

Zero Hours Contracts

May 2016

1. Key points and recommendations

- Zero Hour Contracts (ZHCs) form a very small part of the UK labour market, but have come to increasing public prominence in recent years.
- Debate on ZHCs is often polarised. However, a review of the evidence presents a more nuanced picture. Whilst some workers and employers appreciate the flexibility of ZHCs, others point to their negative effect on low income households and their potential for exploitation.
- ZHCs are used across a range of occupations and sectors. A significant number of all workers employed under a ZHC work in health and social care, especially in domiciliary care.
- Those on ZHCs are more likely to be women or in full-time education, younger or older workers.
- The experience of workers aged 50+ on ZHCs is mixed. Some older workers like the flexibility of ZHCs in order to combine work with other responsibilities or to phase their transition to retirement. However, other older workers will have a very poor experience of working under a ZHC, particularly where they have little control over the hours that they are offered each week, or where they feel that they have no alternative but to accept a ZHC.
- As with workers of other ages, it is often lower skilled workers who are more likely to be in an exploitative employment relationship involving a ZHC.
- Age UK agrees with the Resolution Foundation that there is a continuing need to tackle exploitative zero hours arrangements, while maintaining a right for workers to work on ZHCs, where there is a genuine benefit for the individual (see Section 6 of this briefing).
- The Government should introduce a 'right to request' system – similar to that for flexible working – that allows workers on ZHCs to request a move to a guaranteed hours contract, provided they meet certain conditions relating to length of service and past working patterns.

2. Introduction

Zero Hours Contracts (ZHCs) are a type of atypical working arrangement which have increased in use over the last 5 years, although they are by no means a new phenomenon, nor are they unique to the UK.¹ There is also much greater public awareness of their existence. However, information about precisely what they are and how they are used is hard to find. This has been partly due to problems of definition and because information about the numbers of people affected by ZHCs has only recently started to be collated.

There is considerable debate about the place of ZHCs in the labour market: for example, employers point to the benefits of having a flexible workforce, whereas trade unions express concerns about their potential to be used exploitatively. What emerges from a review of the literature and evidence is a much more subtle picture, where some workers, including those who are older, benefit from the flexibility that ZHCs offer, whereas others, such as many in poorly paid, low skilled sectors (e.g. social care), face a precarious existence with intermittent working patterns and pay.

3. Overview

Definition

ZHCs are one type of atypical working relationship but “are not a single category of work arrangements”.² According to researchers from Oxford University:

“Zero-Hours arrangements thus represent various degrees of fragmentation of work – from reasonably regular and consistent employment to a spot-market in labour. Rather than forming a single or unitary category, they represent some of the many possible variations of employment, ranging from ‘preferred choices, well-paid and secure’ to ‘vulnerable’ or ‘poor work’.”³

The European Court of Justice has defined ZHCs as follows:

“... working according to need, [where the employee] works under a contract which stipulates neither the weekly hours of work nor the manner in which working time is to be organised, but it leaves her the choice of whether to accept or refuse the work offered by [the employer].”⁴

Legal framework

In the UK, ZHCs are legally defined as:

*“... a contract of employment or other worker’s contract under which –
(a) the undertaking to do or perform work or services is an undertaking to do so conditionally on the employer making work or services available to the workers, and
(b) there is no certainty that any such work or services will be made available to the worker.”⁵*

Since June 2015, an employer may not prevent an individual working under a ZHC from working for another employer. Any such exclusivity clause in a ZHC is now unenforceable,⁶ and as of January 2016 workers who suffer detriment as a result of any work undertaken outside of their ZHC can take the employer to an Employment Tribunal.⁷

Individuals have different levels of employment protection depending on whether they are classified as being an employee (with the most employment rights such as the right not to be unfairly dismissed and to receive redundancy pay), a worker (with the right to receive holiday pay and the National Minimum Wage) or with another legal status. Their rights will also depend on their individual employment contract. Nevertheless, all people working under ZHCs have the following minimum rights:

- Right not to be discriminated against under the Equality Act 2010;
- Right to receive pro-rata holiday pay and other working time rights (Working Time Regulations 1998);
- Right to receive Statutory Sick Pay (so long as they have met the Lower Earnings Limit);
- Automatic enrolment for pensions;
- Protection from unlawful deductions from wages;
- Right to receive the National Minimum Wage.

Prevalence

According to the Labour Force Survey, 2.4 per cent of all people in employment were employed on a ZHC in their main job between April to June 2015, compared to 2 per cent in the same period of 2014. This continued the upward trend of previous years. However, no strong conclusions can be drawn from this apparent increase. The significant growth in media attention given to ZHCs in this period makes it unclear what proportion is a genuine increase in people affected and also how much is because of greater awareness – as the Office for National Statistics (ONS) says *“it is not possible to say how much of the increase between 2014 and 2015 is due to greater recognition rather than new contracts”*.⁸

