-of-jail card to operate in this way'.

Corroborating empirical evidence is of a broad nature, but does give significant role to government actions and inactions.²⁰ For example, in many European countries agency workers are deemed to be employees of the agency. Some researchers have also presented evidence that fiscal regimes have encouraged the switch to self-employment²¹.

Finally, I emphasise the point made above about choice. In some instances, firms of very similar size, doing similar work, and in the same part of the UK make different choices as to the balance of direct and non-direct. Some said this reflected family traditions, company ethos, top managers coming from an apprentice and directly-employed background. Others suggested it was an informed choice based on costs and benefits.



4

OUTCOMES: BENEFITS AND DISBENEFITS





This section proceeds as follows.

I consider outcomes for various parties: employers, employees / workers, clients, and others. As above, I briefly present the views of *interviewees*. I then outline the best *non-interview evidence*. Where available, this focuses on independent and peer reviewed studies. It uses evidence from construction and electrical contracting where possible, though this is limited.

4.1. Wages and Employment Costs

In terms of gross money wages, *interviewees* suggested non-direct labour is paid more. However, direct employees have a steadier income over the year, so their annual gross wages may be higher.

In terms of net wages, almost all *interviewees* suggested that, since non-direct staff are likely to pay less in tax, their net take-home money pay is higher. However, two of the employment businesses suggested that overall non-direct pay the same amount of tax. The role of umbrella and payroll companies seeks to minimize pay and maximize expenses, and so the rate may appear low, but net the individual may or may seem to be better off (albeit they are on zero hours and have to pay fees).

Interviewees offered various rough estimates on these matters. However, few employers and employment businesses interviewed had done serious calculations on these matters. One who claimed to have made such calculations said that take-home pay for non-direct was in fact roughly the same as for direct, considering benefits. Another said they had done a serious cost analysis when they had to introduce some non-direct labour on site; they then used this to ensure that non-direct individuals did not earn more net pay than those directly employed.

Non-interviewee evidence for the UK on gross and net pay is difficult to find at the detailed level of electrical contracting.²² Evidence from other countries is mixed: one suggests that numerical flexibility has a negative effect on net wage levels;²³ another suggests that the gross pay of temporary workers is lower than that of directly employed staff;²⁴ a third shows the direct employees have higher pay than non-standard employees, controlling for all other factors;²⁵ an Australian study finds that temporary agency workers receive higher pay, particularly where workers are more skilled.²⁶

Of course, of key importance, employers gain from self-employment and false employment by paying no NIC and no pension contributions. At present employers pay Class 1 NICs of 13.8% on all earnings above the secondary threshold for directly employed staff.

There are two further points on wages.

(i) First, there is some *evidence* that, over a working life, direct employees earn more than non-direct (they may earn less when younger, but more when older). One study shows that self-employed workers or those with self-employment spells have lower income through their working lives and lower incomes in later life, with low levels of savings and low pension entitlements.²⁷ There is also evidence that, at the present time, agency staff are being under-enrolled in auto-enrolment schemes.²⁸ Canadian research suggests that transitioning from employment, especially in middle life, increases the probability of being poor after 65. Working on interim jobs has a negative effect on future wages, controlling for all other factors.²⁹

(ii) Second, we do not know much about progression and promotion to supervisory level in the electrical contracting industry, though it seems likely that direct staff have greater prospects of promotion to supervisory and management positions.

“In terms of gross money wages, interviewees suggested non-direct labour is paid more. However, direct employees have a steadier income over the year, so their annual gross wages may be higher.”

4.2. Other non-wage conditions of employment and benefits.

There was more clarity and consensus on non-wage conditions and benefits, in part because there are legal basics for employees. Almost all *interviewees* felt that such benefits were better for direct employees. They cited the following: holidays with pay, sick pay, maternity and paternity pay, mandatory notice periods, redundancy pay, unfair dismissal protection. In the case of JIB members, they also cited JIB credits, including medical cover, life insurance, and enhanced sick pay. Pensions, both occupational and state, were also stressed, with, in the case of state pensions, non-direct paying lower contributions and consequently having lower pensions in retirement.³⁰

Some *interviewees* suggested that, if non-direct staff have higher net pay, they can finance certain of these benefits themselves. This assumes a high degree of long-term prudence on the part of individuals. But we do not have evidence that any such premium is used to purchase benefits. Some pointed out that those with contracts with umbrella companies have some of these benefits, but in practice these are more attenuated, not least because of seniority / qualifying periods and lengths of employment. A number of *interviewees*, both employer and union, stressed the future pension implications, for both individuals and society, of inadequate contributions.

Again, not having to pay for such benefits for the self-employed or for those employed by umbrella companies is a major advantage for employers using non-direct labour.

Non-interviewee evidence is limited on conditions, but, based on the above, it is clear that non-direct lose out significantly. However, it should be noted again that some research evidence cited above shows that direct employees prefer these benefits over higher wages.³¹

4.3. Wages, Tax Contributions, and Social Benefits

For the wider society, there is a broader set of issues around tax contributions and the effects of this on the public exchequer and the financing of public services. Fiscal gaps which result from false self-employment and false employment are not trivial. For the economy as a whole, the Institute for Fiscal Studies reckoned in 2017 that, if the self-employed paid NIC at the same rate as employees, there would be an extra £5bn a year accruing to the exchequer.³²

Several *interviewees* suggested that the long-term impact of individuals having poorer pension or opting out of auto-enrolment should not be underestimated. Ultimately, they pointed out the state will have to provide for people who retire with insufficient pension for their old age.

I do not have numbers on tax shortfalls or social benefit shortfalls for construction or electrical contracting, but these would seem to be high.³³ Nor do I have numbers for any gaps caused by the use of limited companies and umbrella companies.

4.4. Flexibility, Efficiency, and Productivity

In my interviews, there was a lot of talk about flexibility, some about efficiency, but not much about productivity. These three concepts are different: as defined above, flexibility means how labour is used, numerically and functionally; efficiency means how inputs are allocated and used at least cost; productivity means quantity output per unit of labour per hour, taking account of quality. Economists and policy makers generally believe that productivity is the most important of these metrics.

Interviewees had differing perspectives on the productivity of direct v. non-direct labour.

Those who advocated more non-direct staffing stressed the ability to flex to meet peaks and troughs and a number also added the increasing quality of agency staff over time. However, several said the most productive were subcontractor staff who were themselves directly employed; next the employer's own direct staff; and least productive were agency-type workers. Some added that subcontractors know their staff and how to allocate them efficiently. Such contractors might be working on packages and their staff on bonuses. Another said that on specialised or repetitive jobs non-direct labour was the most productive.

Above all, *interviewees* came back to flexibility – staff could be easily got rid of, as it was necessary to flex with the cycle of jobs. Two *interviewees* said they had made productivity calculations. However, one Tier 1 contractor said 'Frankly, I don't know what goes on down there – once we've got the job, it's costs and deadlines that count'. He added, as did several other *interviewees*, that management and supervision were key. Another said: 'it's not a productivity thing, it's not even a cost thing, it's flexibility which counts'. Several quoted that directly employed staff were of a magnitude of 20 to 30 per cent more expensive, mainly due to NIC and holiday pay.



On the other hand, some *interviewees* said direct employees were more productive and for the following reasons; they are more committed; they can be deployed more efficiently on jobs and between jobs; they cooperate better with one another; they require less managerial, supervisory, and office time to manage. It was also added that, with direct labour, there is better quality control. In addition, direct staff were also said to be less likely to work high overtime and this was beneficial for per hour productivity. Planning was facilitated. One *interviewee* said flexibility was important, but not 'flexibility on the cheap', driven by external flexibility, cost minimization, and tax advantages.

Several suggested that the employment status of staff did not make much difference and that it was the quality of supervision and management which determines productivity. However, related on this, many supervisors and managers have come up through apprenticeship training and seem to have had significant periods of direct employment. I was told that most supervisors were direct.

I was struck by how few employers said they were able to show the relative productivity of direct employment v. alternative forms of working. I return to this later.

There is some *non-interviewee evidence* on the link between employment status and productivity.

This is to be put in the context of evidence that the UK in general and construction have lower productivity than some of its major competitors.³⁴ To my knowledge there is nothing specifically on productivity in electrical contracting.

More generally on construction, the literature makes the following points: reliance on non-direct labour discourages the take-up of new technology and methods of working: why invest in these when labour is cheap and flexible.³⁵ The UK construction industry therefore is more labour-intensive, but requires a higher ratio of managers to staff and generally affords less functional autonomy to workers.³⁶ Another broader UK study suggests that external flexibility is negatively associated with labour effort – attributing this in part to the fact that employees take their cue from agency staff, feel aggrieved that the latter might be paid more, and therefore downward adjust their effort.³⁷ A further general study uses the concept of external flexibility and argues that this undermines internal productivity, especially in the long-term, leading to suboptimal outcomes.³⁸ Another study adds that the use of non-direct labour reduces the incentive to innovate and to train, leading to a 'low road' approach to competition.³⁹

4.5. Employee Commitment

Employee commitment is usually taken as a factor driving cooperative behaviour and productivity.⁴⁰

Many *interviewees* said there was more commitment from directly employed staff, often expressed in terms of loyalty. This was attributed to longer tenure, lower turnover, accrued benefits, and a desire to progress. It was suggested they were more concerned about company reputation and success and they are more prepared to 'go the extra mile'. One *interviewee* said: 'Agency staff don't give a monkeys ... they just want the money and off.' Another, who used a sizeable proportion of non-direct labour on a permanent basis said: they don't feel part of our team, adding that 'they're a different breed ... no loyalty.'

