

WORKING AT THE EDGE...



Zero Hour Contracts

July 2014

Citizens Advice Scotland (CAS), our 61 member bureaux and the Citizen Advice Consumer Service helpline form Scotland's largest independent advice network. Advice provided by the Scottish CAB Service is free, independent, confidential, impartial and available to everyone. Our website, Adviceguide, also provides the public with up to date information on a range of topics. We are champions for both citizens and consumers and in 2012/13 we helped over 314,000 people deal with over a million issues.

Many people who are in work live in relative poverty due to low wages and high costs of living. Our '**Working at the Edge**' series examines the problems that these households face due to in-work poverty.

Summary

This briefing focusses on a concerning aspect of the rise of the zero hours contract – the insecurity of working hours and income caused by workers being guaranteed no set amount of work, or even any hours at all in any given week. According to the Office of National Statistics, in February 2014 there were around 1.4 million employee contracts that do not guarantee a minimum number of hours.

Workers in this position are more likely to be under 25 or over 65, work fewer hours than the average (25 compared to 37 for other contractors), are more likely to be female (55%), and are more likely to want to work more hours (35% compared to 12% on other contracts). Zero hour contracts are particularly prevalent in the tourism, catering, food and care industries.¹

Citizens advice bureaux in Scotland advised on 44,128 new employment issues in 2012/13 – around 178 per working day. Case evidence reported by bureaux has highlighted a number of different problems stemming from the way zero hours contracts have been used by employers, particularly in the last six months.

Whilst zero hours contracts may be well-suited to particular types of work, such as casual or seasonal labour, the *misuse* of zero hours contracts is becoming a major problem, which should be addressed to prevent exploitation and hardship. Misuse can include situations where zero hours contracts are issued by employers inappropriately, such as where a full-time or part-time contract may be better suited, with a number of employers now appearing to use zero hours contracts as the norm for the bulk of their staff. According to evidence submitted to the House of Commons Scottish Affairs committee by Unite the Union², across the UK 83,800 McDonalds staff, 20,000 Burger King staff, approximately 20,000 Sports Direct staff, 24,000 JD Wetherspoon staff, 4,000 Boots the chemist staff, 20,000 Dominos pizza staff; 600 Subway sandwich staff and 3,600 Cineworld staff are all on such contracts.

¹ Analysis of Employee Contracts that do not Guarantee a Minimum Number of Hours – Office for National Statistics, April 2014 <http://www.ons.gov.uk/ons/rel/lmac/contracts-with-no-guaranteed-hours/zero-hours-contracts/art-zero-hours.html>

² Zero hours contracts in Scotland: Interim Report - Scottish Affairs Committee, April 2014 <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmsscotaf/654/65402.htm>

This indicates that, rather than offering 'flexibility' for the worker as has been argued to be a benefit of zero hours contracts, their prevalence can result in situations where they are the only employment option open to some individuals. There is clear evidence from citizens advice bureau clients that a number of problems have been caused from the misuse of zero hours contracts. In the last six months alone, citizens advice bureaux have reported instances of uncertainty over whether zero hours workers are given any legal protection from poor employment practices, including cases of workers having their hours suddenly cut in an apparent attempt to make them resign.

The human impact of the insecurity of income can be seen through the stories of CAB clients who have been forced to borrow from payday lenders and even resort to food banks because of significant variances in their pay from week to week. In this situation, budgeting can be impossible and the safety net of the benefits system inaccessible because of the unpredictable nature of their working hours. This briefing focusses on these elements of the rise in zero hours contracts in Scotland.

Lack of work causing destitution

One of the key features of zero hours contracts is that no work is guaranteed in any week. For a growing number of workers, far from offering flexibility and choice in their working patterns, their zero hours contract has left them with very little, or no income whatsoever for a period of time. Citizens advice bureaux in Scotland advised clients who found themselves in crisis and destitute as a result of a sustained period without work – in some cases being unable to afford to eat and requiring a referral to a food bank.

