

Question and Answer Booklet: Public Consultation on Zero Hours Contracts

Your details

Your name:

Jill Minne

If you are responding on behalf of an organisation

Name of the organisation:

Belfast City Council

Your position within the organisation:

Director of Organisational Development

Address:

Chief Executive's Department
City Hall
BELFAST BT1 5GS

Email address:

minnej@belfastcity.gov.uk

There follows a summary of each of the questions asked in the consultation document along with fields for you to provide responses. You should make yourself aware of the content of Chapter 5 of the consultation document prior to making your submission.

General Questions

Question 1 Are there circumstances when it is justifiable to include an exclusivity clause in a zero hours contract? If so, please state what these are.

Answer 1 Exclusivity clauses are only acceptable when an employer is able to justify that the clause is in the interest of a legitimate business interest and the employee agrees to it.

Question 2 Do you think that exclusivity contracts should be banned from zero hours contracts? Please state your reasons.

Answer 2 Belfast City Council as an employer does not support the use of exclusivity clauses because they can prevent workers from taking up offers of work from other employers. Any exclusivity contract must be fully justified by an employer .

Question 3 Would banning zero hours contracts or exclusivity clauses create any negative impacts for SMEs?

Answer 3 We recognise that the use of zero hours contracts and exclusivity clauses may be more prevalent within SMEs and therefore there is a potential for a greater impact on SMEs should such a ban be implemented. Properly constructed zero hours contracts, where both parties to the contract enjoy flexibility, can provide advantages, provided these contracts are not open to abuse by employers and that there is a legitimate business justification for any exclusivity clauses.

Question 4 Would you support a restriction on the use of exclusivity clauses in a zero hours contract? For example, banning the use of exclusivity clauses in employment contracts guaranteeing less than a minimum number of hours or a minimum gross pay? If so, could you please suggest what you consider the minimum hours, or minimum gross pay might be set at?

Answer 4 We would support a restriction on exclusivity clauses to reduce the risk of potential misuse by employers .

Question 5 Do you think a ban or restriction on the use of exclusivity clauses in employment contracts would discourage employers from creating jobs? Are there any other unintended consequences of such action that should also be considered?

Answer 5

A ban or restriction on exclusivity clauses would not impact on the creation of jobs within our organisation. We recognise however that this may not be the case for SME's.

Question 6

Do you think the Department should provide more focused guidance on the use of exclusivity clauses, for example setting out commonly accepted circumstances when they are justified and how to ensure both parties are clear on what the clause means? If you answer yes, what information should be included?

Answer 6

If exclusivity clauses are not banned, detailed guidance would be required, particularly for SMEs who may be most affected by changes to the law on zero hours contracts.

Question 7

Would a Code of Practice setting out fair and reasonable use of exclusivity clauses in zero hours contracts (a) help guide employers in their use, and (b) help individuals understand and challenge unfair practices? Please explain your response.

Answer 7

If exclusivity contracts are not banned, a Code of Practice to assist employers, particularly SMEs, and individuals would be welcome. This would be helpful to both parties to a contract to help them understand the employment rights and obligations.

Question 8

Do you think that a worker on a zero hours contract should have an automatic right to guaranteed hours if they have worked a regular pattern and number of hours on a zero hours or non-guaranteed hours contract for a given period (e.g. 12 months)? If so, could you suggest how many hours and how long an employee should have worked in order to trigger the automatic right?

Answer 8

It may be advantageous to introduce an automatic right to guaranteed hours if a worker works a regular pattern on a continuous basis. The suggested period of 12 months would be reasonable. It is difficult to suggest what number of hours would be reasonable as this would be dependent on the circumstances of the business and the type of work in question.

Question 9

Do you think that a worker on a zero hours contract should have an automatic right to request a fixed term contract if they have worked a regular pattern and number of hours on a zero hours or non-guaranteed hours contract for a given period (e.g. 12 months)? If so, could you suggest how many hours and how long an employee should have worked in order to trigger the right to request?

Answer 9

It may be advantageous to introduce an automatic right to a fixed term contract if a worker works a regular pattern on a continuous basis. The suggested period of 12 months would be reasonable. It is difficult to suggest what number of hours would be reasonable and this would be dependent on the circumstances of the business and the type of work in question.

Question 10

Do you think that there would be benefit in introducing a compensatory arrangement similar to that adopted in the Republic of Ireland which would guarantee a minimum payment for workers on zero hours contracts who had an expectation of work, but who were not called to work in a given week? If so, could you suggest 1) what the minimum payment might be based upon; and 2) in what circumstances such a payment might be triggered?

Answer 10

We recognise that there are circumstances in which zero hours contracts could be misused by employers and in such circumstances a compensatory arrangement might offer a deterrent to such misuse. This however would not be necessary for properly constituted zero hours contracts which genuinely offer flexibility to both parties to the contract.

Question 11

Should a worker on zero hours contracts have the option to move to an annualised hours contract?

Answer 11

We recognise that there are circumstances in which a zero hours contract worker may be subjected to abuse and, in such circumstances the option of moving to an annualised hours contract might mitigate the risk to vulnerable workers. This however would not be necessary for properly constituted zero hours contracts which genuinely offer flexibility to both parties to the contract.

Question 12

We welcome views on whether retaining the current arrangements (or doing nothing) is sufficient and whether taking forward legislation as set out above would undermine business flexibility and individual choice.

Answer 12

Retaining the current arrangements is not sufficient. There needs to be further clarification and guidance for employers on the management of workers on zero hours contracts. .