Some, however, countered that non-direct labour had to maintain their reputation and suggested they might be highly committed to the occupation of electrician and this substitutes for commitment to the company.

There is some limited *research* evidence on this which suggests that commitment is greater from longer-term employees and that this leads to higher performance.⁴¹

4.6. Skills and Training

Skills can be acquired (i) via recruitment of already trained workers or (ii) via training. In turn, training covers both (a) initial / apprentice training and (b) continuing / upgrade training. Deficiencies in these areas can lead to skills shortages (inadequate skills in the external labour market) and skills gaps (inadequate skills of present employees for the work in hand).

(i) Recruitment

The use of non-direct employment is obviously about recruitment. However, it is mainly about recruitment for temporary positions. *Interviewees* said some of these temporary positions could become permanent, but I am not sure what proportion, though I suspect a small number transition from non-direct temporary to direct permanent. In the interviews, there was less discussion of recruitment of permanent staff via employment agencies or other means. One study emphasises the informality of the recruitment process in the construction industry, except for permanent directly employed positions.⁴²

(ii) Initial / apprenticeship training

All *interviewees* felt that less apprentice training occurs when firms use a large proportion of non-direct / temporary staff. They pointed out that the self-employed themselves cannot take on apprentices. Nor do umbrella companies. Also, it was suggested, that, as firms slim down to a smaller core, they tend to take on fewer apprentices. Several *interviewees* added that it is not by chance that London has the highest proportion of non-direct staff and lowest apprentice training relative to the size of the industry.

On the other hand, employment businesses made the following points on initial training: they have taken on apprentices and can move apprentices around, giving them broader experience than many employers.⁴³ However, when pressed, it appears that, where employment businesses have taken on apprentices, the numbers have been small and only on a few large sites. It should be noted that this has also only been where clients have mandated this and, it might be added, where they have been prepared to pay for this.

Two representatives of employment businesses conceded that less apprentice training gets done because of the use of contingent labour. One said: 'I must reluctantly admit that less initial training gets done with more self-employment'.

It should be added that, though a few larger employment businesses may pay the Apprentice Levy, umbrella companies are not large enough to make payments. If they do, it would seem unlikely that they have the wherewithal to train electrical apprentices. Moreover, Unite the Union suggested to me that, in some instances, the cost of levy payments has been passed onto individuals.⁴⁴

Research evidence largely supports arguments that the use of non-direct employment has a negative effect on apprenticeship training and suggests a rough correlation between the rise of non-direct labour and the decline of apprentice training in construction and electrical contracting.⁴⁵

(iii) Continuing training

On continuing training, the case is less clear. *Interviewees* said firms are more prepared to invest in both occupational-and firm-specific training for direct employees, because such staff are more likely to stay. One employer said: 'why should I train a worker to use an app on an iPad, if he's up and off the next day'. Another employer said he was more likely to invest in not only technical training, but also in career-type development for directly employed staff.

If employers are JIB members, it should be noted that the JIB promotes update training such as the 18th Edition and makes such training the responsibility of employers who are also supposed to bear the cost. *Interviewees* said that, overall, JIB employers do bear the cost of this training.

It was also pointed out that the introduction of the Registered Electrician within the ECS has led to a recognition of 25,000 electricians who have qualified to the 18th Edition and who hold an ECS card. In this way, it was suggested that the ECS has contributed to upgrade training across the industry. I was not able to verify this link.⁴⁶

On the other hand, *interviewees* said self-employed workers may fund their own upgrade training, have some provided by employment businesses, and have some by employers for whom they work. However, this would seem to be restricted to statutory requirements and training as required by clients.

Research evidence lends support to arguments that the use of non-direct employment has a negative effect on continuing training.⁴⁷

(iv) Skill gaps

The policy literature distinguishes skills shortages and skills gaps: the former means the lack of skills in the external market; the latter refers to a shortfall in skills within the firm between existing resources and actual needs. Skills gaps also relate to insufficient staff who can be promoted to higher levels.

On skills gaps, a number of *interviewees* referred to challenges of upgrading employees for higher level jobs and changing technologies. Several said this was a particular problem with non-direct labour. One survey of the industry supported these observations, referring to the need to keep up with rapidly changing technology and to develop the labour force for higher level positions.⁴⁸

On balance, I conclude that the use of non-direct labour has a negative effect on apprenticeship training in the electrical contracting industry. It may also have an adverse effect on continuing training. Overall, this reduces the long-term resilience of the industry.



4.7. Health & Safety, Accidents, Wellbeing

It was suggested to me by several *interviewees* that the use of non-direct labour reduces health and safety, leads to more accidents, and has a negative effect on wellbeing.

The arguments put were as follows: directly employed staff are more likely to be longer on a site and have a better understanding of the context; directly employed staff benefit from sick pay and paid holidays and are likely to work less overtime; they are more likely to receive health and safety training; they are more likely to feel secure enough to raise concerns; and on large sites, directly employed are entitled to time off to participate in safety committees.

One employer said that safety interacted with productivity: stoppages when things go wrong lead to lost productive time and poor worker morale.

On the other hand, it might be argued that non-direct staff have an equal interest in their own safety. As one *interviewee* said: ‘they are experienced, they aren’t stupid... Yes, they can’t afford to take time off and they want to be able to go onto the next job’.

The evidence which I have seen is supportive of the positive effect of direct employment.

From a legal point of view, contractors who are employers of direct labour have more legal obligations to such labour than they do to the self-employed or to those on their sites employed by others, such as agencies or umbrella companies.⁴⁹

The JIB’s own survey of accidents suggests that the accident rate for directly employed has been half that for non-directly employed. In the case of JIB members, staff are provided support on health and safety matters – but I was not able to ascertain how effective this is.⁵⁰

A major report on health and safety in construction stressed that many of those interviewed linked non-direct working and higher accidents.⁵¹ On particular sites, there is some evidence: e.g. the Olympic Park which used direct labour was said to have had a better safety record than the Olympic village which used more non-direct labour.⁵²

Available academic *research evidence* for the UK suggests that contingent workers experience more injuries, due to less training and economic pressures, and are less likely to report unsafe working and accidents.⁵³ There is more US evidence, including medical research, which shows that workers in the temporary agency construction labour force report more ‘near misses’, but feel less able to protect themselves; there is a relationship between temporary working, length of experience on a job, and injury; non-direct workers have higher health and safety risks, in part because they are less likely to refuse more hazardous jobs.

Other *research* suggests that mortality off-the-job is higher among temporary than permanent employees.⁵⁴

There is some evidence from the US and Australia on mental health and wellbeing. The self-employed may have high job satisfaction and temporary workers can find their work fulfilling. However, they suffer more anxiety and feel more insecure. Temporary workers report less good work-life balance than directly employed staff.⁵⁵ A recent meta-analysis of multiple studies finds that, for industry as whole, employee satisfaction with a company and related wellbeing has a negative effect on intention to quit and a positive effect on performance.⁵⁶

4.8. Employee Voice

Voice relates to the say that individuals or groups have at work over issues of concern to them. Voice may one-to-one, small group, or through a trade union.

Interviewees had mixed views. Some said that direct had more say, sometimes referring to trade union representation. Fewer said that non-direct had more say, but rather stressed that if they did not like something, they could leave.

There is a big literature on voice at work which suggests the following: voice has a positive effect on information sharing; it has a positive effect on job satisfaction; it has a small positive effect on the uptake of more sophisticated work and personnel practices by employers. It also has a positive effect on productivity. There are more detailed findings on different types of voice viz. one-to-one, small group, and trade union.⁵⁷

Unfortunately, I know of no *research* which considers direct employment v. non-direct workers. On balance, however, it would seem that, following a classic formulation: employment security + voice = loyalty, whereas less permanent jobs + less voice = exit.⁵⁸ Recent non-UK studies suggest that higher voice leads to higher-quality workers and higher productivity.⁵⁹

4.9. 'Bundles' of Employment Practices

Several employer *interviewees* said to me that it is a question of having a 'set of employment practices' which is important in shaping outcomes and managerial and supervisor staff is what matters most. One employer also said: 'you can't separate out direct and non-direct, it's too complex'.