- ▶ A North of Scotland CAB reports of a client who is employed in a laundry on a zero hours contract. She has been laid off work for the past three weeks due to a machinery breakdown. She is currently facing hardship due to loss of income and was consequently referred for a food parcel.
- ▶ An East of Scotland CAB reports of a client who works on a zero hours contract. He has only had three days' work in the last month and as a result will have earned only about £150. The client has been to the Jobcentre for help and been advised that the only way they can help is if he signs on for Jobseeker's Allowance (JSA). The client was referred to a food bank.
- ▶ An East of Scotland CAB reports of a client whose Jobseekers Allowance (JSA) was stopped 11 weeks ago as he no longer meets the required criteria. He is working on a zero hours contract and some weeks has no income. He is in a single household and in receipt of Housing Benefit and Council Tax Reduction. He sometimes struggles to buy food and wanted to know if he could access a food bank.

The provision of food aid has grown significantly in Scotland in the last three years. The Trussell Trust which operates 26 foodbanks in Scotland, provided five times as many food parcels in 2013-14 compared to the previous year. Between January and March 2014, 1 in every 34 clients who received advice at a citizens advice bureau required a food parcel. Around 11% of clients that need to make an application for charitable support are in employment.³ The parallel rise of zero hours contracts and food banks reflects an extremely concerning trend in 2014.

³ Voices from the Frontline - Food parcels and the benefits system – Citizens Advice Scotland, April 2014
<http://www.cas.org.uk/publications/voices-frontline-food-parcels-and-benefits-system>

Serious debt and budgeting difficulties due to fluctuating income

Workers on zero hours contracts can often find their working pattern - and therefore their income - unpredictable. Citizens advice bureaux have advised clients on zero hours contracts whose working hours have dropped or fluctuate leaving it extremely difficult to budget and quickly accruing substantial debt.

- ▶ A North of Scotland CAB reports of a client who had accrued rent arrears over a period which now totals £982.76. She has a repayment arrangement with the Council, but her payments recently lapsed because she was on a zero hours contract cleaning on a building site and there was no work. The client has now been summoned to appear in the Heritable Court over her arrears.
- ▶ An East of Scotland CAB reports of a client who was employed as a driver through an agency on a zero hours contract. However, he has had little work over the last two weeks and has no hours for the coming weeks. The client has signed on for Jobseeker's Allowance (JSA) but has multiple debts. He was seeking advice about possible bankruptcy.
- ▶ An East of Scotland CAB reports of a client whose employment varies dramatically because of a zero hours contract. She can work between 7 and 13 hours per week and her income can vary from £60 to £100. The client struggles with her budget or to address her debt issues as she is not sure how many hours she will be working on a week to week basis and has no guarantee of any work.

High-cost short-term credit (popularly known as payday loans) is a type of loan agreement which allow consumers to borrow for a short period of time (typically less than three months) for a small amount of money (between £50 and £2,000). Payday loans are one of the fastest growing areas of advice both made to local citizens advice bureaux and to the citizens advice consumer helpline service. They can represent a way for workers on zero hours contracts to cope with fluctuations in their income in the short term caused by irregular working hours. However, when large repayments are due in a week where little work is available, workers can find themselves in a situation where they have no way of paying back the loan.

- ▶ An East of Scotland CAB reports of a client who is unable to pay various payday loan companies. Her total debts amount to £4,850. Whilst she lives with her mother and pays no rent, she works as a waitress on a zero hours contract, sometimes earning more than £200 per week, but next week will only earn £70. She is due to pay three separate payday lenders a total of £173 next week and has no way of paying.

Difficulty accessing the benefits system

Workers on zero hours contracts can slip through the benefits system as they have difficulty claiming in-work benefits and means tested benefits. To be eligible for Jobseeker's Allowance (JSA) an individual must work less than 16 hours, and to be eligible for Working Tax Credit a claimant must work more than 30 hours a week (more than 24 hours a week for couples with children). If a person works between 16 and 24 hours, and those hours fluctuate, it is likely that their income will be very low – potentially lower than those in receipt of out of work benefits.

- ▶ An East of Scotland CAB reports of a client who was working as a relief cleaner on a zero hours contract. For the last four months he has only 11 or 12 regular hours work a week. His partner was prevented from claiming Employment and Support Allowance (ESA) by the Department of Work and Pensions (DWP) as they were told it is possible the client could be working more than 24 hours per week if he was on a zero hours contract. The DWP has also told the client that it is not worth applying for Jobseeker's Allowance (JSA), as he might be working over 16 hours in some weeks. The client is therefore very anxious about their income.
- ▶ An East of Scotland CAB reports of a client who has a zero hours contract at the cinema where he has worked for 13 years. He previously received Working Tax Credit (WTC), but the payments stopped because his hours for the past year averaged less than 30 hours a week, which the client had not realised because of the erratic nature of his working hours. He was asked to phone to make arrangements to repay the overpayment of WTC, but as the client has a hearing impairment which makes it difficult to use the telephone he did not do so. Now he is facing legal proceedings to recover the debt, and has also been told he has been overpaid Housing Benefit because he had not informed the council that his WTC has stopped.

