



Scottish Affairs Committee

Oral evidence: Zero-Hours Contracts, HC 654-II

Monday 10 February 2014

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Members present: Mr Ian Davidson (Chair); Mike Crockart; Jim McGovern; Graeme Morrice; Lindsay Roy.

Questions 80 - 134

Witnesses: **Karen Whitefield**, Campaigns Officer, Union of Shop, Distribution and Allied Workers (Usdaw), and **Lawrence Wason**, Divisional Officer, Union of Shop, Distribution and Allied Workers (Usdaw), gave evidence.

Q80 Chair: I welcome you both to this meeting of the Scottish Affairs Select Committee. As you are aware, we are undertaking an investigation into zero hours. That is part of a range of issues related to employment. We are also looking at blacklisting and, in due course, we intend to look also at non-payment of the national minimum wage. I wonder if we could start off this session by asking you to introduce yourselves and just to say a little about your background, your involvement and your experience of zero hours.

Lawrence Wason: Lawrence Wason, Usdaw Divisional Officer covering Scotland. Again this situation regarding zero hours and short hours contracts impacts on a number of our workplaces that we actually recognise or are recognised in. It also affects a number of our members that we represent in these workplaces. Certainly most of the information we are getting back is very concerning, particularly regarding the zero hours contracts and the way they are implemented through agencies in the main.

Karen Whitefield: Karen Whitefield, Usdaw's Campaigns Officer. I have responsibility for some of the union's campaigning at work and we have been consistently campaigning for a better deal for our members, contractually and industrially, but particularly on short hours. We see short hours contracts are equally unhelpful to the worker as a zero hours contract, and I am sure that is an issue that we will explore with you today.

Q81 Chair: In fact, that is the first question that staff have prepared for us. Can you clarify for us what you see as being the difference between short hours contracts, zero hours contracts and working with agencies?

Lawrence Wason: Zero hours contracts is self-explanatory, I would suggest. It means that somebody is effectively employed with no hours guaranteed per week. There is no legislation covering them regarding statutory situations, whether it be statutory redundancy, statutory notice, unfair dismissal, TUPE regulations or collective redundancy, by virtue of the fact there are no hours at all guaranteed.

If we move on to the all hours contracts, again, I would suggest that, while they are equally important to our members and the people we represent, there is a slight difference because there will be contracted hours elements to that. The concern is, albeit people are on these lower hour contracts, the vast majority will be working on a weekly basis well in excess of their contracted minimum hours. That then has an impact further down the track, for example, when they go on holiday because the holiday period will be related to their contractual hours as opposed to the hours they may well have been working consistently for a long period of time. It impacts on sick pay and various other elements concerning that.

Karen Whitefield: In terms of the Committee's understanding, somebody on a zero hours contract might be in the employment of an agency, so they are employed theoretically by the agency but they have no guarantee about the number of hours they will work or even the rate of pay for their work. Somebody would be classified as being on a short hours contract if they were contracted for anything of eight hours or less. Anything over eight hours and below 35 hours we would consider to be a part-time contract.

Q82 Chair: Can I clarify? You said "the agencies", so is it fair to think that agencies would run across the whole range of zero hours and short hours and any similar arrangement, or would agencies only be applicable to zero hours or to short hours?

Lawrence Wason: In the main, the information we have states that the vast majority of agency employees would be on zero hours contracts, so they can obviously be picked up and dropped at a moment's notice. There is no comeback. There is no guaranteed pay. That fluctuates from week to week based on the hours that they actually work, if they get any at all.

Q83 Graeme Morrice: If you have the information, can you advise us of the number of people in Scotland you think are on zero hours contracts and what percentage of the Scottish working population that would be, and also how that compares to south of the border?

Karen Whitefield: Unfortunately, at the moment we do not have specific figures for Scotland. Our understanding is the TUC's figures, for the whole of the UK, is that there are approximately 1 million people in the UK on zero hours contracts. You will be aware, from the evidence that we have given to the Committee in writing in advance of the hearing today, that we are concerned that the Government currently does not have a handle on the number of people on zero hours contracts, and in fact initially started by suggesting through the National Office of Statistics that there were less than 20,000 people on zero hours contracts. But Vince Cable rather helpfully has now conceded that perhaps further work needs to be done and undertaken by the Government, through the National Office of Statistics, so we can have an accurate figure of the number of people within the United Kingdom, broken down by geography, who are on zero hours contracts. I think that would help a lot with this debate if we were able to see just how many people are affected.

Anecdotally we know from our own survey that within Usdaw-recognised workplaces that we have very few members who are in zero hours contracts. However, we also asked them if they were aware of whether they had a family member or knew of somebody on a zero hours contract. One in four of them said that they did. That one in four figure concurs with the figures that are being used by the TUC and by the Chartered Institute of Personnel and Development which has also confirmed that they agree with the TUC. So, when we talk

about 1 million people, I do not think this is just the trade unions arguing or one particular opinion. I think there is a growing consensus that there are too many people on zero hours contracts.

Q84 Jim McGovern: Do you have any idea, or could you give us a steer in just what sectors of the economy zero hours contracts are most used?

Lawrence Wason: Again I think it is a broad street and I think it goes right across the whole spectrum. They are used in distribution. They are used in manufacturing. They are used in the service industries, cinemas and across the whole spectrum.