Interviewees made various further comments. Several spoke positively about the JIB green book and how it provided a set of employment practices which 'provide a benchmark' for both JIB member firms and non-members. Others stated the contrary: JIB rules were said to be restrictive; they impeded firms developing their own practices and hence employers left the JIB; and, in particular, the JIB grading structure was narrow and impeded career progression.

A number of *interviewees* made comments on the following lines: many electrical contracting firms do not offer a set of related benefits, especially for operatives, and certainly not for non-direct staff; the big contractors only have systematic employment packages for 'the royals'; viz viz for higher level staff where companies have HR staff, they are now unlikely to come from trade backgrounds; basically, employers are outsourcing too much of their HRM to employment businesses.

There is some *research evidence* that big construction firms in the UK see HRM in terms of their core managerial, professional, and administrative staff; on-site operatives, especially when non-direct, are treated differently and responsibility for them is passed down the supply chain and outsourced to intermediaries.⁶⁰

More generally, there is a large body of quantitative research which shows that employment practices should not be taken in isolation, but that they fit together or complement one another in 'bundles' (e.g. systematic recruitment, job security, good training, adequate voice), and it is these combinations which have a positive effect on various outcomes referred to above. In meta-analyses of numerous studies, employment security and job tenure are significant variables.⁶¹

Overall, it would seem that firms directly employing labour are more likely to be able to put in place more complementary employment practices which are calculated to have a positive effect on outcomes.

4.10. Entrepreneurship

It was put to me by several *interviewees* that the self-employed are entrepreneurs and may go on to establish firms employing others. 'They want to be their own bosses and later to start up companies'. It was said that this should not be discounted in any attempt to increase direct employment.

Some undoubtedly leave direct employment to become self-employed, because they have an entrepreneurial spirit and go on to become successful founders of businesses. Indeed, during the research, I interviewed several. On the other hand, an employer *interviewee* said to me: 'these guys are not budding entrepreneurs – they want the money now.' One employer added: 'Some go off and set up their own companies; I wish them well; most don't succeed; some want to come back, but we tend not to take them – they become a different breed and we've taken on new direct staff anyway''

The *research literature* cited above on preferences suggest that most individuals prefer direct employment and that most do not go into self-employment and other forms of working as a 'bridge' into becoming an entrepreneur. I do not know the relevant UK literature on entrepreneurship. However, one study of the UK showed that dependent self-employed do not create jobs for others.⁶² More broadly, a recent US survey of the entrepreneurial literature suggest most of those who transition into being entrepreneurs do not 'make it' in the sense of being long-term entrepreneurs who employ others.⁶³

4.11. Organisation of the Industry

This final section considers the effects of direct v. other forms of labour engagement on the membership and operation of the organisations in the industry.

(1) Unite membership and organisation.

A number of *interviewees* pointed out that there has been a significant reduction in union membership in electrical contracting over the last three decades. They variously cited around 10 per cent membership in the electrical contracting industry. They tended to add that Unite the Union has stretched resources to support electrician members and there are insufficient shop stewards.

Generally, both employer and union *interviewees* said membership is lower among the self-employed; but membership is higher on large sites where more direct are employed; on large sites shop stewards and safety representatives come from directly employed staff. Some non-direct are in the union, out of loyalty and to obtain benefits, as they move in and out of employment and sites.

Research evidence is mixed. It is well known that union membership has fallen long term, not least in construction, where it was always low compared to many other sectors. There is less good evidence linking this with the rise of non-direct labour. But it would seem likely that the latter are less prone to join and remain in the union. Overall, we know that private sector union membership is around 14 per cent and 7 per cent for the self-employed.⁶⁴



This situation represents major challenges and some opportunities for Unite, in terms of organising the directly employed, those in alternative forms of employment, and, also, it might be added, the growing number of workers in off-site production. Overall, it would seem that lower union membership and lesser organisation is both a consequence and a cause of greater use of non-direct labour.

(2) The ECA

It is much harder to make links between employment status and ECA membership. *Interviewees* pointed out that ECA membership has increased over time. On the other hand, several said that this was because the ECA had come to allow smaller companies and associate categories into membership. Another *interviewee* added, that, with the growth of self-employment, employment businesses, and umbrella companies, its influence may be reduced. Several believed that the ECA is increasingly challenged by a diverse membership (big v. SMEs, big v. smaller sites, electrical only v. mixed services, national v. London v. regional). This would seem to create tensions in terms of taking a strong stand on employment status. I understand that employment businesses and umbrella companies are not ECA members.

As an aside, several employer *interviewees*, large and small, said there are too many employer bodies in the construction industry and this hindered regulation of the sector.

Evidence is that overall membership of employers' organisations and density in the UK has fallen over the years, and so the ECA is an exception. Research also suggests that increasingly employer association membership is the main factor determining union membership and the coverage of collective bargaining.⁶⁵

Overall, it is therefore difficult to conclude whether the rise of non-direct working has had a negative effect on the ECA.

(3) The JIB

Interviewees pointed out that JIB membership has fallen, as has the salience of benefits offered and its regulation of the industry. It was suggested that these trends are in part caused by the increase in non-direct employment, and the growth of non-direct labour challenges one of the basic principles of the JIB. More critical *interviewees* said the JIB had not kept up with the industry and was 'in danger of becoming irrelevant', not least over forms of employment. It is in a real dilemma – 'doing nothing is doing no good, trying to do too much will drive members out'.

On the other hand, others stated they were 'proud' to be in the JIB. The JIB, they said, remains a unique institution in the UK and is admired elsewhere in British industry and in government. The green book is a guide to pay and practice for the industry and, indeed, for other sectors employing electricians. 'The industry needs standards and the race to the bottom does nobody any good'. It provides real benefits to members, as witnessed recently by its advice on COVID-19. Along with the Parties, its role in the development of the ECS card has been of major importance.

Though there is not explicit *evidence*, overall, it would seem that lower JIB membership and effectiveness is both a consequence and a cause of greater use of non-direct labour.

(4) Other organisations – intermediaries

Over the last 20 years, there has been a growth in the number and size of employment businesses, umbrella companies, and payroll companies. One *interviewee* described it as an 'ever growing jungle', another said 'they've just mushroomed'; a third added that 'if you try to do anything about it, they just change their form'.

I know of no *research* on these intermediaries, but have cited evidence for their growth above. *Ipsa facto* their growth is related to the growth of non-direct labour. There is evidence from other parts of the economy on the growth of intermediation which raises questions about what value such contributes.⁶⁶

“The research literature suggests that most individuals prefer direct employment and that most do not go into self-employment and other forms of working as a ‘bridge’ into becoming an entrepreneur.”

4.12. Quality Outcomes and Building Safety

Last, but certainly not least, there is the question of a possible link between direct and non-direct employment and the quality and safety of work.

Several *interviewees* offered comments on this, saying they got better quality workmanship from those directly employed or from contractors who in turn directly employed their own staff. Several said that non-direct labour was less likely to know the site. Another suggested they were more likely to 'skimp' on work. One employer representative commenting on the transient nature of staff has recently been quoted as saying: '... you suffer with quality... you suffer with consistency... installation is nowhere near as good, because it's been done by a myriad of people.'⁶⁷

On the other hand, one employer *interviewee* said that on long, repeat projects, he got better workmanship from non-direct labour. Another said that 'agency staff have got better ... and they have to think about getting a job in the future'. Several said it was all up to management and supervision anyway.

I was not able to find much peer reviewed literature on this matter, other than the use of agency staff in hospitals and care homes.

However, I quote from Dame Judith Hackitt's post Grenfell Review: 'Procurement sets the tone and direction of the relationships between the client, designer, contractor, and their subcontractors, as well as determining the formal specification of the building. Issues at this stage, for example inadequate specification, focus on low cost, or adversarial contracting, can make it difficult (and most likely, more expensive) to produce a safe building'.⁶⁸ The second stage of the Grenfell enquiry is awaited and, from the hearings, it seems it will have one particular focus on competency, control, and working practices.

One authoritative industry response to the Hackitt report can be cited. 'Low margins and the cyclical nature of construction also contribute to the lack of direct employment, and the proliferation of the sub-contracting model within construction. This lack of investment within a directly employed team, can lead to a lack of maintenance and development of workforce skills, which could hamper the safe and competent delivery of the project.

'The sub-contracting model is also at the heart of the lack of responsibility for outcomes as contractors are increasingly divorced from the point of execution on site, sometimes by up to four or five layers of contracts and often ending in the use of transient self-employed labour'.⁶⁹

I understand that there are British Standards Institute proposals on an Overarching Framework for Competence in the construction industry which will relate to both the competency of the contractor and the competency of staff directly employed by them *and* working for them.⁷⁰ Again, in the electrical sector, recent enhancements to the Electrotechnical Assessment Specification document mean that contractors are now under a clearer duty to demonstrate that they are monitoring and maintaining the competence of individuals working for them, whether direct employees or others engaged on a non-direct basis.⁷¹

› For overall conclusions on benefits and disbenefits, see Table 2. See page 47.