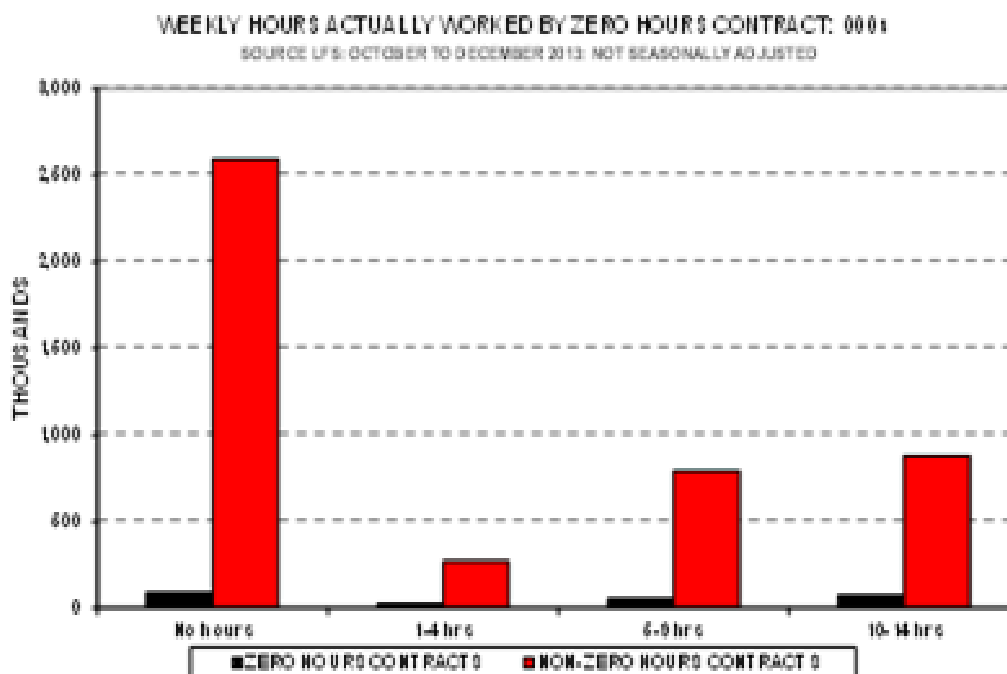
In January 2015, the number of contracts that do not guarantee a minimum number of hours where work was carried out was 1.5 million.⁹ People on ZHCs are more likely to be women or in full-time education.¹⁰ Flexible contracts, including ZHCs, are used across a range of occupations (not only low skilled) and especially by knowledge workers (43 per cent).¹¹

The Chartered Institute of Personnel and Development (CIPD) survey of employers suggested that 1 million people (3.1 per cent of the workforce) were on ZHCs.¹² This is probably a more accurate picture as it does not rely on people knowing what their employment or contractual status is. The CIPD survey also counts numbers of people, compared with the Labour Force Survey which counts the numbers of contracts (people may work under a number of ZHCs at one time). Further CIPD research on zero hours and short hour contracts finds that 25 per cent of employers use them in some fashion.¹³

Even if the incidence of ZHCs is higher than reported, they still form a very small part of the labour market overall.

According to the ONS, on average someone on a ZHC works 25 hours per week. Around 40 per cent of people on ZHCs want more hours, with most wanting them in their current job.¹⁴ However, the Government notes that very few workers on ZHCs actually work zero hours:

“As it is very rare for workers on zero hours contracts to usually work zero hours each week the problem is not in the precise nature of the contract itself but rather the variability of hours and pay from week to week. Also, as zero hours contracts are such a small proportion of total employment, the number of workers who actually work zero hours or a small number of hours a week are much more prevalent amongst people who are not on zero hours contracts than are on such contracts.”¹⁵



Source: Department for Business, Innovation and Skills¹⁶

The Resolution Foundation sounds a note of caution as to the significance of the issue within the labour market generally, although questions why, when the economy is improving, the use of ZHCs persists:

“Specific forms of atypical and often low-quality employment – including ... zero hours contract working – have grown in prevalence during and since the downturn. Relatively small groups of workers (compared to the overall workforce) are affected in each case... only 2 per cent are on a zero hours contract.”¹⁷

“We should be wary of overstating the problem ... But the fact that growth has continued in a period of employment recovery suggests that this contract type may be part of a longer-term workforce strategy for many employers, rather than just a temporary response to the downturn.”¹⁸

4. Debates on ZHCs

There are widely divergent ways in which ZHCs operate and also multiple views as to the merits of ZHCs. These opinions depend, in part, on whether they are viewed from an employer or employee perspective or on an individual’s personal situation (such as their age, stage of their working lives, pay and bargaining power within the workplace). As the Work Foundation puts it:

“It is hard to avoid the conclusion that [ZHCs] are a highly polarised form of contract. They can provide individuals with the flexibilities they demand, and appear to suit significant numbers of people close to or at retirement age. They may also work for people with skills and expertise in high demand and for some students. But it is also clear they can also be associated with some of the worst forms of exploitation in today’s labour market, and add to the problems being faced by low income households.”¹⁹

Even though ZHCs may work for some employees individually, it has been suggested that their effect can be to undermine the bargaining power of other workers and drive down pay levels overall, particularly at the bottom end of the labour market.²⁰ Alternatively, others claim that the rise of ZHCs illustrate the flexible nature of the UK jobs market and, without this, opportunities for individuals would be dramatically reduced.²¹ Research from the CIPD suggests that employee wellbeing is not , overall, affected by zero hours or short hour contracts.²²

The Work Foundation has suggested that there are three primary reasons why zero hours contracts might be used: demands of the job; evading employment rights and meeting individual flexibility.²³ While there can be clear benefits for employees, in practise it is often predicated on employers using them in a fair and responsible way – the advantages for employees are therefore dependant on this.