Karen Whitefield: They are maybe not as widely used in the public sector. I would suggest predominantly in the private sector. You might not find local authorities using them to the same extent. However, perhaps in those cases they would be used where a local authority or the Health Service contracts services from an agency. That is where they would be used. The Scottish Government might well say that they do not have anybody on a zero hours contract, but it may well be the contractors they use are using those zero hours contracts. But certainly, not very far away from here, the Cineworld in Falkirk will be using a lot of staff in zero hours contracts, and the McDonald's that sits right next door will be using zero hours contracts.

Q85 Jim McGovern: There is no evidence to suggest that staff directly employed on publicly funded projects might be on zero hours contracts?

Karen Whitefield: That would be our assessment, but I think perhaps if you were to ask us for something that I think that Government—both at a Westminster level and at a Scottish Parliament level—constructively could be doing, I would suggest that as part of the procurement process that should be written in to the terms of the procurement details, so that any staff that are going to be employed as part of that procurement deal are guaranteed that they would have a contract with a stipulated number of hours, which would exceed zero hours or short hours.

Q86 Chair: Can I just clarify, in terms of your own direct involvement as a union, representing people and organising, are you exclusively in retail? It would only be retail that you are directly involved in?

Lawrence Wason: No.

Q87 Chair: Could you clarify for us what sectors of the economy you have a direct involvement in, and would be able to tell us first-hand about the prevalence of zero hours or zero hours contracts?

Lawrence Wason: Retail is one obviously, and distribution, food manufacturing, chemical industry, what else?

Karen Whitefield: I think they are the main sectors.

Lawrence Wason: Those are the main sectors.

Q88 Chair: It would be helpful as we go through to know that you are referring directly to the sections of the workforce that you are representing. I am not clear whether or not the retail sector reflects the prevalence of zero hours or short hours across the economy as a whole, or whether or not it is more or less widespread. Can you elaborate for us?

Karen Whitefield: I think it would be fair to say that zero hours contracts do exist in retail. By and large they do not exist with those retailers where Usdaw have organised. From Usdaw's perspective we organise with some of the larger employers and larger retailers, so Tesco's, Morrisons and Sainsbury's, and they would not use zero hours contracts for their retail staff.

Where we do have experience of zero hours contracts is often more in distribution and manufacturing sites. By and large it is not the company that is using the zero hours contracts. They supplement their permanent workforce with the use of agency workers. It is those agency workers that are on zero hours contracts.

Q89 Chair: You mentioned three companies there—Tesco, Sainsbury's and Morrisons—and said they would not. "Would" leaves it a wee bit vague. Can I just be clear, they do not as far as you are aware?

Karen Whitefield: In their retail premises they do not.

Q90 Chair: Right, and you are qualifying that by saying "their retail premises". Do they employ people on zero hours in other sections of the business?

Lawrence Wason: Technically, I suppose, the correct answer would be no. But the impact in reality is they may well have agency staff working in their distribution sectors who are then employed by the agency and may well be on zero hours contracts.

Q91 Chair: Who would in turn not be directly either represented by you or be your members and, therefore, you would not have a direct link with them. Is that correct?

Lawrence Wason: Not in the strictest sense of what you have said there. We are actively trying to work with some of the agencies to get recognition agreements with these agencies, and then obviously to try to get some formal agreement relative to their terms and conditions in that. It is at the early stages just now, but again we will have individual members who are working and employed on wages who should be members with us and possibly other trade unions for that matter.

Q92 Chair: That would tend to be historical because they themselves happen to be members of the union rather than having been recruited and represented by you, except as simply part of the drive that you have underway at the moment into the new sectors?

Lawrence Wason: Yes.

Karen Whitefield: Yes.

Q93 Mike Crockart: One question on this before we move on. You gave the impression there that public services probably were not an area that zero hours contracts featured in. From what I have seen from the Labour Force Survey, often published—they do

a breakdown, and it is based on pure information, as we have already discussed—the two top areas that they identify, with 30% of zero hours contracts featured, were distribution, accommodation and food services, which you have agreed with, available in most public services. It was looking particularly at universities, further education colleges, social work and care workers, and things like that. Would you agree that that is an area that there are large numbers of zero hours contracts?

Karen Whitefield: It would not be the area where we would have—

Mike Crockart: It is not your area.

Karen Whitefield: —a considerable level of expertise. Anecdotally, it would not surprise me if we had high levels of use of zero hours contracts around the care industry particularly. People doing caring jobs are often quite badly paid and treated at all levels, so it would not surprise me if those individuals find themselves on zero hours contracts. I think your question, Mr Crockart, goes to the heart of why there is an incumbent duty on both the Westminster Government and the Scottish Government to take this issue seriously. This is not about conducting a survey or gathering statistics for the sake of it. It is about being able to effectively map the scale of this problem, so that the Government can take action if the anecdotal evidence is proved to be correct, which I believe that it will be, that there is quite high prevalence of the use of these contracts.

Q94 Mike Crockart: When we were talking about the size of the problem you mentioned that Unite and CIPD have both said that there are a lot of people working in zero hours contracts than was previously thought. The thing that does hit me about those two organisations is that they portray the evidence about zero hours contracts in very, very different sort of way. Unite are generally saying that zero hours contracts are unfair and create insecurity and exploitation. Whereas CIPD in their survey were talking about zero hours workers are, on average, nearly twice as likely to be satisfied with having no minimum set contracted hours as they are to be dissatisfied. That is painting very different pictures. Why do you think that is the case that we are getting such opposite colour and views from those two organisations?