5

COVID-19





About half of the interviews cited were carried out before the onset of COVID-19. Here are some very tentative thoughts on the virus and forms of employment and working.⁷²

Assuming some resurgence of the virus, there will be an uneven recovery through the rest of 2021. Tender price deflation will be a significant feature. It will take time for big new government projects to come on stream as they affect electrical contracting. Private and smaller projects will be weak.

There will be various effects on the labour market. Firms will have shrunk back to their core of direct employees, with some of these on furlough. When firms start to expand, they can do so by (a) taking back direct employees; (b) hiring new direct employees; or (c) using non-direct labour. Interviews suggested all three will happen, but clearly (c) will be used to deal with the many uncertainties facing the sector. This will probably lead to an increase in the stock of non-direct labour.⁷³ Apprentice training will continue to be under considerable threat as numbers decline.

Many self-employed (real and false) and those with umbrella companies will have received a shock. Along with the furloughed and unemployed, many will have registered with employment businesses and umbrella companies.

Some existing trends will be accelerated to deal with uncertainty and to meet new demands e.g. the use of off-site and modular construction and search for more productive methods of working. This will have implications for the mix of electricians and mechanical labour and also for the employment of direct v. non-direct labour.

There are obviously other uncertainties around the outcome of the Grenfell inquiry and post-Brexit trade agreements.

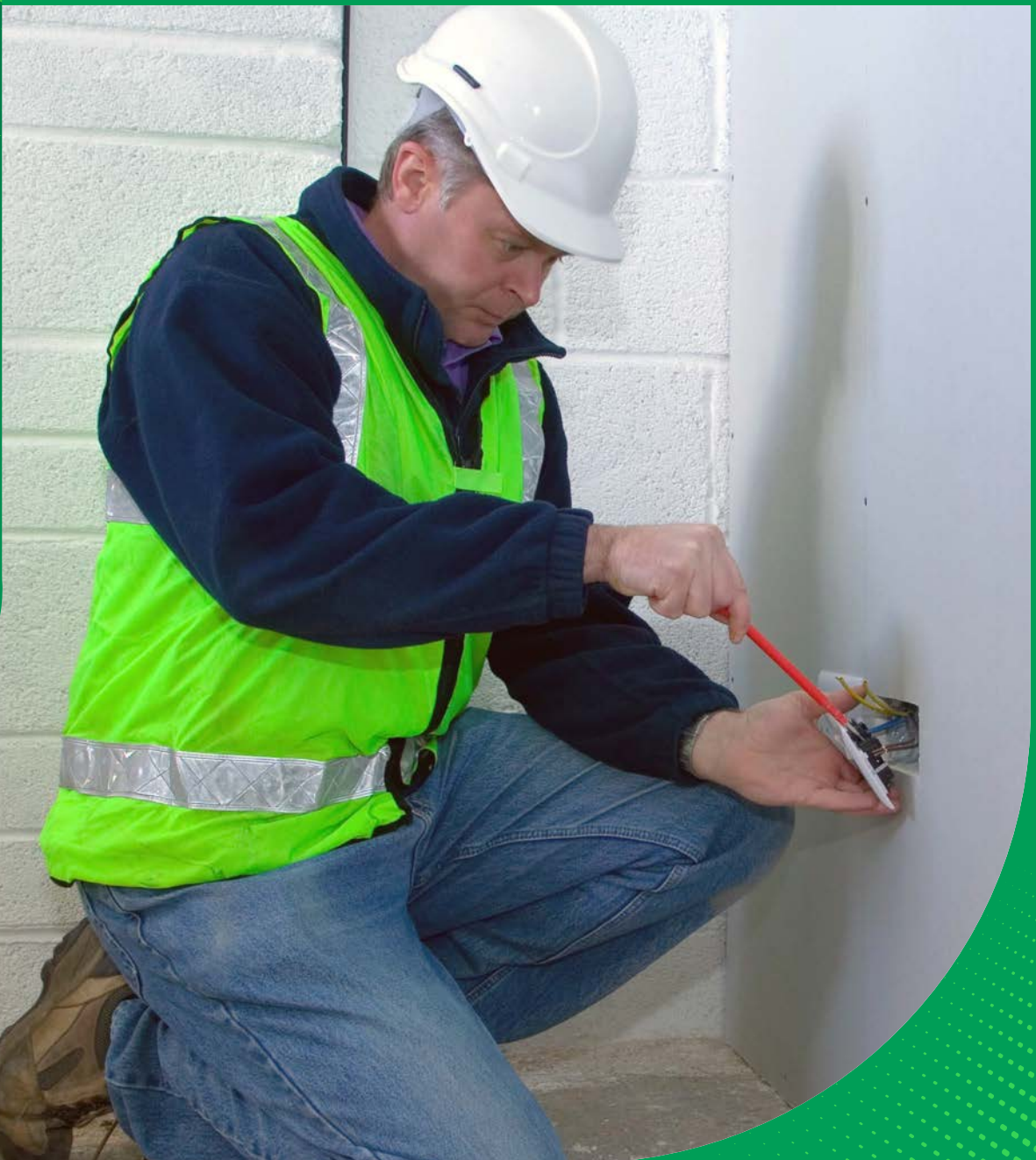
Overall, there will be a continued increase in state intervention, not least to deal with the costs of various COVID-19 packages.

This would seem to be a major juncture for the industry, regarding employment and working generally and direct employment in particular. There could be a return to the status quo; the industry may move towards more direct employment; but there will be serious pressure on the national agreement and the Parties, and the possibility that there will be an increase in non-direct working. Considerations which will affect the direction of change are dealt with in the next section.



6

POLICY CONSIDERATIONS





Based on the report, I make the following opening remarks.

- It is not a question of binary opposites of direct employment v. non-direct working. Indeed rule 17 of the JIB has long conceded this, as did all interviewees. In an industry such as electrical contracting, there will be an inevitable use of subcontracting and some use of non-direct working.
- However, in recent years, the mix between the two has become unbalanced. Negative aspects have developed in terms of false self-employment and false employment, designed to avoid or evade tax. These negative aspects and disbenefits have developed for employers, employees and workers, the industry in general, and for the wider society.
- The current balance is neither natural nor inevitable. It reduces the productivity of the industry, an industry which is of course not open to much international competition and does not have that spur to productivity. In terms of skill supply, the industry will struggle in the longer term.
- It is difficult to determine an optimal balance of direct v. non-direct, but such a balance should be based on the following criteria:
 - (i) Use of non-direct labour should be for genuine production reasons and not as a first resort.
 - (ii) It should not be driven by the workings of the UK tax system and the gaps in the UK employment law.
 - (iii) It should not be cheaper than direct labour.
 - (iv) It should be transparent and based on informed choice by individuals.

These principles are derived from the report and also from the Kay Review of intermediation in other markets.⁷⁴
- There is a real role for genuine recruitment agencies and *bona fide* employment businesses whose function is to match employers and those seeking work. There is no role for the type of umbrella and payroll companies which can only operate because of the complexities of the UK tax and employment law systems. This means that there is no place for false self-employment and false employment designed to avoid and evade tax.

I consider four routes or ways forward. The first is within the scope of the Parties and the JIB; the second insofar as it covers both Tier 1 *and* the major electrical contracting firms can also be seen as within the scope of the Parties and the JIB; the third and fourth concern clients and government and where the JIB and the Parties can play only an indirect and lobbying role.

But, as one *interviewee* said: 'There is no one single silver bullet; we must try all routes – and there are lots of vested interests out there, including ourselves.'

Route A: The Parties and the JIB

(1) **Rule 17.** Rule 17 has been a major way that the JIB has tried to deal with the challenges of non-direct working. It stipulates the right to direct employment where possible and provides for approved employment businesses with agreements with the union and following JIB terms and conditions.

Not many *interviewees* commended Rule 17 as it stands at present. The union said it was second best and ambiguous. They conceded that they had signed up very few businesses in recent years and had not closely monitored its workings. It should be tightened up, and, if it is not properly enforced, 'it merely legitimises dubious practices'. Employers said they used to use Rule 17 more, but now by-pass it or go more to subcontractors anyway. 'It's not enforced The JIB and the union don't audit it'. Another employer *interviewee* added, if it was tightened up, it would be a reason to leave the JIB. Employment businesses did not comment much on Rule 17, except that it could be useful to have the JIB seal of approval.

I understand that the number of Rule 17 employment businesses has been stable in recent years. I was also told that attempts had been made to revise the rule over the years, but little had come of this.

(2) **'Modernisation'**. Needless to say, the modernisation of the collective agreements and the green book has been a long-running issue in the industry and led to considerable contention. As I understand it, essentially it concerns: multi-skilling and flexible working, as many employers see it, especially major employers; deskilling and an undermining of the grading structure, as the union sees it, especially its Combine members.

Many *interviewees*, including non-JIB members, commented on the value of the green book in setting standards and providing a floor for the industry. Others said: 'it is stuck in the 1970s' and 'past its sell-by date'. One added 'a BESNA-type situation will return – 'it will come back to bite us ... and could be the end of the JIB.' Another said that simply 'direct employment and flexible working need to be traded off against one another'.