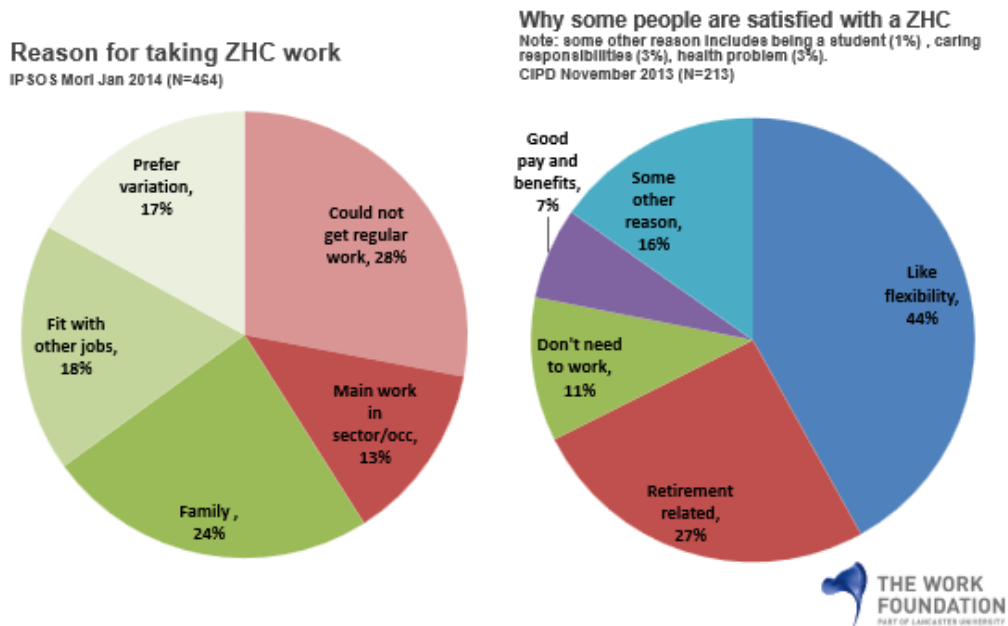
This table illustrates the main advantages and disadvantages of ZHCs.

Advantages	Disadvantages
Can help workers who want flexibility in their working patterns (e.g. to fit around other responsibilities such as other work, care, study, volunteering or as they transition to retirement).	Intermittent nature of the work – no guarantees of income, can be offered fewer hours work than they would like. Work is offered or cancelled at short notice. May be penalised by employer for failing to take work offered.
Workers can take on additional hours alongside other work, gain new experience, or get a foot in the door.	Workers more open to discrimination and less likely, because of their vulnerability, to complain. ²⁴

Some employers with changing needs for staff (e.g. in service sector) or particular spikes in demand (e.g. in seasonal industries) see them as advantageous as they can rapidly increase or decrease their workforce to meet demand.	Lead to precarious lifestyles as unable to budget, obtain mortgage, secure credit, take on rented accommodation. Unable to plan time outside of work, childcare needs.
	Can deprive workers of workplace rights, pay and benefits.
	Difficulty claiming “in work” benefits as no guarantee of minimum hours ²⁵ or out of work benefits. ²⁶ Fluctuating income means need to repeatedly submit applications leading to delay in receipt. ²⁷

According to the UK Commission on Employment and Skills “*people choose flexible contracts for a variety of reasons. For some it’s a positive choice – for example, a better work-life balance, but for others it’s the only option available.*”²⁸ The following illustrates this more fully.

Why people take ZHCs and why some are satisfied



Source: Ian Brinkley, *Zero Hours Contracts – insecurity or flexibility?* Presented at NICVA Consultation event 19 September 2014

The UK Commission on Employment and Skills reports that:

- 54 per cent of ZHC part time workers want more hours;
- 45 per cent of ZHC workers say they have little, not very much or no control over how many hours they work;

- 60 per cent of ZHC workers feel they have to accept work if their employer asks;
- 57 per cent of ZHC workers find it difficult to budget from month to month;
- Workers on flexible contracts may not receive as much training as those on “normal” contracts (40 per cent versus 49 per cent) and they are more likely to pay for their own training.²⁹

However, it also reports that the majority of people on flexible contracts are happy and committed (66 per cent of ZHC workers were satisfied with their current job and 64 per cent agreed strongly that they were committed to doing a good job).³⁰ The Commission’s conclusion is that:

“What emerges is a nuanced picture, and one in which all flexible workers are not equal. Some people are happy with flexibility (likely the most skilled), whilst others less so (likely the least skilled and, therefore, most vulnerable in the labour market)... It comes down to a power balance in the labour market where skills are the primary bargaining factor.”³¹

The Department for Business, Innovation and Skills published guidance for employers in October 2015, aiming to explain the issues at hand and encourage fair use of ZHCs.³²

5. Abuse of ZHCs

The main concerns over ZHC, amongst organisations representing both workers and employers, relate to their potential to exploit low paid and vulnerable workers:

