



Zero Hours – The Facts:

How & When should you use them?

Are they as bad as they are made out to be?



This e-book is a guide for employers to help them negotiate around using zero hour contracts for the best interests of their employees.

Introduction

For many years, ‘zero hour’ contracts have been a point of contention. They offer a certain level of flexibility for employers and employees, but are they fair? What do they actually mean?

Zero hours usually see a lot of coverage in the media for the way they are considered unfair and not conducive to earning a decent living or being able to provide a person’s basic needs. The common conception of zero hour contracts is that of an employer wishing to accrue workers, but does not want to give them the same rights and working parameters as other permanent workers.

How true is this? It might certainly be the case for some less moral employers, but zero hours contracts can be helpful for individuals that might be in education, have another job, or other commitments that require a good deal of flexibility.

It has been reported that the level of unemployment in the UK has fallen recently, but other figures also indicate that the number of zero hour contracts has increased in the last quarter of 2014.

- ❖ Zero hour contracts reached 697,000 in the last quarter of 2014, compared with 586,000 in the same period in 2013.
- ❖ Of the people with zero hour contracts, 34% of them were 16 – 24 year olds.
- ❖ 18.4% of people engaged in employment while in full time education are on zero hour contracts.
- ❖ At the end of 2014, individuals on zero hour contracts represented 2.3% of total people in employment.

While zero hour contracts are consistently painted as unfair, and often unnecessary, it seems that the statistics suggest that people still seek them out regardless. A number of politicians have made promises to abolish zero hour contracts, but how will this affect employees and employers?

This e-book aims to demystify some of the uncertainty surrounding zero hours contracts, and offer useful and practical advice about where you stand in offering zero hour contracts, and how to offer them fairly and ethically.

Do you have zero hour employees?

Are they happy with their contract?

Is there a reason to not employ them on a permanent basis?

What are Zero Hour Contracts?

Zero hour contracts are a type of part-time employment arrangement where the individual agrees to be available for work, but the employer is not obliged to offer him or her any minimum number of working hours, and the employee is only paid for hours worked, rather than a regular salary. Equally, the employee is not obliged to accept any work that might be offered.

✓ **FACT: Zero hour employees are not obligated to accept work**

The individual is classified as a 'worker' as there is a global contract covering the periods when the individual is not working. Therefore they are entitled to annual leave, the national minimum wage level of pay, and compensation for work-related travel, the same as any regular worker.

Depending on the specifics laid out in the contract, zero hour workers might find that their contract only exists when the work is provided. This means that any week without any work

is considered a break in employment, and the employer must uphold the responsibility of paying the employee any untaken holiday pay.

✓ **FACT: Zero hour workers are entitled to annual leave**

Similarly, a zero hour contract could also state that employment is continuous, even over periods when no work is provided. This means that the employee has the opportunity to accrue certain employment rights over time, such as their annual leave.

It is important that the employer and the worker are both aware that a zero hour contract can make their relationship different to other employment contract arrangements. For example, if an employer exacts disciplinary action on a zero hour employee, and punishes them for not accepting all the hours of work offered, this may enhance the employment status to that of an 'employee', who has additional employment rights.

Can there be Benefits to Zero Hour Contracts?

Zero hour contracts are often a controversial item in the media, and many of the headlines will report on the abuses and injustices of zero hour contracts, but are they all a waste of time? Are all employers who use zero hour contracts bad employers?

Despite the persistent negativity from the media and certain political leaders, as with most things, the zero hour contract is certainly a coin with two sides.

➤ **The Inevitable Downsides...**

By its very definition, the negativities and risks of zero hour contracts are immediately prevalent. For example, as there is no guarantee of working hours from one day to the next, this means that income can be irregular, which is a disadvantage when you consider the need to pay regular bills or other utilities. There is also little job security, lack of full employment rights, and the possibility of working awkward or antisocial hours.