These issues under the heading of modernisation intersect with direct employment and non-direct working on sites and off-sites, especially in the context of accelerating technological change.

As an aside, it is interesting that most of the parties spoke favourably of the NAECI and several mentioned the Major Projects Agreement as including both direct employment and flexible working across trades. However, it should be noted that both of these require client support which very few clients have been prepared to offer and, to my knowledge, the MPA was used only once viz at Heathrow T5. I was not able to investigate the ongoing effectiveness of the NAECI.

(3) **The ECS Card.** All *interviewees* were very positive about the ECS card. However, a number of *interviewees* wondered whether the card had more potential. Two employer *interviewees* suggested it would be useful to put the employment status on the card. This could then be used by main contractors to enforce their espousal of direct employment. It could be used by clients to check whether the labour was directly employed in line with their expectations. As one *interviewee* said: 'If you're paying for an electrician, you want an electrician and you expect him to be employed by the contractor.'

However, it was pointed out to me that this would be difficult with a labour force which moves between employers, sites, and employment status. It would also be a challenge for the ECS to verify the claimed status. On the other hand, I was told it would be technically possible to put employment status on the card. It was also suggested that HMRC would have an interest in this.⁷⁵

Further on the ECS card, two employers and several union *interviewees* wondered whether the card could be used as the basis for the JIB's own labour supply agency. Of course, in the past the industry had the JIB Employment Pool and ESCA, and these had not been a great success. However, it was suggested that times have changed: there is a demand for recruitment intermediation, and technology is now massively different. Two *interviewees* referred to the success of the New York JIB in this context.

(4) **License to Practice.** Some (limited) mention was made to the role of License to Practice which has been a long-term goal of the industry. A form of this is in the process of development in Scotland and Northern Ireland.⁷⁶ Licensing might work both ways. On the one hand, it might increase the use of non-direct working, if electricians, as licensed freelancers, could more easily sell their skills on the open market. On the other hand, it would be a part of the better regulation of the industry more generally.

I have not been able to investigate what will be the effects, if any, of new EAS requirements re competence, certification, and registration. I understand these cover monitoring and assurance by firms of competence of electricians, working for them, whether directly employed, agency, or self-employed.⁷⁷

Route B: Big Employers and Leadership

Interviewees agreed that big firms were crucial in terms of providing leadership and setting standards on direct employment.

However, some pointed to problems. One said, 'the Tier 1 and even Tier 2 firms don't even know what's happening down their supply chain in terms of employment'. A large contractor said his firm insisted on direct employment by subcontractors and intermediaries, but then added: 'we subcontract to X; we try to audit; but if they want to further subcontract, that's their prerogative'. Medium and smaller contractors said things like: 'Tier 1 will sign up for this, but they don't employ sparks anymore' and 'they listen to their shareholders, accountants, maybe surveyors ... but on these issues they just talk the talk and don't walk the walk'.

As with all big firms, there is clearly a question of control down the supply chain and cooperation with subcontractors on matters such as employment practices. However, this is so in many other industries, and attempts have been made to deal with this through auditing. Of course, auditing involves costs, but there are also longer-term benefits in terms of reputation and performance.⁷⁸ Though much of the research on this has been in manufacturing, there is a more specific literature on construction which could be further consulted.⁷⁹

As an aside, the NJC for the Engineering Construction Industry claims to deal effectively through the NAECI with relations between big firms down their supply chains, with arrangement for monitoring and enforcement. I was not able to investigate how effective this is.

On the part of big firms in construction more generally, there are some promising initiatives. and the ECA and JIB have taken a leading part in these. For example, see the CLC *Future Skills* report and *Industry Recovery Plan* report.⁸⁰ Both of these recognise the importance of direct employment, especially as enablers of training and competence and their relationship to performance and resilience. However, again the challenge is feed-through from top-down leadership by such organisations and big firms.



Route C: The Client Role

All *interviewees* referred to the vital role of the end-client as a pull factor which might raise standards in terms of employment. Much reference was made to large clients, from T5 onwards to the Olympics and to Crossrail.⁸¹ In terms of large clients, again the NAECI was referred to positively, as was the MPA as contained in the green book. These make provision for both direct employment and flexible working. One interviewee said the MPA should be 'dusted down' and another that it should be a 'model for medium sized sites'.

However, some cautioned the following: the large client-driven examples have mainly involved public projects; over time they have weakened in requirement for direct employment; many clients are not too concerned or do not really know what to expect. One *interviewee* said: 'the challenge is to go beyond these well-known big islands'

In the public sector, some reference was made to the NHS and the MoD. On the part of Unite and JIB officials, the Charter movement, involving local authorities, was stressed as a way of setting standards. To date 64 charters have been signed. However, again, some scepticism was expressed: it was said that local authorities have to go for best prices; again the problem is with enforcement; councils may sign up to such charters, but further down the chain they do not know what is happening. Moreover, there is a question of the legality of certain aspects of such arrangements.⁸²

Notwithstanding these criticisms, the Charter movement is a promising initiative, especially with better monitoring and enforcement.

Two *interviewees* suggested that the JIB had been something of an 'old boys' club', 'a bit of a closed shop' focussed on electrical contractors and the trade union. It was suggested that 'insufficient attention has been given to the ultimate paymaster'

There is some *evidence* in the *research* literature that 'client pull' might be a way forward for setting employment standards.⁸³ This along with the arguments above suggest the following: it might apply well to big clients and big sites where jobs are relatively long term; there may be a premium to be paid by the client; such arrangements need to be monitored and enforced. As one *interviewee* put it, 'clients will also need to be educated'.

Route D: The State Route

Last but not least, there is the role of the state. I argued in section 3 that government action and inaction have been major drivers of the trend away from direct employment. In the present circumstances what are possible / likely future developments?

(1) **Employment Law.** In terms of labour law, there has been considerable past debate about employment status. This resulted in the Taylor report, some of whose proposals have been implemented. The new Director of Labour Market Enforcement has suggested there will be regulation of umbrella and payroll companies which is within his remit.⁸⁴ However, proposals on legislation on employment status *per se* have not been brought forward.⁸⁵ A number of academic lawyers interviewed said that there were already models in terms of draft legislation. In addition, it should be noted that the Supreme Court decision in the *Uber v. Aslam* case should go some way to clarify the law on worker status. However, some of the self-same lawyers interviewed said that an easier and more effective way to deal with abuses of non-direct employment was through the tax system.

(2) **Tax Law.** In terms of tax law, the government has said that IR35 will go ahead in 2021. *Interviewees* had mixed feelings on IR35. Some thought it will have a real effect and induce firms to switch more to direct employment so as to avoid liabilities. One large contractor said: 'We will change off-payroll if we have to'. Another said 'If it works, we won't be able to "duck and dive". It will get us all together out of the trap'. However, a large number said that it is more likely to affect white collar and professional staff and that umbrella and payroll companies will find ways around it and might indeed grow.

A number of *interviewees* suggested that post COVID-19, the situation has changed. There is a fairness argument in terms of the self-employed benefiting from government support schemes, while not equally contributing in terms of tax. In addition, government will be looking for tax receipts to pay for the various COVID-19 measures. The Chancellor has hinted at changes to close loopholes and boost revenues.⁸⁶

There are those who suggested that 'the door is now open' for a major overall of tax regimes, including not only the above but also the CIS system. The argument is as above, but also stresses that changes in tax law, though difficult, will be easier than changes in employment law. The first part of such a change, it was suggested, would be to equalise the employer contribution in NIC between employed and self-employed. Of course, this might unintentionally encourage more use of false employment and umbrella companies. But, note that plans for regulation of such companies is already being considered.

(3) **Post Grenfell and Hackitt**, there will be further changes in building law and regulations. Here requirements for training, competence, and control over projects may encourage more direct employment.⁸⁷



7

RECOMMENDATIONS





I group recommendations into two:

those within the direct ambit of the JIB and the Parties; those outside the immediate scope of the JIB and the Parties, but where they have influence.

I also divide them into degrees of what is 'doable', defined in terms of feasibility, priority, and practicability (see Figures 3a and 3b). See page 45.