Recruitment and Employment Confederation: *“There is nothing inherently wrong or exploitative about zero hours contracts themselves. When managed well, with clear communication between worker and hirer, zero hours contracts can benefit the business and the individual.”³³*

Trades Union Congress: *“The TUC supports measures that will curb the exploitation of workers by regulating the use of zero hours contracts, so that everybody has a guarantee of a minimum amount of paid work every week.”³⁴*

The Work Foundation: *“Whatever the hard numbers tell us, zero hours contracts have come to symbolise a wider concern that the labour market is moving towards more contingent, less secure and more exploitative forms of employment at a time when in many areas jobs are scarce and people have little choice over taking whatever work is available.”³⁵*

As some commentators have put it *“these ‘no-minimum-hours work arrangements’ paradigmatically shift towards and locate upon the worker the whole set of risks of insecurity of work and income which ... it has been one of the principal functions of labour law to distribute equitably and manageably between workers and employers.”³⁶*

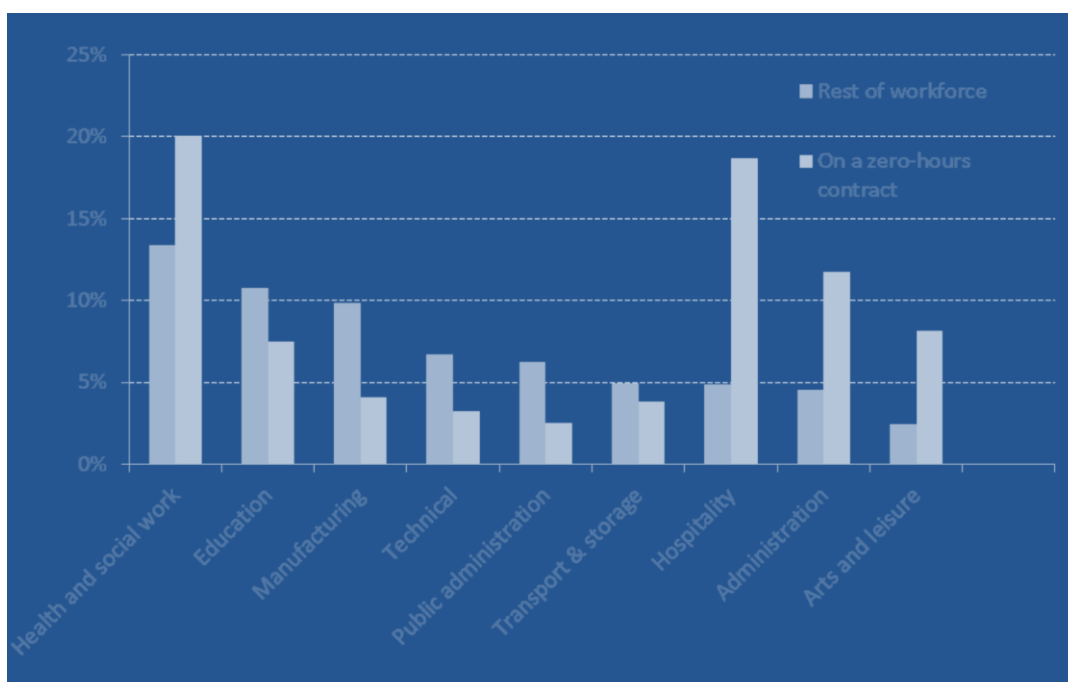
The Resolution Foundation has sought to address the concerns over the exploitative nature of ZHCs whilst providing protection and choice for workers and ensuring that flexibility is maintained for employers.³⁷ It recommends that:

- Everyone employed on a ZHC should receive a statement of employment particulars;
- ACAS should work with unions and employer representatives to develop a good practice guide;
- Increased funding and better sharing of information between enforcement agencies should be made available to increase the likelihood that employers who abuse ZHCs are identified and pursued;
- Staff on ZHCs should have the right to a fixed hours contract after 12 months of employment, provided their weekly pattern of hours worked is relatively consistent.

6. Sectoral distribution of ZHCs

The 2013 CIPD survey found that “28 per cent of employers in the public sector and 42 per cent in the non-profit sector employ people on zero-hours contracts compared with 23 per cent in the private sector”.³⁸ The Resolution Foundation suggests that “some parts of the economy appear far more reliant on zero-hours contracts than others. The use of zero-hours contracts is concentrated in a small number of industries; health and social work, hospitality and administration account for over half of all workers on a zero-hours contract.”³⁹ However, the UK Commission for Employment and Skills says that it is a myth that flexible contracts are concentrated in certain sectors and that flexible contracts are used across the economy.⁴⁰

Use of ZHC in health and social care



Source: Resolution Foundation analysis of the Labour Force Survey Q4 2012, from ‘Zeroing In’

In 2013, 307,000 people were employed on ZHCs in the social care sector in England.⁴¹ Put in context, although less than 15 per cent of the total non-ZHC workforce is found in the health and social work sector, it contains 20 per cent of all ZHC workers.⁴²