There is a fine line between opportunity and exploitation, and while not all employers who use zero hour contracts are immoral by any means, there are a few exceptions that take advantage of zero hour contracts for the wrong reasons. For example, employers who keep a number of people on zero contracts to carry out work, rather than paying more for someone to complete the work under full time employment and employers who include an exclusivity clause prevents employees from seeking work elsewhere, limiting access to the job market and restricting earning potential.

Employers and employees alike, should review the legality of the wording of any contract. Much of the bad press associated with Zero Hours contracts relates to illegally worded contracts. Good companies recognise the benefits of treating all of their employees well and complying with employment legislation.

➤ **...and the Unexpected Upside**

It is argued that zero hour contracts helped to keep unemployment figures down during the recession, and for employees seeking work, zero hour contracts can offer a number of benefits. For example, employees have access to flexible working times on the same basic terms as most workers, they have the ability to refuse certain working hours without any fear of consequences, and it can offer a way to access important employment skills and experience for a short time. Zero hour contracts are suitable for people with certain lifestyles that require a level of flexibility, and should not be entered by someone who has not considered how the various aspects of the contract may impact their lives.

For employers, zero hour contracts offer the opportunity to create a pool of staff that can be easily accessed when the demand arises. This is extremely useful for companies that do not have the work available for full-time staff, but might face large seasonal fluctuations in work. This is also beneficial when an unexpected or last-minute event crops up, a permanent employee cannot work for a short period of time, or a client requires greater attention. Employers face no ongoing requirement to provide guaranteed work for all staff, and zero hour contracts can be a considerably cheaper alternative to paying agency fees.

Zero hour contracts offer benefits for both the employer and the employee, and as long as the contract is fairly considered by each party, then there is no reason to fear employers who offer them.

The risk of exploitative terms and clauses still remains, but eliminating zero hour contracts completely, might raise more problems than it solves. Instead, calling for more specificity and clarity in the legislation relating to zero hour contracts might be the answer, in order to prevent employers entering damaging conditions into the contracts.

➤ **Who Would Use Zero Hour Contracts?**

Zero hour contracts are particularly popular in the retail, hospitality, leisure and tourism sectors. This is because work can often be required at short notice, over seasonal periods, for shorter periods of time, and in greater numbers. This offers employers the benefit of lower costs, but also of being able to meet demand when necessary without expending too much of the companies time and resources. A number of well known brands and businesses in the UK rely on extensive use of zero hour contracts, such as Sports Direct, McDonald's, Domino's Pizza, Cineworld, and even The National Trust and Buckingham Palace.

Zero hour contracts offer the opportunity to work and earn money without having to commit to long hours or a full-time contract. This is a great solution for a number of individuals, such as students hoping to work around their studies, parents who need flexible work around childcare, or people who want to supplement their current job with a little extra income. Zero hour contracts are also useful in providing people with the opportunity to enter into work experience and decide on a certain sector or industry they might want to continue in. They

are also a good way for the long-term unemployed to gradually enter back into work without feeling overwhelmed or under any pressure.

What Employers Need to Know

If you are employing anyone on a zero hour contract, then it should go without saying that you need to ensure the contract and agreement between you is clear, concise, and above all, does not take advantage of, or exploit the rights of the employee. Zero hour contracts do not mean that employees can be treated unfairly or unjustly.

Your zero hour workers are entitled to minimum wage, statutory paid holidays, protection against discrimination and whistle-blowing in the workplace, and as an employer, you are still responsible for the health and safety of all staff on zero hour contracts.

When drafting a zero hour contract for an employee, you need to be sure that you have been clear and concise in the contract, and laid out everything you expect of the employee, and all of their terms and conditions of employment. This is important, and doing it correctly is sure to avoid any long-term problems.

What do you need to include?