Karen Whitefield: I think there are two very obvious reasons for that. I think that the kind of people that Unite as a trade union will have been engaging with are very similar to the types of people that Usdaw will engage with. They are people who are low paid, who feel undervalued and who are really struggling to make ends meet and to support their family. They are people who want to be employed but are struggling to make ends meet. Perhaps—

Q95 Mike Crockart: Do you think that is the case? Unite has an enormous membership.

Karen Whitefield: They do but I think, by and large, those are some of the people that they will be engaging with. I think that you have to look at the Chartered Institute of Personnel and Development survey with some interest. It is not quite as clear cut. I think if I remember correctly, from my reading of the survey, that they said that 45% of those people on zero hours contracts were happier. Conversely that means that 65% of those people surveyed were not happier on zero hours contracts. Also it is not clear what kind of employment all of those people were in. Could somebody be employed on a zero hours contract but be able to command quite a sizeable income, and have some financial

security, so they were being paid several thousand pounds for a few days' work? That is not to say that people should not be paid that, but I think that is very different from somebody who is only going to be paid the national minimum wages for a few hours' work. That makes things much more difficult for people.

Q96 Mike Crockart: You are trying to draw a direct correlation there between being happy on zero hours contracts and level of earnings or types of occupation. Do you think that is a fair correlation to draw from the evidence that is there?

Karen Whitefield: There is certainly a correlation from Usdaw's perspective on behalf of our members. Our members are predominantly some of the lowest paid workers in the country. We know from regular contact with them that the thing that worries them most is about how they are going to be able to support their families. Members like—

Q97 Mike Crockart: You have already given evidence that they are not the ones that are on zero hours contracts.

Karen Whitefield: But how much they earn is related and those same people recognise that and know other people that are on zero hours contracts. I think it would be a step too far if we were to believe that everybody who was on a zero hours contract was being well paid and was really happy about it. I think most people would want some form of job security, whether it was only a certain number of hours or to have a permanent contract.

Q98 Mike Crockart: I think you would have to agree equally that it would be a step too far in the opposite direction to say that everybody on a zero hours contract was being exploited and was extremely unhappy.

Karen Whitefield: We would not say that. We agree that sometimes employers do need some flexibility from time to time. Usdaw's position on this is that we would like to see the use of zero hours contracts banned in the United Kingdom, but we also recognise that it should not be an outright ban and that there would be some need for exemptions to allow employers some flexibility. We recognise that. We are not unreasonable. We also recognise that from time to time circumstances change. However there is consistent evidence, not just from our experience as a trade union but the *Guardian's* own FOI in April of last year, which asked job centres about the number of vacancies that were being advertised in job centres around the country. It showed that only 52% of the job vacancies being advertised in the last six months before the FOI request was submitted were for full-time, permanent employment. The remainder—the other 48%—were short hours contracts or zero hours contracts often where pay was not stipulated.

Q99 Mike Crockart: We are going back to where we started. Short hours contracts, those being—

Karen Whitefield: Eight hours and less.

Mike Crockart: You said that 52% were permanent full-time, so therefore there must be a large percentage in there that are part-time as well. Are you saying that it is—

Karen Whitefield: No, I am not. There is an absolute mix in that 48% but they were not by any means all zero hours. I would not suggest that. Let me find my figures. It was 21.4%

of them were less than 24 hours and 27% had no income guarantee or short hours or could even be self-employed.

Q100 Chair: Let me just clarify. If you allow for the social class difference or the level of income, then the number of hours and the amount of happiness tend to correlate, wouldn't they? The fear you have of one, as it were, the less you know of the other. Generally, for those at the bottom of the heap, this system does not work particularly well for them.

Can I just clarify one thing? To what extent do you think—leaving aside barristers who moonlight as lecturers and things like that, of which there is always a small number in a role—this is, first, a class and secondly a gender issue? To what extent does this affect working class people disproportionately, and to what extent does it affect women and is it working class women that tend to be most impacted upon by either zero hours or short hours? Yes or no?

Karen Whitefield: I think it would be very difficult for us to definitively say one way or the other. Inevitably it is a problem primarily for people who are low paid and often women as well. I think if we were to have some serious research and some serious statistics gathered around this, we might find that it is not as simple as it being simply about working class people versus the middle class. We might well find that if we consider the evidence put forward by Mr Crockart that there are social workers or university lecturers there where their pay has not increased with inflation over the years, and those people are being disadvantaged by zero hours contracts as well.

Q101 Chair: Can I just turn to under-employment in general terms? From your perspective, as Usdaw, in general is under-employment a substantial problem? How do you think it compares here to the rest of the UK? Is it a big problem? Is it something that we should be really worried about? Does under-employment matter?

Lawrence Wason: Certainly we would suggest under-employment is a major concern. It does impact on quite a number of our members as such. Again, what we are finding—as I think I have said earlier—is that if people are on short hours contracts, inevitably they will be working well in excess of that on a regular basis. Therefore, that would indicate that there is the need and the desire to work the additional hours to meet the bills and so on. The evidence that we have gathered clearly states that the vast majority of our members—not all of them, as some people are quite happy with the set hours that they are working—would be happy to work extended hours, hours above and beyond the short or part-time hours that they are currently on.