With unpredictable hours it is extremely difficult for zero hours contract workers to estimate their average weekly earnings for the purposes of claiming in-work benefits. For in-work claimants whose earnings fluctuate, their weekly earnings can be averaged over a period of five weeks for the purposes of the benefits system. However, even this can prove difficult for some workers, who can be working almost full time hours in one week, then hardly at all in the next. Citizens advice bureaux have advised clients who have been overpaid benefits in one week, which they must repay, then been underpaid in the next due to their hours reducing, leaving them facing an income crisis.

- ▶ An East of Scotland CAB reports of a client who had started a new job as a carer on a zero hours basis and has no guarantee of the number of hours per week. For example, she worked almost a full week over Christmas, but she has had varying amounts from 10 hours down to as little as 4.5 in one week. The client was seeking advice about benefits to which she might be entitled.

Not getting enough working hours can be a reason for a number of workers to leave zero hours contracts, or to decline the offer of a zero hours job. Citizens advice bureaux have advised a number of clients who were concerned that if they did so, they would be prevented from claiming Jobseeker's Allowance (JSA) or sanctioned for turning down an offer or voluntarily leaving a job. In October 2013, the UK Government confirmed that workers in this situation should not be sanctioned.⁴ CAS warmly welcomes this clarification, but believe that more could be done to communicate this to benefits claimants, prospective claimants and Jobcentre staff.

However, recent indications from the Department of Work and Pensions (DWP) that claimants may be sanctioned for these reasons when Universal Credit is rolled out⁵, is of concern.

⁴ Freedom of Information request 3022/2013

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/269392/foi-3022-13.pdf

⁵ Letter from Minister for Employment to Sheila Gilmore MP, March 2014 <http://www.sheilagilmore.co.uk/wp-content/uploads/2014/03/GILM0200202140092020020092.pdf>

Supporters of zero hours contracts justify them on the basis that they offer ‘flexibility’ to the worker and the employer – requiring jobseekers to apply for them or risk a benefit sanction has the potential to further undermine that flexibility. We would recommend claimants under Universal Credit should not be sanctioned for not applying for a zero hours vacancy if it does not meet their needs.

Conclusion

The misuse of zero hours contracts is becoming a major problem, which should be addressed as a priority to prevent workers being exploited and enduring hardship or crisis. Whilst legislating in this area is difficult, due to the ill-defined nature of zero hours contracts, there are some actions that should be taken to prevent some aspects that lead to misuse and better meet the employment needs of individuals.

Whilst CAS welcomes proposed action to ban the use of exclusivity clauses in zero hours contracts in the Small Business, Enterprise and Employment Bill⁶, this alone will not solve the problems caused by their misuse. When a worker would prefer a contract that guarantees a minimum number of hours or a fixed working pattern, they should have a right to request this without fear of disadvantage or dismissal. When applying for a job, employers should ensure that it is made clear to candidates that it is zero hours and may not have the working pattern they are looking for. Finally, given the problems we have highlighted, we would recommend guidance is produced to ensure that benefits claimants are not sanctioned for refusing a zero hours job if it does not meet their needs.

Recommendations

Citizens Advice Scotland recommends:

- Workers on a zero hours contract should be given a statutory ‘right to request’ a contract that guarantees hours, without fear of dismissal
- The UK Government should use the Small Business, Enterprise and Employment Bill to ensure that workers are protected from misuse of zero hours contracts
- Guidance to individuals, as well as Jobcentre Plus staff, is published clarifying that individuals who leave zero hours contracts due to the lack of work available, or who decline offers of zero hours work for the same reason should not be sanctioned.
- Claimants under Universal Credit should not be sanctioned for not applying for a zero hours vacancy if it does not meet their needs.
- Employers should be required to inform prospective candidates that the vacancy is on a zero hours basis, for instance by publishing it in the job advertisement, or by informing them at interview.

⁶ Government crackdown on zero hours contract abusers, Department for Business, Innovation & Skills, 25 June 2014 <https://www.gov.uk/government/news/government-crackdown-on-zero-hours-contract-abusers>