Within the ambit of the JIB and the Parties

(1) Given pressures on skills and competence, especially on the apprentice training system which result in part from the rise in non-direct employment; given more recent pressures resulting from COVID-19; and in the context of new government policies for competence and for post-18 education and training.⁸⁸

The JIB and the Parties should, in addition to the traditional apprenticeship route, promote the existing experienced worker route; they should also endorse further routes to competence as a qualified electrician, especially (a) a full-time classroom-based route for school leavers and (b) a full time-route for career changers, both as recently endorsed by the Electrotechnical Skills Partnership (TESP).⁸⁹ Though these latter routes may entail risks to direct employment, competence as a qualified electrician is an essential building block of such employment. They should also be ready to contribute to, and to take a lead in the development of new Competency Frameworks.⁹⁰

(2) Given some lack of information on the costs and benefits of direct employment v. non-direct working:

The JIB should draw on best practice in the industry and work with other organisations towards developing a cost-benefit framework / toolkit, to be used by firms and shared across the wider construction industry. This should incorporate the costs of non-direct engagement, productivity considerations, and diversion of resources to intermediaries.⁹¹

(3) Given (a) a growing imbalance in the proportions of both false self-employed and false employed vis-à-vis directly employed; (b) given the overall negative effect of non-direct working; and (c) given the gap between what is formally stated in the JIB green book and the actual informal situation in practice:

The JIB and the Parties should re-examine Rule 17 with a view to better registering and regulating employment businesses. Unite the Union should review and update its agreements with such businesses and its membership in them with a view to more effectively regulating these arrangements.

(4) Given the importance of large projects and the long-standing existence of models which enshrine direct employment and flexibility between types of work, namely agreements for large sites; given also that any wider multi-service agreement for the whole building services industry seems a long way in the future:

The Parties and the JIB should examine the various large site models side-by-side and look to how they might be updated and coordinated as a move to consolidating them for large and not-so-large sites.

(5) Given the continuing success of the ECS card, the significant IT infrastructure capabilities of the ECS Check, and its further potential.

The JIB and the Parties should consider whether the ECS card can be developed to include employment status.

(6) Given all the above, along with increasing technological and organisational change:

The Parties should continue with, and accelerate, the Modernisation Agenda. In particular, they should look for a balance between (a) proscribing excesses in non-direct working and enforcing more direct working, (b) employing personnel on a contract of employment, and (c) greater flexibility between types of work.

Outside the immediate scope of the JIB and the Parties

(7) Given similar challenges in terms of employment status in the wider construction industry; given also the Construction Leadership Council's *Future Skills* report and *Industry Recovery Plan*, which stress boosting direct employment as a priority objective for better performance and sustainability:

The Parties and the JIB should further promote these efforts and work to implement them in practice. Again this should involve developing principles and persuading firms to report on, and audit, such principles. At the firm level, the CLC and its constituents might look towards identifying a lead on these in participating organisations and companies.

(8) Given (a) the central role of big Tier 1 firms and (b) the need for greater knowledge on the part of such firms as to what happens down their supply chains with major and smaller electrical contractors:

The JIB and the Parties should look to develop principles on direct employment which big firms endorse, report on, and audit, as they do at present on some statutory and non-statutory matters, such as modern slavery, gender pay gaps, and corporate social responsibility.

(9) Given the central role of big clients and their concerns not only about cost but also about standards and reputation:

The JIB and the Parties should look to develop principles for private sector clients and to promote the Charter movement in the public sector, while clarifying legal aspects of the latter.⁹² The JIB should also consider establishing some sort of clients' forum to provide a platform for greater engagement.⁹³

(10) Given (a) the likelihood of new regulations on labour market intermediaries and given also (b) that recruitment and employment businesses can play a positive role, in contrast to umbrellas and payroll companies:

The JIB and the Parties should look to put evidence in place to present to the Director of Labour Market Enforcement and prepare for any changes which may ensue.

(11) Given the introduction of IR35 and possible further changes in tax law of a more comprehensive kind:

The JIB and the Parties should prepare their response and be ready for any actual changes in tax law which will have effects on business models and ways of working.

(12) Given long-standing interest in, and pressures for, changes in employment law affecting these matters:

The JIB and the Parties should prepare their response and be ready for any actual changes in employment law which will have effects on business models and ways of working.

“The JIB should draw on best practice in the industry and work with other organisations towards developing a cost-benefit framework/ toolkit, to be used by firms and shared across the wider construction industry.”





8

CONCLUSIONS



There has been a growth in non-direct, off-payroll working in the electrical contracting industry over the last 30 years. This takes various complex forms – real self-employment, false self-employment, and false-employment through intermediaries. This is part of a broader trend in the construction industry and British industry more generally and has caused new concerns in public policy debates.

This growth has been driven by various factors – increased competition, the search for flexibilities, and the UK employment law and tax system. However, these are not determinant – there are choices which are made, as is evidenced by differences between parts of the UK, between firms within the same area, and differences between the UK and other advanced economies, with the UK having a high level of such forms of working.

Not all non-direct working is deleterious; some individuals may prefer this way of working; but this must be the result of informed choice and not be constrained by employers and incentivised by the tax system.

On balance, the negative effects of non-direct working predominate – in terms of employee benefits and safety. They also predominate in terms of skill formation and threaten apprentice training and thereby the collective future of the industry. Though non-direct working can increase numerical flexibility for employers, it has a long-term negative effect on productivity and resilience. It also undermines the regulation of the industry and the positive effects such regulation can have. From a societal point of view, non-direct working has a negative effect on tax receipts which fund public services.

› Table 2 provides a summary of outcomes.
See page 47.

COVID-19 has highlighted some of these negative effects. There is a chance that it will lead to more non-direct working, if employers seek to shift risks and deviate from national agreements. But there are also opportunities to consider future trajectories.

There are measures which the JIB and the Parties can take to mitigate these negative effects – in terms of updating working rules and modernising aspects of the national agreement.

There may also be a role for the ECS card in recording employment status. Very important is the role of large firms in setting standards and implementing them down through their supply chains. Also important is the role of clients, and here there are various positive examples and initiatives re procurement. However, in the case of both large firms and large clients, espousal of direct working must go beyond the ‘talk’.

Last, but certainly not least, there is the prospect of greater government intervention in terms of the regulation of intermediaries and possible changes in employment law. Changes in tax law might have the biggest effect, and the Parties should consider and plan for this.



Appendix

Appendix 1. Interviewees

Bonnett, Malcolm. Unite the Union	Khan, Sheik. JIB
Boyd, Brian. NG Bailey	Kermode, Julia. FCSA
Brawley, Steve. Ex JIB	Kieft, Dave. RDM
Bridge, Liz. Construction JTC	Lafferty, Simon. Balfour Beatty
Burt, Chris. Dougal and Railton Ltd	Lockwood, Graeme. King's College London
Cashman, Sylvia. Heathrow (at the time of interview)	McNaughton, Paul. Darke & Taylor
Clarke, Linda. University of Westminster	Murray, Steve. WT Jenkins
Clarke, Richard. Unite the Union	Myers, Steven. Unite the Union
Corby, Paul. JIB	O'Sullivan, John. TA Ronan
Cracknell, Peter. Unite the Union.	Poulter, Jason. Unite the Union
Dabbs, Careena. 1stStepSolutions	Prassl, Jeremias. University of Oxford
Devine, Ruth. SJD Electrical	Reynolds, Mark. Mace
Druker, Jan. University of Westminster.	Ryan, Jim. Unite the Union
Donoghue, Trevor. Laing O'Rourke	Sanchez Graells, Albert. University of Bristol
Dowds, Michael. Locksley Engineering	Shiple, Tony. BMSL
Eldred, Andrew. ECA	Simpson, Jock. NJCECI
Ewing, Keith. King's College London	Syson, Steve. Unite the Union
Fitzgerald, Ian. Newcastle Business School	Taylor, John. ACAS and JIB retired
Fox, Steve. BAM Nuttall	Taylor, Matthew. Director of Labour Market Enforcement
Green, Stuart. University of Reading	Thomas, David. ECS
Hall, Greg. Phoenix M&E	Turner, Caroline. JTL
Harper, Fiona. SELECT	Wallis, Stuart. Mace
Hutchins, Andrew. CW Electrical	Williams, Ivor. Consultant
Ingram, Paul. Pier Consulting.	Winch, Chris. King's College London
Kavanagh, Paul. Imtech	Woodland, Ian. Unite the Union



Figure 1 Types of contracting and employment – showing continua

Appendix

Basic employment distinction used in this report	
Direct	Non-direct
Contract of employment + PAYE and Class 1 NICs	Various

Types of subcontracting	
Commercial subcontracting	Labour subcontracting
Contract for services	
Sub-contractor may or may not employ direct	

Employment law – Three Categories		
Employee	Worker / Limb B / dependent contractor	Self-employed
Contract of service		Real False
		Voluntary Involuntary