Karen Whitefield: Yes. I would agree with that. I think that we would welcome the fact that during this recession that unemployment has not escalated in the way that it has in previous recessions. However, I think that the fact that there has been no increase in unemployment at such high levels has been masked by the growth of part-time and short-time hours. There needs to be some recognition that people want to work, so they will take whatever employment is available for them. If that means part-time work then they will take that because it is better than no work at all. I would suggest that we would all want an economy that is growing and expanding and growth is being shared by everyone.

There are some statistics around that. The Committee might well know that, between June 2009 and April 2013, the number of part-time workers increased from 6.46 million in the UK to 7.1 million, which is an increase of 250,000 people. So I think that is recognition that while the economy is showing some signs of growth, which everybody would welcome, that perhaps full-time jobs have been replaced by part-time jobs.

Q102 Mike Crockart: Sorry, I have to take issue with that because you can have part-time jobs increasing at a rate and full-time jobs increasing at a higher rate. Just because you have one statistic that does not show anything at all, unless you look at the whole picture. If we have had over 1 million jobs created within that time, then your average is then going to show an increase, surely?

Karen Whitefield: I would suggest that there is no evidence to suggest that employment has increased greatly overall. There are still lots of people out there looking for work. Our members have consistently told us that they are working fewer hours than ideally they would like to work or ideally they are able to afford to be able to make ends meet working—

Mike Crockart: That is a different argument.

Q103 Graeme Morrice: Why do you think employers use zero hours and short hours contracts?

Lawrence Wason: Again, as we have identified earlier I think there is the element of flexibility, which we can understand. Again there are some financial implications there as well for their own zero hours contracts. The National Insurance element does not kick in until the threshold, which I think is £148 per week. If somebody is on a zero hours contract and they are working few hours, they are not going to meet that. Therefore, there is an automatic saving to the employer for a starter. We have had some, I suppose, horror stories. Groups and individuals receiving a text in the morning to turn up for work. They go along and, lo and behold, there is only an enough work for X-amount of them. A percentage of them who do not secure any work that day are then basically just told to go home. They will have to cover the travel costs themselves at that point in time and, equally, they are not earning anything for that particular day.

Q104 Chair: Who did that?

Lawrence Wason: Who did that?

Chair: Can you tell us who did it?

Lawrence Wason: It was an agency in one of the sites that we organise in Fife.

Q105 Chair: I understand if you cannot recall it just now, but these are the sort of stories that we want to identify. If there are examples of bad practice then we will either contact or call in the employers involved to discuss with them why they behaved in that particular manner. It would be helpful if you were able to provide us with that information.

Lawrence Wason: Yes. Also, included in that—as I touched on briefly at the beginning—they are saying to the employee, “If you are working these types of contracts then potentially there is no contractual responsibility, there is no holiday pay, there is no sick

pay from the employer” and various things of that sort. I suppose that boils down in the main to an element of flexibility but, over and above that, substantially it is financial.

Q106 Graeme Morrice: Yes, absolutely, and you can see the advantages to the employers. There may be circumstances where there are advantages to the employee to have flexibility and so on. Are you aware of any particular circumstances where it is advantageous to employees and, also, if that is the case, you would think that there was an argument to keep zero hours contracts in some form or another?

Lawrence Wason: I am certainly not aware of any information that is coming back from our sources—whether it be the members or wherever else—that people are effectively happy. I know there was a reference made earlier on but, certainly, within the areas that we are involved, I am not aware of any.

Karen Whitefield: We would suggest that there will always be some people who do not want to work full-time and they should not be forced to work full-time. It may well be that parents might manage their childcare arrangements around both of them being willing to work part-time and share their caring responsibilities. Someone who is a carer for an elderly relative or a next door neighbour might want some flexibility. But there is a difference between being flexible and knowing how many hours a week you are going to have to work, and being unsure from day-to-day or week to week how many hours you are going to work. The flexibility is there entirely on one side and with the employer, rather than there being a mutual flexibility.

We would not argue in any way for all of the flexibility to rest entirely with the employee. This needs to be a two way street, but at the moment, particularly around short hours contracts, when employees find themselves working far more hours on a regular basis than they are contracted for, and are happy to do so, I do not think it is unreasonable then for that employee to be saying, “My contract, my terms and conditions should reflect the number of hours that I regularly work”. That does not mean to say that the employer cannot come back and say to them, “We know you regularly work 20 hours but this week could you work 24?” That is not a problem. That is not what is happening, though. Contractors say, “Eight hours or less or zero”.

Q107 Graeme Morrice: Yes, of course, and there are those who wish to work part-time, wish to work on a casual basis but of course they need to have appropriate employment conditions and we would all support that. If there was a move away from zero hours contracts—if the Government, for example, was to legislate to, in effect, do away with zero hours contracts—what do you think the consequences would be to employers?

Karen Whitefield: The consequence to them would be that they would have I believe a workforce that was more certain of when it was going to work and not going to work. By its nature then, I would suggest that some of those people would then be happier because they would have some certainty about what to expect from week to week. I think good employers would want to do that. They would want to provide that kind of certainty to their staff.

Graeme Morrice: Yes, absolutely. Obviously they would lose some of the advantages mentioned earlier but, Karen, I think you have made an interesting point in terms

of bringing certainty to both sides. For good employers I suppose that is what they want as well.

Q108 Chair: Can I just follow up that point about saving money? Is there any evidence that any employers have been using zero hours or short hours or the savings that they make as a result of having people on these sort of contracts to undercut rivals and drive out good practice? Certainly, the equivalent I can think of is in the building industry, where we hear stories of the lump and all the rest of it, which I am sure you are familiar with. Are there examples where somebody coming in and using this sort of workforce has then driven down standards elsewhere because otherwise they would not be able to compete? If you do not have something that springs to mind just now, it would be helpful if you could let us know if anything occurs to you later.