Research conducted for the Department of Health in 2011 found that there was extensive reliance on ZHCs by private providers of domiciliary care. Of their sample, 69 per cent of independent sector domiciliary care providers (IDPs) only offered ZHCs to their staff, only 12 per cent offered all staff guaranteed hours, with the remainder (20 per cent) offering a mix of zero hours and guaranteed hours contracts. This contrasted with the practice of local authority providers of domiciliary care, where all but one of the providers sampled offered only guaranteed hours (with one provider offering a mix of guaranteed and ZHCs). A later study by the Low Pay Commission has estimated that 80 per cent of the domestic care workforce in the private sector were on ZHCs compared with 5 per cent of the workforce in statutory providers.⁴³

However, the Department of Health research also found that “*although most staff in domiciliary care were only offered ZHCs, in practice most staff in the domiciliary sector worked more than short part-time hours and many were involved in long hours working*”,⁴⁴ including working over a very high share (six or seven days) of the week.⁴⁵ Some of the same researchers have presented a typical daily work schedule for care workers which demonstrates the span of hours worked and the even longer time period during which care workers are available for work:

Figure 1: Typical daily work schedules for care workers



Source: FairWRC Research Briefing No. 3, *Zero Hours Contracts in Social Care*⁴⁶

The researchers have suggested that the main reason for the prevalence of ZHCs for care workers providing domiciliary care for older people was:

“... to enable paid work in home care to be organised into short and fragmented visits. Instead of the normal organisation of jobs into continuous shifts of paid work hours, except for short unpaid rest periods, domiciliary care workers are only paid for their face-to-face care time.”⁴⁷

Whilst most of the care workers interviewed “derived high satisfaction from their work”, almost all thought they were underpaid, with their strongest complaints relating to their fragmented time system. The four types of complaints made were:

- There was a tendency not to pay for work-related time including travel time;
- There was the risk of losing pay, especially if they lost clients due to illness or death;
- There was the need to work extended hours to earn sufficient income; and
- There was the constant pressure to take on new work even when they were on breaks.⁴⁸

This, the researchers suggest, implies that the current debates around ZHCs should be widened to include fragmented time systems.⁴⁹ This could include, domiciliary care workers, not necessarily on ZHC, who travel between multiple appointments during the day. In this context, the Employment Appeal Tribunal has decided that a care worker on the National Minimum Wage is entitled to be paid travel time between assignments.⁵⁰ More recently the European Court of Justice has held, in a case not involving care workers, that where workers do not have a fixed or habitual place of work, the time spent by those workers travelling each day between their homes and the premises of the first and last customers designated by their employer constitutes “working time” within the Working Time Directive. However, it is not clear how widely the implications of this case will be felt as it was very factually specific.⁵¹

The Resolution Foundation note that the use of ZHCs in the social care sector deserves particular attention because of the nature of the work itself and the way that it is funded, stating:

“In the vast majority of sectors of the economy, the objective should be to ensure that a greater number of individuals are offered a choice between a zero hours contract and a fixed hours contract. However, in domiciliary care where zero hours contracts are the dominant employment model, there is a strong case for reducing the overall use of zero hours contracts by funding and commissioning services adequately, given the impact on workers, individuals receiving services and the wider public purse.”⁵²

The Low Pay Commission notes the shift in contracts by local authorities from block bookings of a number of hours to more flexible agreements with private providers. The Work Foundation suggests that the Commission’s study “*illustrates how changes in public procurement in the delivery of care may have driven a shift towards zero hours contracts in the private sector... Institutional and policy related changes and practice may be as important a reason for the rise of zero hours in some sectors as broader changes in the nature of work and the employment contract.*”⁵³

The Resolution Foundation recommends changes to local authority commissioning of social care⁵⁴, which would help ZHC workers, including:

- “*There should be a shift from time and task to **outcomes-based commissioning** to give providers greater flexibility in how they deploy their staff and to improve incentives to focus on the quality of care provided.*
- *In light of the Public Services Act and EU Procurement Directive, commissioners are expected to consider the social value of procurement*

*decisions and not focus exclusively on value for money. **Workforce terms and conditions** should be included within definitions of social value given the local economic significance of improving pay and income security.*

- **Local authorities should play a wider role as market managers** to support more sustainable local care markets. *If providers are able to consolidate activity within a local area, they are better able to offer workers guaranteed hours rather than a zero-hours contract.*⁵⁵