Question 13

If you have sought employment information, advice, or guidance on zero hours contracts before, (a) where did you receive it from, (b) how helpful was it to you in terms of explaining your position in regard to zero hours contracts, and (c) how could it have been improved?

Answer 13	Advice has been sought from CIPD and ACAS, which was helpful. It would be helpful if there was a definition of the types of zero hours contracts that are available so that a clear distinction can be drawn between contracts which may subject workers to abuse and contracts which genuinely suit the needs of both parties to the arrangement.
Question 14	Do you think that model clauses for zero hours contracts would assist employers in drawing up zero hours contracts, and support employers and individuals to better understand their employment rights and obligations? If you answer yes, what should the key considerations be in producing model clauses?
Answer 14	Yes. Model 'terms of engagement' would be helpful for both parties. The model clauses should include guidance on the wording to be used around annual leave arrangements and clear obligations for both parties in terms of offering and accepting work.
Question 15	Do you think that existing employment law, combined with greater transparency over the terms of zero hours contracts, is the best way of ensuring individuals on zero hours contracts are making informed choices about the right contract for them to be on?
Answer 15	Yes, a code of practice providing clear explanations of how such contracts can be used fairly would be essential.
Question 16	Do you think there is more employers can do to inform individuals on zero hours contracts what their rights and terms are?
Answer 16	There is potential for employers to misuse zero hours contracts. A clearer understanding of employment rights would be useful to prevent this. We also recognise that larger organisations have access to HR and legal advice and this resource is not always open to SMEs.

Questions for Employers	
Question 17	If you are an employer, do you use zero hours contracts in your business and if so, for what purpose?

Answer17

The Council has a number of 'casual' workers who are not obliged to accept any work and suffer no detriment if they choose not to accept offers of work, and can indicate to the Council the specific days / times that they are willing to be considered for any work. Such contracts have been offered for many years. Casual workers are recruited in line with the LGSC Code of Procedures on Recruitment and Selection on the basis of merit and paid the same hourly rate of pay in line with that determined by the NJC for Local Government Services plus an additional percentage rate to compensate for untaken annual leave entitlement.

This arrangement offers business flexibility and individual choice in front-line jobs in the Council such as casual coaches, casual front of house workers in entertainment venues , casual receptionists and casual leisure attendants in leisure centres etc.

Question 18

Have you offered a job on a zero hours contract basis that includes an exclusivity clause? If so, for what reason?

Answer 18

No.

Question 19

What is your policy when an individual declines hours of work you offer?

Answer 19

If a 'casual' worker in the Council declines hours of work offered there is no detriment. The 'casual' worker is not obliged to accept any work and the Council is not obliged to offer any work. The 'casual' worker will remain on the list of workers to be offered work if and when work becomes available.

Question 20

Do you employ any individuals on a zero hours contract who work a pattern of regular hours? If so, how many hours a week and for what period of time?

Answer 20

Management monitors the use of casual workers to ensure that such workers are deployed only as and when required to cover short term, specialist or ad hoc work.

Question 21

If you offer additional hours of work, how much notice do you give the individual? If so, how do you make the offer e.g. by telephone?

Answer 21

Management gives as much notice as possible (two weeks where practicable), to enable its 'casual' workers to accept the offer of work and this offer is made via telephone or email.

Questions for Employees/Workers

Question 22 If you are a worker, have you accepted a job on a zero hours contract basis that has included an exclusivity clause? What was the job and what reason was given for including an exclusivity clause?

Answer 22 Not relevant.

Question 23 If you are employed on a zero hours contract, do you have more than one employer or contract

Answer 23 Not relevant.

Question 24 Has being employed on a zero hours contract helped you to achieve a good balance between your work life and home life? Was this a factor in accepting a job on this basis?

Answer 24 Not relevant.

Question 25 Do you have a choice or say in how many hours or when you will work?

Answer 25 Not relevant.

Question 26 If you work a regular pattern of hours under a zero hours contract, how much notice do you receive if the number of hours decrease or drop off to zero, or increase?

Answer 26 Not relevant.

Question 27 If you have ever declined any hours of work offered to you, did your employer subsequently stop offering you work, or reduce the number of hours offered?

Answer 27 Not relevant.

Question 28 Would you wish to remain on a zero hours contract if a job with guaranteed hours was offered to you?

Answer 28 Not relevant.

Additional Questions to Address the Issues

Question 29 Are there any issues which you consider that the Department has not addressed in this document, and which would merit further discussion? Please provide detail.

Answer 29 The issue of zero hours' contracts has been the subject of widespread debate and has generated significant media attention. With no legal definition of what constitutes a zero hours contract, there is confusion between contracts that are not in keeping with best practice (i.e. workers on zero hours' contracts who are obliged to take the shifts that they are offered and suffer a detriment if they do not,) and those which can work to the mutual benefit of employer and employee (i.e. 'casual' workers who are not obliged to accept the work, who suffer no detriment, and who based on their individual choice can decide the specific days / times that they want to be considered for work).

Question 30 Are there any other possible policy options which should be considered to address issues relating to zero hours contracts? If so, please state what these are.

Answer 30

Question 31 Do zero hours contracts or any of the options explored through this consultation create any negative equality impacts?

Answer 31 A formal equality impact assessment should be conducted to determine this.

Question 32 Do zero hours contracts create any difficulties for employees in accessing benefit entitlements?

Answer 32 There could be potential difficulties for workers accessing benefit entitlements.