Karen Whitefield: Yes.

Lawrence Wason: I do not think I have any specific examples, but again I suppose the uncertainty, the fear if you like, is out there and it is within the workplaces. Again it comes down to a situation with agencies predominantly using zero hours then putting them into workplaces where we organise, which in itself can have an impact on the employer then taking on their own employees on a permanent basis because it may well be that option is slightly cheaper. Again, that then can be a perception, and sometimes I would argue the reality, of driving down the terms and conditions of their own employees, because they are using that as a different stream or avenue.

Q109 Chair: So for some employers who have a core workforce, bringing people in on short hours, on zero hours, is cheaper, and therefore in times of financial difficulty, more attractive?

Lawrence Wason: Yes.

Chair: Right, okay, that is helpful.

Q110 Jim McGovern: Do you feel that some employers are using it to undercut competitors and just to avoid paying National Insurance contributions, which are 13-14%?

Karen Whitefield: 13.8%. You are right. Our experience is that particularly the incentive for some employers not to employ people permanently and on a set hour contract is all about keeping them below a threshold because there is less of a burden on them as an employer about what they then have to do in terms of paying the employer's NIC contributions. Also, if the employee does not earn more than £182 per week, then there is no obligation on the employer to have to record their tax. So they don't have the same obligations as on PAYE. Anecdotally, we are a little bit concerned at that. The new NEST provisions around pensions will have an impact here, and employers may choose to keep somebody's earnings lower than perhaps necessary. Instead of giving one person more hours, they will keep two or three people on lower hours because if they don't reach that threshold for NEST, which is £9,440 per year, they don't need to be auto enrolled into the pension scheme. What the Government is trying to do there—which is a very positive thing—by helping people prepare for old age so they can look after themselves, this is a very worthwhile thing. It may well be slightly undermined at the other end because employers can

make decisions that allow them not to have the bureaucratic burden, as they see it, placed upon them.

Q111 Chair: Are you just raising this as a hypothetical possibility, or are you saying that there is evidence that this is either happening or is being contemplated by employers?

Karen Whitefield: Anecdotally we are being told now by reps that as NEST begins—it is, as you will know, very much at the start—perhaps employers are perhaps contemplating those thresholds.

Chair: I think we would be interested in hearing from you, perhaps upon reflection, which employers you believe are considering this. We can write to them just to clarify their position and possibly invite them to give evidence on what factors would make them come down on side rather than the other. It is clearly not the intention of zero hours or living hours to allow employers to avoid enrolling in NEST and the like. If that is how it is being done, then I'm sure the Government—of whatever stripe—would also want to look at that as a means of avoiding commitment.

Q112 Jim McGovern: Are any of these companies that you have heard anecdotal evidence about companies in which you represent members?

Karen Whitefield: They will be because anecdotally we are hearing it through our reps.

Q113 Jim McGovern: About their workplace?

Karen Whitefield: Yes, about their workplace.

Chair: I think rather than naming somebody just now where it is simply anecdotal, I think it would be better if you checked that and came back to us and let us know if there seemed to be any substance to that. I think we would be interested in following that up.

Q114 Mike Crockart: We covered this a little bit in passing. Perhaps if you could just go into what the main disadvantages you see are of zero hours contracts.

Lawrence Wason: Again, from our point of view, I do not really see that there is any advantage in zero hours contracts.

Mike Crockart: No, what are the disadvantages?

Lawrence Wason: What are the disadvantages, sorry. The disadvantages include—and again we have already touched on some of them—uncertainty, where people are asked or texted to turn up for potential work that subsequently then does not come to fruition and then they are asked to travel back home, possibly come in the next day, the next day and the next day. It is impossible then for them to budget for the future, to run their household, their families and all their commitments and that type of thing. There are various disadvantages, as I mentioned earlier. Probably most of the employment would not apply to them. They are not necessarily classed as employees. So, therefore, that takes them out of that sphere. The whole thing is detrimental to these individuals. I do not see it as having any pluses whatsoever.

Q115 Mike Crockart: One of the areas that I have seen issues with is how it interacts with Jobseeker's Allowance. I have had constituents come to me saying, "I'm on a zero hours contract, I had a good week of 17-18 hours so JSA stopped, but then the next week I went back down to zero". Is that something that you are seeing in your membership, the difference from week to week can cause issues with how it interacts with the benefit system.

Karen Whitefield: Absolutely. I think you will know better than we do because you deal with the constituents who face these problems, but the reality is that it is very difficult to budget when you have no certainty around how much money you have coming into your house. There are issues about the benefit system and what implications there are for Jobseeker's Allowance, also for tax credits. There will be implications there, and that varies—if your hours work, the system is flexible enough to recognise that, but it becomes very complicated if you do not know from week to week how many hours you are going to work. Also, at the moment you only qualify for tax credits based on the number of hours you work, so for those people who are unfortunate enough only to be able to secure employment for less than 24 hours a week—and are couples—they don't qualify for working tax credits. That was a campaign that Usdaw ran at the time of that change. We recognise that the Government is changing the tax credit system and universal credit will be introduced at some point in the future. We very much welcome that as part of universal credit. There will be no minimum hours required to get universal credit, however there are other serious consequences to universal credit, which I would hope that the Government will look at.