7. Future proposals

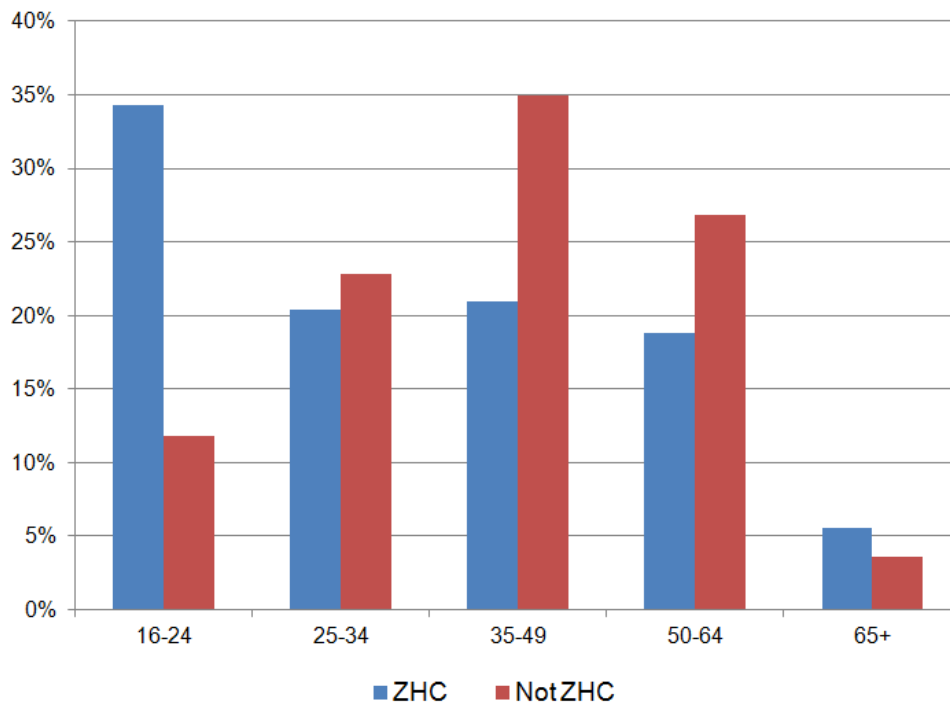
As noted above, the Government has recently banned exclusivity clauses in employment contracts. Since doing so, it has consulted on whether or not further measures need to be taken to deal with avoidance of the exclusivity ban.⁵⁶ Regulations aimed at tackling avoidance were considered at the same time as the Small Business Bill, although the provisions are not yet in force. The Regulations include the right not to be subjected to a detriment (such as being offered less work or having a contract terminated) on the grounds that the work or have worked for another organisation. An individual can complain to an Employment Tribunal if they consider they have suffered a detriment. If an Employment Tribunal upholds an individual's complaint, it may order compensation to the employee and order that the employer pay a civil penalty, if there are aggravating features. The prohibition on exclusivity clauses and the right not to suffer a detriment will be extended to cover all contracts where the individual is not guaranteed a certain minimum level of weekly income.⁵⁷

However, simply amending the law will not be sufficient to ameliorate some of the problems arising from ZHCs. In particular, employers should be encouraged to adopt best practice in relation to all workers, in order to avoid exploitative contractual arrangements, or attempts to circumvent the legal protections which have been put in place. In addition, we maintain our longstanding concern that the introduction of Employment Tribunal fees will prevent meritorious cases from being pursued and therefore allow employers to escape liability for illegal employment practices.

In its response to the Consultation, the Government noted the universal view from respondents that it is necessary to improve information, advice and guidance on ZHCs. The Government proposes to “encourage business representatives and unions to develop industry-led, industry-owned, sector-specific codes of practice on the fair use of zero hours contracts as the reality of the situation is likely to be different in each sector. The Government will also review existing guidance with a view to improving the information available to individuals and employers on using these contracts”.⁵⁸

8. Older workers and ZHCs

ZHCs are more prevalent amongst younger and older workers. 34 per cent of ZHC workers are aged under 25 compared to 12 per cent of all workers of that age, while six per cent are 65 and over compared to 4 per cent of all workers in that age group.⁵⁹ The Table below shows the distribution of people in employment by age, comparing those on ZHC with those not on ZHC.⁶⁰



0.6 per cent of workers aged 56-65 and 1.4 per cent of workers aged 66-75 are on ZHCs.⁶¹

Whilst not true of all older workers, some 50+ workers may like the flexibility that a ZHC offers. For example, they may combine work with other responsibilities (such as caring, volunteering or other work) or may wish to pick and choose the hours they work depending on their commitments each week (such as spending time with family or friends). Having flexible hours may help older workers who are transitioning to retirement or who have health needs. Where an older person has another source of income, such as an occupational or private pension, they will be better placed to work varying hours each week, knowing that they can cover their basic living expenses.

However, we know that older workers experience problems in the labour market because of their age. Some workers may feel that they have no choice but to accept a ZHC if they have not been able to secure employment elsewhere. Working on a ZHCs contract, they may not receive as many hours as they wish to work. In the care sector, in which many women (including older women) work, they are likely to have very little or no bargaining power and, given this sector's low pay, will be less likely to be able to bear a fluctuating weekly income.

As with people of other ages, ZHCs are only likely to work well where the employer-employee relationship is open and trusting, and the worker does not feel under undue pressure to accept assignments.

9. Conclusion

Although the debate on ZHCs is often presented in polarised terms, in reality the picture is much more nuanced.

The chief concern around ZHCs is their potential to exploit workers, particularly those who have little or no bargaining power, and/or who work in the lowest paid sectors. Whilst we welcome the recent outlawing of exclusivity clauses in ZHCs, this will not fully deal with the abuse of ZHCs or the precarious and uncertain employment situation in which many workers live. The Government should continue to regularly monitor and report on the prevalence and use of ZHCs, in order to ensure that future law and policy responds swiftly and effectively to contracts which exploit workers.

On the other hand, ZHCs are not always exploitative. Some workers, particularly younger or older workers, have positive experiences of working under ZHCs and embrace the weekly or monthly flexibility that they offer.