- ❖ Firstly, you need to address the prevalent issue of working hours. Clearly state that the organisation is not obligated to offer the employee work at any time, and they are not entitled to any minimum hours of work.
- ❖ How will the hours of work be determined? Clearly explain how you will let the employee know of their work hours. Will it be written in a schedule every week? Or will it be regular hours the same time each week?
- ❖ Notice of assignment. You should indicate how/when you intend to let the employee know what their assignment involves, and when they it will commence. Is there a period within which they must confirm their availability for the assignment?
- ❖ You must state employment start date and indicate if any previous employment counts towards the employee's continuous service.
- ❖ What is your notice of termination? State the period of notice you give to employees of their termination, and the period of notice they are required to give you before leaving the organisation. Does it need to be in writing?
- ❖ Payment. Clearly determine that the employee will receive hourly rates for only the hours they have worked, subject to deductions for tax and national insurance contributions. You need to state the hourly rate of pay, which must be equal to or above minimum wage, when the employee will be paid, and how they will be paid. Also consider any on-call or travel allowance they are entitled to.
- ❖ Employees on zero hour contracts are entitled to annual leave. Be sure to indicate the number of days/weeks they are entitled to, and the process by which they can request

them. Can unused holidays be carried over into the next year? You must also state that payment in lieu of accrued holiday will only be made upon termination of employment.

- ❖ Finally you must address sickness. What are your processes for advising managers/supervisors of sickness? What are your procedures upon returning to work? Employees may be entitled to statutory sick pay if their earnings in the eight weeks prior to becoming sick are not less than the lower earnings limit for national insurance contributions.

You can use these points to put together a comprehensive zero hour contract clause, and be safe in the knowledge that you are both protecting your own business, and ensuring you are not exploiting any new employees.

It can sometimes be difficult to determine a number of aspects of employment when an employee is not working regular hours, but you must ensure that you are abiding by The Working Time Regulations 1998 legislation at all times.

For example, the regulations entitle workers to 5.6 weeks annual leave including bank holidays, with equivalent pay. However, for workers of irregular hours, annual leave entitlement can be calculated by taking the average hours worked over the last 12 weeks. If you require a worker to take any of their annual leave at a certain time, then you must ensure to give notice equivalent of twice the number of days you wish them to take leave.

No matter the number of hours worked, every worker is entitled to a rest break of at least 20 minutes in every 6 hours. Similarly, there must not be a rest break of less than 11 hours between the end of one shift and the beginning of the next, and there must be a rest of at least 24 hours in every 7 day period.

Are Zero Hour Contracts Worth it?

Whether you are seeking out zero hour work or you are thinking about introducing zero hour contracts, the benefits and risks will have to be weighed up against your individual situation.

As an employer...

If you find that your organisation often has periods of quiet inactivity interspersed with a rush of orders or clients that your staff find hard to handle, then it might be worth introducing zero hour contracts to help cope with the unpredictable nature of the work at these times. It will surely grant you greater peace of mind to know that you have the staff available if you need them. Similarly, if you have a large event approaching, but do not have enough regular staff to cover it, then employing a few zero hour staff for the duration of the event could be a practical solution.

However, if you are looking to replace a permanent member of staff that has left the organisation, you should not think about replacing them with two or more zero hour workers. This will diminish the level of skill available to your organisation, increase the difficulty of paperwork and maintaining fairness to all staff, and could even cause confusion and irritability in your clients and customers.

As a job seeker...

If you are a student, then a zero hour contract can be a great way to ensure that you are earning some extra money without the work getting in the way of your studies. Similarly, if you are a parent or already in employment, then zero hour contracts offer a great way to work around your current commitments, while still remaining in employment and earning money.

However, if you are searching for a career in a certain field, or a permanent job, then zero hour contracts are likely not for you. As there is no guarantee of work, you could find yourself waiting around and not building the skills that you were so looking forward to. Also, if you have greater financial commitments, then zero hour contracts will not offer you the security you need.

Zero hour contracts have been in use for a lot longer than people think, and as long as they are handled ethically, and duly considered by the employer and the employee, there is no reason that both parties can't benefit from them.

It is important to remember that two-thirds of those on zero hour contracts have no desire for additional work.

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HCHR

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