For the Committee, if you are looking at this issue, you might want to take away and pursue this with the Department for Work and Pensions. I will tell you what the issue is, but if you would like us to give you a further paper on why this matters we would be happy to do so. The clawback for every additional pound that a worker earns is going to alter under universal credit. For some people there might be a slight benefit, but for the vast majority of people the clawback is going to be greater on every pound, with the Government clawing back more. That will be a disincentive to work. The Joseph Rowntree Foundation has done some modelling around this and have gone as far as to suggest that, particularly for a single parent, who will be in receipt of the universal credit, that it will be counterproductive for them to work any more than 10 hours a week on the minimum wage, because anything above that will result in them being worse off. I do not think that that is what the Government would want. I think that is something that should be looked into and I am happy to give you more information on that.

Q116 Chair: That is almost an argument for having short hours contracts then that are less than 10 hours a week because otherwise if you go above that you get penalised quite substantially.

Karen Whitefield: We think that is counterproductive. People want to work. They want to support themselves, and I do not think it is in society or in Government's interest to be putting disincentives in people's way of working.

Q117 Mike Crockart: It is the intention to move disincentives but I think that may well be something that we would want to return to on another day, but it does not necessarily reflect what we are looking at, at the moment, which is zero hours contracts. In terms of that, some of the positive experience I have found in the constituency concerned zero hours contracts. Nurses who worked for the NHS through the week and did their normal shifts, but were then on zero hours contracts in some cases at private hospitals. They can then choose, if

they are offered a shift, to go and do a shift in a private hospital. The question I suppose is: how easy is it for someone on a zero hours contract to turn down work? Is there a huge amount of pressure? I am not saying that this has happened in the case that I have used here but, in the experience of Usdaw, are people on zero hours contracts being pressured to take the offers that they are given even if it does not suit them, which is the whole point of a zero hours contract benefit for them?

Karen Whitefield: I think you would need to get some of the agencies in to ask these questions. I think you would find, particularly where these contracts are being used by some of the employers in the sectors that we represent, that it is very unlikely that the individual would turn down work. They are registered with the agency to work so they take what is offered, and often because they are low paid they are just not in a position to be able to work. The point of having that contract is not about opting in or opting out; that is why it is a zero hours contract. They have a contract there to tie them into taking whatever is offered to them. That is why it is there.

Q118 Mike Crockart: One of the other aspects of it is to introduce flexibility for both sides. So the question is: is that flexibility real or not?

Lawrence Wason: I would suggest that it is not. My son did work on a zero hours contract, believe it or not. I will not go into that detail, but the information coming back from him was that if you are offered a certain number of hours clearly, if you do not take that offer on board, then the chances of you being asked next week, or being asked for additional hours, is going to severely diminish or disappear altogether. You are left there with that contract with zero hours and, as Karen said, by virtue of the fact they are on these types of contract they are going to take whatever they get offered. They need the income to support their family.

Q119 Mike Crockart: Is the issue there then the exclusivity because you are tied into that one, and if you do not take what you are offered then that one contract is not going to give you anything the next week?

Lawrence Wason: I think that may be part of it. My understanding is if you are on these types of contracts then you cannot have a contract with anybody else. You have mentioned the nurses and it may well be that it is a nurse bank situation that you are referring to there, but certainly my understanding is if you are on that contract rate, with an agency for example, then you are not allowed to have a contract with another agency so that you can work in this place, that place or wherever else. You are tied into that contract. As I say, I would certainly be prepared to gamble substantially—and I'm not a gambler—that people will take hours if they are offered them. There is no guarantee the following week or the following day that they are going to have any other income.

Q120 Chair: A lot depends surely on supply and demand and particular positions in the market, doesn't it? Those in a position like a nurse, for whom there is a demand, can pick and choose but those who are just ordinary labouring employees, of whom there are many more than there are vacancies, are not really in a position to pick and choose. I cannot see anybody willingly sign up to the exclusivity contract unless they did not have a choice. Does that not seem reasonable? Presumably a nurse ideally would want to be in a whole range of different options and then just pick and choose which ones you come in. Unless somebody

says, “If you don’t sign up for this you will get nothing at all” and you are so desperate that you will do so. Does that seem a reasonable analysis of the position to you?

Lawrence Wason: Yes.

Chair: Unfortunately, nodding the head doesn’t cut it.

Karen Whitefield: Sorry, yes, it does.

Chair: You see the handsome man only records things we say.

Lawrence Wason: Absolutely, yes.

Q121 Jim McGovern: Zero hours contracts were not a high profile issue when I worked with the unions, so it is not a subject I am very familiar with but I think you are saying that zero hours contracts, by their very nature, tie the individual into they know they are expected to be there when they are asked to be there.

Karen Whitefield: Yes.

Q122 Jim McGovern: How can you breach a zero hours contract? If you say, “No, I am not available that day”, I understand that they might just not ask you back, but you have not breached the contract or anything, have you?

Karen Whitefield: That is the whole point, isn’t it, it is very one sided.

Q123 Jim McGovern: Yes. Are they not obliged to offer the hours and if they do you are not obliged to do them.

Karen Whitefield: No.

Lawrence Wason: But the consequences of that.

Karen Whitefield: The consequences of that are that you are unlikely to be offered employment in the future.

Jim McGovern: Yes.

Mike Crockart We are guessing that that is the consequence.