Tax law – Two categories	
Employee	Self employed / Independent contractor

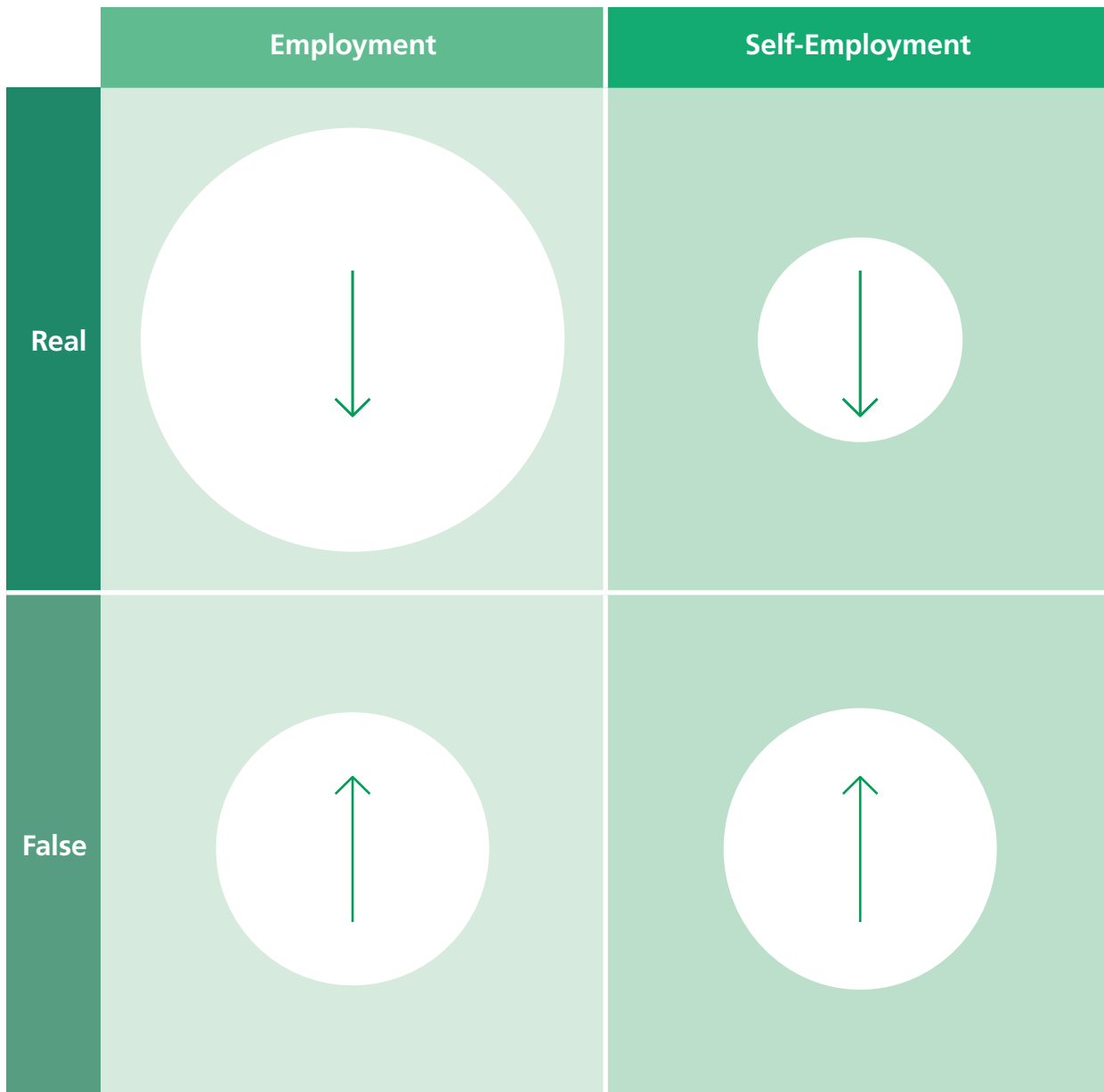
Type of employees	
Employee	
Real	False

Type of employees / engager of labour ⁹⁴
Client principal
Main contractor – Tier 1
Subcontractors – Tier 2, 3, 4 etc
Employment business
Umbrella company
Joint employer

Types of intermediaries
Employment agencies
Employment businesses
Umbrella company
Payroll company

Appendix

Figure 2 Approximate proportions in different employment statuses and change over time



Note: The size of the circle represents the approximate proportion of employment; the arrow indicates change over time.

Evidence / Source: Based on author's assessment and evidence in section 3.



Figure 3a – Do-ability – Within the JIB / the Parties

Appendix

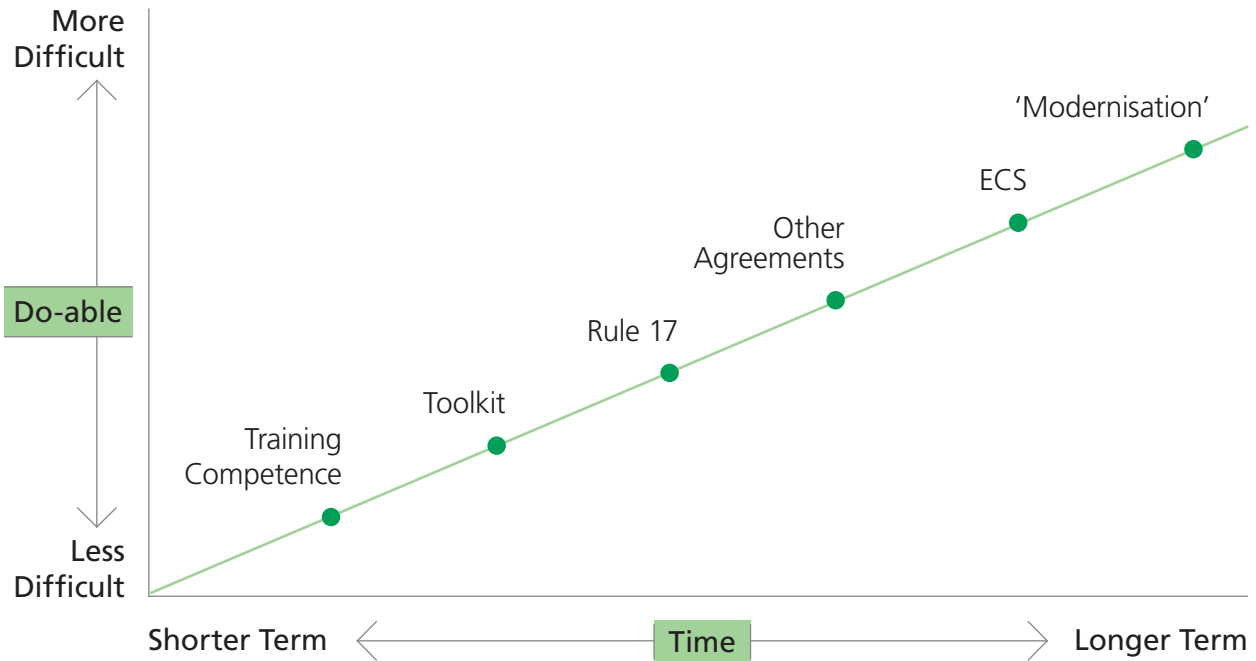
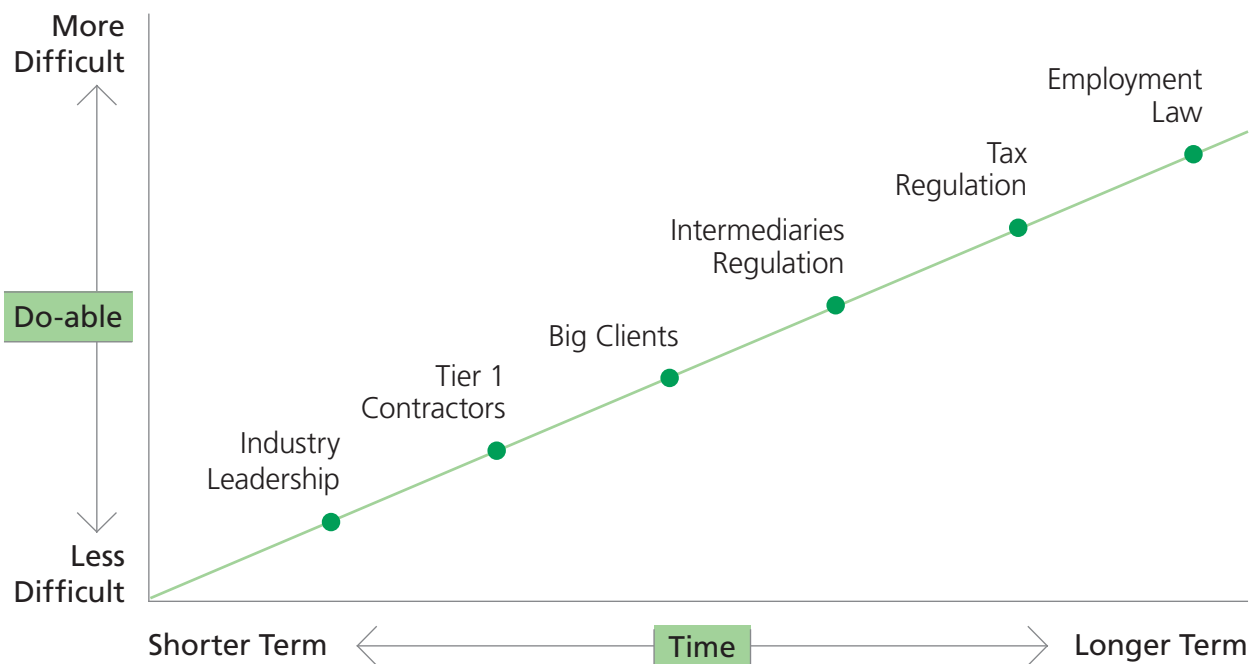


Figure 3b – Do-ability – Outside the JIB / the Parties

Appendix





Appendix

Table 1 Evidence

Industry	<ol style="list-style-type: none">1. Electrical contracting2. Construction3. Other industries
Country	<ol style="list-style-type: none">1. UK2. Other countries
Type	<ol style="list-style-type: none">1. Quantitative2. Qualitative
Governmental	<ol style="list-style-type: none">1. Official UK reports2. Official non-UK reports3. Other
Industry	<ol style="list-style-type: none">1. Private2. Published
Independent peer reviewed	<ol style="list-style-type: none">1. Academic2. Other
Interviews	<ol style="list-style-type: none">1. Electrical contracting2. Other

Table 2 Effect of direct employment on the following. Summary of findings.