Age UK believes the Government should consider introducing a 'right to request' a guaranteed hours contract, operating on a similar basis to the right to request flexible working. This would allow workers who met certain conditions, for example a minimum length of service and a semi-regular past working pattern, and who did not want to be on a ZHC, a formal means of raising the issue with their employer and a negotiating platform for moving into a more stable and secure form of employment. Such a system would go some way to tackling exploitative arrangements that are prevalent among employers that operate ZHCs.

¹ Adams, A., Freedland, M. and Prassl, J., *The 'Zero-Hours Contract': Regulating Casual Work, or Legitimising Precarity?* University of Oxford Legal Research Paper Series, Paper No. 00/2015, February 2015, p. 4

² Adams, A., Freedland, M. and Prassl, J., *The 'Zero-Hours Contract': Regulating Casual Work, or Legitimising Precarity?* University of Oxford Legal Research Paper Series, Paper No. 00/2015, February 2015, p. 5

³ Adams, A., Freedland, M. and Prassl, J., *The 'Zero-Hours Contract': Regulating Casual Work, or Legitimising Precarity?* University of Oxford Legal Research Paper Series, Paper No. 00/2015, February 2015, p. 5

⁴ Case C-313/02 *Nicole Wippel v Peek & Cloppenburg GmbH & Co. KG* ECR I-9522 [59]

⁵ s. 27A(1) Employment Rights Act 1996 (as amended by the Small Business, Enterprise and Employment Act 2015)

⁶ s.153 Small Business, Enterprise and Employment Act 2015 amends the Employment Rights Act 1996 (s. 27A) to make a term of exclusivity in a zero hours contract unenforceable, in force June 2015

⁷ Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015,

<http://www.legislation.gov.uk/ukxi/2015/2021/contents/made>

⁸ ONS, *Contracts with No Guaranteed Hours, 2015 update*, 2 September 2015

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- ⁹ ONS, *Contracts with No Guaranteed Hours, 2015 update*, 2 September 2015
- ¹⁰ ONS, *Contracts with No Guaranteed Hours, 2015 update*, 2 September 2015
- ¹¹ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013
- ¹² CIPD, *Zero Hours Contracts: Myth and Reality*, 2013
- ¹³ CIPD, December 2015, Zero-hours and short-hours contracts in the UK: employer and employee perspectives http://www.cipd.co.uk/binaries/zero-hours-and-short-hours-contracts-in-the-uk_2015-employer-employee-perspectives.pdf
- ¹⁴ ONS, *Contracts with No Guaranteed Hours, 2015 update*, 2 September 2015
- ¹⁵ *Zero Hours Contracts: Supplementary Analysis Note*, Department for Business, Innovation and Skills, 30 April 2014
- ¹⁶ Department for Business, Innovation and Skills, *Trends in part-time working and short-term employment contracts and the impacts on benefit claims: summary*, 30 April 2014
- ¹⁷ Resolution Foundation, *A Steady Job? The UK's Record on Labour Market Security and Stability Since the Millenium*, July 2015, p. 6
- ¹⁸ Resolution Foundation, *A Steady Job? The UK's Record on Labour Market Security and Stability Since the Millenium*, July 2015, p. 19
- ¹⁹ The Work Foundation, *Zero Hours Contracts: Response to the BIS consultation*, 2014
- ²⁰ John Philpott, Director of the Jobs Economist, reported in Guardian, *Number of Workers on Zero-Hours Contracts up by 19%*, 2 September 2015
- ²¹ Mark Littlewood, Director General of Institute of Economic Affairs, reported in Guardian, *Number of Workers on Zero-Hours Contracts up by 19%*, 2 September 2015
- ²² CIPD, December 2015, Zero-hours and short-hours contracts in the UK: employer and employee perspectives http://www.cipd.co.uk/binaries/zero-hours-and-short-hours-contracts-in-the-uk_2015-employer-employee-perspectives.pdf
- ²³ The Work Foundation, *Flexibility or Insecurity? Exploring the Rise in Zero Hours Contracts*, August 2013, p. 7
- ²⁴ E.g. see recent example of a ZHC worker who feared reporting allegations of sexual harassment by her line manager in case she lost work. The Employment Tribunal found that the claimant's initial reluctance to complain was because of her zero hours contract status, upheld her sexual harassment claim and awarded £19,500 for injury to feelings (*S v Britannia Hotels Ltd and another* ET/1800507/2014).
- ²⁵ Must work more than 16 hours per week to receive Working Tax Credit
- ²⁶ For Job Seekers Allowance must not be working more than 16 hours per week
- ²⁷ Under Universal Credit, where an individual refuses zero hours work, this could lead to a sanction and loss of benefits. "We do not consider zero hours contracts to be – by default – unsuitable jobs. Indeed the flexibility they offer can be valuable for some individuals.... Universal Credit ... is payable when people are in work as well as out of work so the need to reclaim when earning fluctuate is removed. In addition, Universal Credit is designed to be responsive to variations in earnings so each monthly payment will reflect the amount actually earned, even if this includes some weeks when no work is done. So in Universal Credit our coaches can mandate zero hours contracts." Letter from Esther McVey MP to Sheila Gilmore MP, dated 1 March 2014
- ²⁸ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013
- ²⁹ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013
- ³⁰ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013
- ³¹ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013
- ³² <https://www.gov.uk/government/publications/zero-hours-contracts-guidance-for-employers/zero-hours-contracts-guidance-for-employers>
- ³³ Recruitment and Employment Confederation, *The REC Guide: Zero Hours Contracts*
- ³⁴ Sarah Veale, *Zero Hours: Time to put a stop to this exploitation*, Touchstone Blog, TUC, 1 April 2015
- ³⁵ The Work Foundation, *Flexibility or Insecurity? Exploring the Rise in Zero Hours Contracts*, August 2013, p. 5
- ³⁶ Adams, A., Freedland, M. and Prassl, J., *The 'Zero-Hours Contract': Regulating Casual Work, or Legitimizing Precarity?* University of Oxford Legal Research Paper Series, Paper No. 00/2015, February 2015, p. 19
- ³⁷ Resolution Foundation, *Zeroing In: Balancing Protection and Flexibility in the reform of zero hours contracts*, March 2014
- ³⁸ CIPD (2013), *Zero Hours Contracts: Myth and Reality*