Q124 Chair: There is an issue about exclusivity. It has been suggested that exclusivity should be banned. What do you think of that?

Jim McGovern: By that you are meaning that you can only be on a zero hours contracts with one agency or employer?

Chair: Or an employer says to you, “If you want to be on my list you have to sign up only to work for me”, and if you do not agree to that then you are not signed up at all. The suggestion in the consultation, as I understand it, is that that should be banned. Do you think that that is a good idea? If not, why not?

Karen Whitefield: I think we probably need to reflect a little bit further on that. I think that would probably be our preference. We could give you an answer but we might want to reflect on that.

Chair: You might get a row when you go home? That is fair enough. Yes, fair enough.

Q125 Mike Crockart: One final question. What do you think the Government could do to increase transparency over terms and conditions of zero hours contracts? Should there be some sort of code of practice for employers as to what they should be making clear to people before they sign up to zero hours contracts?

Karen Whitefield: I think the union's preference would be for us not to have zero hours contracts. Our starting point would be that we do not think that in a modern Britain there is a place for zero hours contracts. However—

Mike Crockart: That seems to have changed from what you were saying earlier on.

Karen Whitefield: No, we are saying that there should be no zero hours contracts. We accept that there should be some clear exceptions that would have to be negotiated, but that is very different from saying that we would accept that there should be zero hours contracts. If, as a stepping stone towards getting a position, there was a code of conduct around the use of zero hours contracts we would not be against that, but it is not ultimately where we would want to get to, so it would not be a preference.

Q126 Chair: What you have said, is that just applying to the sectors in which you are organised? To some extent I can understand the point about barristers moonlighting as lecturers, which is a “take it or leave it”. You have a full-time job. But that would not apply virtually to anybody in the workplaces that you are organising. You have no barristers that moonlight as shelf stackers or anything like that. It is coming back to this question of class and so on again, and where people are in the labour market. Do you think that your position, the way I would understand it, does have universal applicability or would you say, “Look, it has to be horses for courses, depending on the nature of the particular industry involved”?

Karen Whitefield: We would suggest that the employer could still have flexibility around contracts. That could be sorted out through annualised hours or rates of pay. The issue here is about saying that somebody has a contract, but in theory they could, over the course of the year, never be contracted to do anything. If that is the case, why would you really want them in a contract at all? Would the company not just have sufficient flexibility so that if they needed somebody to do a particular piece of work for them, they employed somebody to come in and do that piece of work and contracted for it?

Q127 Mike Crockart: Surely you have costs associated with finding somebody at that point. If you have a bank of people that have agreed to come in if the need arises, and it suits them and it suits you—they have agreed and have signed up to that—then what is the issue with them having put themselves in that position?

Karen Whitefield: That is all very well if it does suit everybody, but at the moment we would argue—

Mike Crockart: You are the one—

Karen Whitefield: No, absolutely, you are entitled to—

Mike Crockart: — who is setting out the position.

Karen Whitefield: Yes.

Mike Crockart: You would effectively ban them except in exceptional circumstances.

Karen Whitefield: Because our experience of them is such that we believe that they are being used by employers to be an advantage, and that that advantage is to the detriment of the worker.

Jim McGovern: I do not think your point stands up to scrutiny there. There are people working for less than the national minimum wage because they are told, “Take it or leave it”. It does not mean it is right.

Mike Crockart: Equally it does not mean that, therefore, all zero hours contracts are wrong. That is the point I am trying to get to here.

Chair: No, I understand your point but the difficulty we have at the moment is that you are not the witness. Perhaps you should be.

Mike Crockart: But I asked a question on who was saying all zero hours contracts are wrong.

Chair: Graeme is going to ask about the alternatives to zero hours contracts in questions 12 and 13 and what your perspective is on that. That might help illuminate this exchange.

Q128 Graeme Morrice: Thanks, Chair, for helping me with those questions, and if we can touch on the alternatives to zero hours contracts. You say your starting point was to see the abolition of zero hours contracts. In terms of retaining some kind of flexibility of businesses over the workforce, what alternatives are there out there that you would be supportive of?

Karen Whitefield: I do not think it is really for us to come up with alternatives here. We would suggest that—

Graeme Morrice: If you are aware of some alternatives it would be—

Chair: Yes, we are going to make recommendations at some stage about this, and if we are against X we ought to possibly be in favour of something, Y, and we are giving you the opportunity. You may not have thought this through at the moment but perhaps if you reflect on that. If you are completely against all flexibility of any sort and everybody should only be on full-time work, then it is helpful to hear that. On the other hand, if there are circumstances of flexibility that you are in favour of up to a certain level it would be helpful to have that as well.

Lawrence Wason: Yes. One of our solutions or recommendations would be that employees are offered at least a minimum of 12 hours per week. We see that as being a starting point.

Q129 Chair: Why 12?

Lawrence Wason: Why 12? That is a very good question. Why have we come up with 12?

Karen Whitefield: I don’t know. I think you have perhaps got a little bit confused. What we are saying is that somebody should be offered a contract after a 12 week period. We recognise that there needs to be some flexibility, and I appreciate that Mr Crockart just wants to get to the heart of all of these issues. I do not want us to be portrayed here in any way as being an unreasonable union who says, “It is all our way or not at all”. That is not

the case. We recognise that for employers to create employment and to do their job they need to be able to generate profits and they also need to have some flexibility, so we would recognise that. But we have members across all of the sectors that we operate in who are working regularly every single week in excess of the hours that they are contracted to do. We would like to see their contracts changed to reflect those hours. We do not want to be so unreasonable that we say to the employers that that is absolutely if somebody works one week for 35 hours instead of their normal 25 that that person must, therefore, that very next day have a 35 hour contract. We would not suggest that, but we would suggest that, after a period of 12 weeks, if they are working those same hours regularly that their contract reflects that.