Appendix

Outcome	Evidence	Effect
Wages net – short term	Medium	--
Wages net – long term	Medium	++
Other benefits	Strong	+++
Tax payment – individual	Medium	+
Tax payment – employer	Strong	+++
Flexibility – numerical	Strong	--
Flexibility – functional	Medium	++
Productivity	Medium	++
Employee commitment	Medium	+
Apprentice training	Strong	+++
Continuing training	Medium	+
Health, safety, wellbeing	Medium	++
Voice	Medium	++
Bundles of employment practices	Medium	++
Entrepreneurship	Weak	0
Organisation of the industry: Unite	Medium	--
Organisation of the industry: ECA	Weak	0
Organisation of the industry: JIB	Medium	-
Organisation of the industry: intermediaries	Strong	---
Building quality and safety	Weak	+

Evidence. Based on the author's assessment of the literature, official and independent, and preponderance / degree of consensus of interviews. The literature is judged by closeness to electrical contracting and provenance, with data based independent sources given more weight. It is assessed on a scale of strong, medium, weak, or 0.

Effects. The effects take an independent variable of direct employment and effect they have on various outcomes. It is assessed in terms of positive effect +, ++, +++ and negative -, --, ---

Endnotes

1 The original scope was as set out in the document 'Direct Employment Research' (17.8.2019). This was further elaborated as follows. In a meeting of the Major Contractors' Committee (1.10.2019), it was noted that 'the report should highlight: the economic value of direct employment; the social value of direct employment including investment in people and growing talent; corporate values.' This was added to in a further Note (20.11.2019) by J. Parmar and S. Khan 'The objective of the report will be to show the social, economic and corporate values of direct-employment and there would be a review of published academic data including published articles from other countries.'

2 For the notion of dependent contractor see M. Taylor, *Good Work*, 2017. Department of Business, Energy, and Industrial Strategy

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf

3 House of Commons, Briefing Paper, 'Self Employment in the Construction Industry', House of Commons, 2019. <https://commonslibrary.parliament.uk/research-briefings/sn00196/>

4 R. Price, *Masters, Unions, and Men*, Cambridge University Press, 2009. S. Deakin and F. Wilkinson, *The Law and the Labour Market*, Cambridge University Press, 2005. N. Whiteside 'Casual Employment and Its Consequences: A Historical Appraisal of Recent Labour Market Trends' *Historical Studies in Industrial Relations* 40, 2019

5 These figures and estimates are based on the interviews and on various sources as listed. Office for National Statistics, 'Trends in self-employment in the UK' 2018: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/articles/trendsinselfemploymentintheuk/2018-02-07>.

Office of National Statistics, 'EMP14 Employees and self-employment by industry), 2020: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/employeesandselfemployedbyindustryemp14>

See also HMRC figures for construction. There is a broad split into PAYE and CIS. This provides some statistical confirmation of high levels in London, low levels in Scotland, etc. <https://www.constructionenquirer.com/2020/08/24/c-19-construction-worker-payouts-top-6bn/> For the whole construction workforce, self-employment constitutes 40 per cent of the labour force, though this includes those working off site.

The Electricotechnical Skills Partnership, *Labour Market Intelligence Report*, Pye Tait. 2019 suggested 33 per cent of electricians and electrical fitters (SOC Code 5241) are self-employed. In total the figures of self-employed revealed indicate 87,000 out of 265,000 electricians and electrical fitters (SOC Code 5241) are self-employed (p.16). However, this covers a wide range of people, not just those in electrical contracting: (<https://www.the-esp.org.uk/wp-content/uploads/2019/11/TESP-LMI-Report-2019.pdf>)

6 For Australian research on this see M. Rafferty and P. Toner, 'Thinking like capital markets – fictionalisation of the Australian construction industry' *Construction Management and Economics* 37, 3, 2019: <https://www.tandfonline.com/doi/abs/10.1080/01446193.2018.1513163>

7 G Bosch and P. Philips, *Building Chaos*, Routledge 2002. F. Behling, and M. Harvey, 'The Evolution of False Self-Employment in the British Construction Industry', *Work Employment and Society*, 29(6) 2015: <https://journals.sagepub.com/doi/abs/10.1177/0950017014559960>

G. Briscoe et. al. 'The impact of the tax system on self-employment in the British construction industry' *International Journal of Manpower*, 21, 8, 2000. https://www.researchgate.net/publication/242032021_The_impact_of_the_tax_system_on_self-employment_in_the_British_construction_industry

8 M. Taylor, *Good Work*, 2017. Department of Business, Energy, and Industrial Strategy: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627671/good-work-taylor-review-modern-working-practices-rg.pdf

9 H. Gospel *Markets, Firms, and the Management of Labour in Modern Britain*, Cambridge University Press, 1992



- 10 K. Ness and S. Green, 'Human resource management in the construction context: disappearing workers in the UK' in A. Dainty and M. Loosemore, *Human Resource Management in Construction*, Routledge, 2013; A. Eldred, *Inside the 'Hollowed-out' Firm. Controlling Employment Arrangements in Two Construction Supply Chains*, London MSc, 2015; D. Bryan et al. 'Financialisation and labour in the Australian construction industry', *Economic and Labour Relations Review*, 28, 4. 2017. <https://journals.sagepub.com/doi/abs/10.1177/1035304617739504>
- 11 For Australian research on this see M. Rafferty and P. Toner, 'Thinking like capital markets – financialisation of the Australian construction industry' *Construction Management and Economics* 37, 3, 2019.
- 12 K. Ness and S. Green, 'Human resource management in the construction context: disappearing workers in the UK' in A. Dainty and M. Loosemore, *Human Resource Management in Construction*, Routledge, 2013; J. Raja et al. 'Managing multiple forms of employment in the construction sector: implications for HRM' *Human Resource Management Journal*, 23, 3, 2013.
- 13 JIB, *Labour Agency Survey*, 2017, undertaken by Rheinberg Associates, JIB 2017. Available from JIB
- 14 S. Parker and J. Rougier, 'The retirement behaviours of the self-employed in Britain' *Applied Economics*, 39, 6, 2007 <https://www.tandfonline.com/doi/abs/10.1080/00036840500447807>
- R. Böheim and U. Muehlberger 'Dependent Forms of Self-employment in the UK: Identifying Workers on the Border between Employment and Self-employment' IZA DP No. 1963 2006 <http://ftp.iza.org/dp1963.pdf>
- 15 N. Datta, 'The gig economy and workers' preferences for steady jobs' *Centrepiece*, Centre for Economic Performance Autumn 2020. <http://cep.lse.ac.uk/pubs/download/cp560.pdf>
- 16 L. Katz and A. Krueger, 'The Role of Unemployment in the Rise in Alternative Work Arrangements', *American Economic Review*, 107, 5, 2017; I Lass and M. Wooden, 'The structure of the wage gap for temporary workers' *British Journal of Industrial Relations*, 57, 3, 2019. <https://onlinelibrary.wiley.com/doi/abs/10.1111/bjir.12458>
- 17 See for example the number of umbrella and payroll companies listed on FCSA website and dates founded <https://www.fcsa.org.uk/>
- 18 For a study of how supply-side intermediaries facilitates outsourcing see H. Gospel and M. Sako, 'The Re-bundling of Corporate Functions' *Industrial & Corporate Change*, 19 (5) 2020
- 19 J. Druker and R. Croucher, 'National collective bargaining and employment flexibility in the European building and civil engineering industries' *Construction Management and Economics* 18(6) 2010. https://www.researchgate.net/publication/24077463_National_collective_bargaining_and_employment_flexibility_in_the_European_building_and_civil_engineering_industries
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Given gaps in this report, in particular the lack of a survey of employees, interviews with clients, and more detailed studies of non-UK systems. The JIB and the Parties might also wish to consider further research, in collaboration with other organisations.

92 I was not able to investigate the role of the Construction Clients' Leadership Group, <https://www.cclg.co.uk/>

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Notes

A series of horizontal dotted lines for taking notes.



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