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- ³⁹ Resolution Foundation, *Zeroing In: Balancing Protection and Flexibility in the reform of zero hours contracts*, March 2014, p. 7
- ⁴⁰ UK Commission for Employment and Skills, *Flexible Contracts: Behind the Headlines*, 2013. Ian Brinkley of the Work Foundation agrees that their use is diverse and that there are few consistent patterns (2013, p. 18)
- ⁴¹ Hansard, HC, Written Answer 8 July 2013, Cols 97-98W, Norman Lamb MP, based on Skills for Care workforce estimates 2011, NMDS-SC May 2013, 2012 and 2011
- ⁴² Resolution Foundation, *Zeroing In: Balancing Protection and Flexibility in the reform of zero hours contracts*, March 2014, Figure 2
- ⁴³ Low Pay Commission, Final Leeds University report, February 2013
- ⁴⁴ Rubery, J., Hebson, G., Grimshaw, D., Carroll, M., Smith, L., Marchington, L., and Ugarte, S., *The Recruitment and Retention of a Care Workforce for Older People*, Report for the Department of Health, 2011, pp. 157-159
- ⁴⁵ Over a quarter of providers had some staff working 7 days per week and an additional 52% had some staff working 6 days. Rubery, J., Grimshaw, D., and Hebson, G., *Zero Hours Contracts in Social Care*, FairWRC research Briefing No. 3, July 2014
- ⁴⁶ Rubery, J., Grimshaw, D., and Hebson, G., *Zero Hours Contracts in Social Care*, FairWRC Research Briefing No. 3, July 2014
- ⁴⁷ Rubery, J., Grimshaw, D., and Hebson, G., *Zero Hours Contracts in Social Care*, FairWRC Research Briefing No. 3, July 2014.
- ⁴⁸ Rubery, J., Grimshaw, D., and Hebson, G., *Zero Hours Contracts in Social Care*, FairWRC Research Briefing No. 3, July 2014
- ⁴⁹ Rubery, J., Grimshaw, D., and Hebson, G., *Zero Hours Contracts in Social Care*, FairWRC Research Briefing No. 3, July 2014
- ⁵⁰ *Whittlestone v BJP Home Support Ltd (National Minimum Wage)* [UKEAT/0128/13/BA] 19 July 2013(although note that the worker was not employed under a ZHC)
- ⁵¹ *Federación de Servicios Privados del sindicato Comisiones obreras (CC.OO.) v Tyco Integrated Security SL, Tyco Integrated Fire & Security Corporation Servicios SA* [2015] EUECJ C-266/14 - an employer who formerly paid staff to travel from the regional offices to their customers, after closing regional offices, then refused to pay staff travel time from their homes to their first appointments.
- ⁵² Resolution Foundation, *Zeroing In: Balancing Protection and Flexibility in the reform of zero hours contracts*, March 2014, p. 9
- ⁵³ The Work Foundation, *Flexibility or Insecurity? Exploring the Rise in Zero Hours Contracts*, August 2013, p. 25
- ⁵⁴ Others also see current commissioning arrangements as being “the most important barrier to improving employment conditions for care workers.” Rubery, J., Grimshaw, D., and Hebson, G., op.cit.
- ⁵⁵ Resolution Foundation, *Zeroing In: Balancing Protection and Flexibility in the reform of zero hours contracts*, March 2014
- ⁵⁶ Department for Business, Innovation and Skills, *Zero Hours Employment Contracts: Government Response to the ‘Banning Exclusivity Clauses: Tackling Avoidance’ Consultation*, March 2015
- ⁵⁷ Zero Hours Workers (Exclusivity Terms) Regulations 2015
- ⁵⁸ Department for Business, Innovation and Skills, *Zero Hours Employment Contracts: Government Response to the ‘Banning Exclusivity Clauses: Tackling Avoidance’ Consultation*, March 2015, para. 49
- ⁵⁹ ONS, *Contracts with No Guaranteed Hours, 2015 update*, 2 September 2015
- ⁶⁰ ONS, *Employee Contracts that do not Guarantee a Minimum Number of Hours: 2015 update*, 2 September 2015 (for period April-June 2015)
- ⁶¹ Joseph Rowntree Foundation analysis of the Labour Force Survey April-June 2013. Joseph Rowntree Foundation, *Understanding Age and the Labour Market*, June 2015, p. 20