That is important because there are rights that come from that contract around holidays, holiday pay and sickness entitlement. Those are important rights that people have worked hard for and should be given. So that is something that we would want to see changed. It is of great concern to us that the TUC and the previous Government worked to bring in agency workers' legislation and, unfortunately, because of the Swedish derogation, there is a loophole that is being exploited by employers. We are supporting the TUC challenge to the Swedish derogation, and we think that the Government could do something about the way that the Swedish derogation is being used to the detriment of agency workers in the UK currently.

Q130 Graeme Morrice: Are you aware of any good practice out there with employers that perhaps looked at the issue of zero hours contracts and chose not to go down that route, and did other things that were obviously more in line with your way of thinking? Do you have any examples of that?

Karen Whitefield: I think that you could bring in any of the big supermarkets. You could get the Morrisons, the Tescos, the Sainsbury's of this world in and ask them why they do not use zero hours contracts. Let us be honest here. Other retailers are using them—we know SportsDirect use them—so if those retailers have chosen not to use them, I would suggest they have made a value judgment that those zero hours contracts are not in their best interests as a company, and not in the best interests of their employees. It might be worth the Committee's while asking them.

Q131 Chair: Presumably that has been part of your negotiating agenda with them, to try to get them to move away from any possibility of having zero hours or short hours, and you have managed to win that. You must have had an argument that you advanced to them as to why they should not have zero hours. Is it just the issues that you have raised with us already, which I think we understand, or was there anything else? What I am partly trying to see is whether or not there is anything different, say, about retail that would make it easier for employers—like Tesco, Sainsbury's and Morrison in particular—to do without zero hours. Is it that there is a steady work rate, a certain throughput? I suppose the directors were able to argue, "No, we have greater fluctuations", or is the Tesco model applicable everywhere in your view?

Lawrence Wason: I would suggest it is applicable, particularly in retail. During the course of the working day, the working week, there are peaks and troughs. Again, the retailers have invested millions upon millions of pounds so they can see the flow of people going through the checkouts. They can obviously man their tills up, hopefully, to meet that

demand. Again obviously at peak times coming up to Christmas and potentially Easter as well, they are busy times so they have to ramp up the staff at that point in time. But I would suggest that they are recognising the value of their core workforce. They are having a core workforce there and they are giving them the opportunity of adequate hours that the individuals need. So there are a range of hours that could potentially be on offer. To that end I do not think they would see any value in zero hours contracts.

Q132 Jim McGovern: We touched upon the subject earlier with publicly funded zero hours contracts. Although employment is a reserved matter to Westminster, do you believe there is anything the Scottish Government could do to curb the use of zero hours contracts in terms of local authority contracts?

Karen Whitefield: I think it is something that should be looked at as part of the procurement process. I know the Scottish Government have just considered the procurement bill. There was quite a lot of law around the need for there to be consideration given to employers paying a living wage as opposed to the national minimum wage. In the end those amendments were not accepted. My understanding is that at the time there was no consideration given to zero hours contracts. Perhaps that may well be something that the Scottish Government could look at, and they do have responsibility for. It might be worthy of the Committee's consideration and the Scottish Government's consideration as a way of addressing this problem.

It is about showing best practice, isn't it? Government always wants to show best practice, and I know Mr Salmond is very keen to say that nobody who works for the Scottish Government is paid less than the national minimum wage. That is easy to do if you only have a very small number of employees. It is not quite as easy to do if you have lots of other people who run agencies. If you want to make those same boasts then I think you should be confident that perhaps all the people on agency contracts are getting the same terms and conditions. So perhaps the Scottish Government could look at its procurement process.

Q133 Jim McGovern: Do you think the unions could possibly push local authorities? This Committee has carried out an inquiry into blacklisting, particularly in the construction industry, although it is found elsewhere. Quite a few local authorities now have put motions through their councils to say that they will not give contracts or they will strike employers off the tender list if they are involved in blacklisting. Could something similar be done with zero hours contracts?

Karen Whitefield: Obviously Usdaw organise exclusively in the private sector, so we do not generally have contact with local authorities. I am sure that some of the other trade unions that organise in the public sector may well want to consider pursuing that. That may be something you would want to put to them.

Q134 Chair: We are going to see other people. We have other people to talk to.

We are just about to wind up, but I want to ask you whether or not there are any particular examples of bad practice in the retail industry that you are aware of, which we ought to know about and that we might want to consider discussing with the relevant

employers. Do you have anything in particular that you have seen that has caused you concern or do you want to reflect on that?

Karen Whitefield: It would perhaps be worth our while reflecting on it. This is a difficult area because people are very reluctant sometimes to speak out about this because of the uncertainty of their employment sometimes and—

Chair: We are well aware of that. We have been dealing with blacklisting in the construction industry, so I think we are well aware of the same pressures. I think the difficulty for us is unless we actually have people indicating to us what bad practices are happening where, it is then very difficult to hold those responsible for that to account and ask them directly. So we have to appeal for evidence to come forward to us.

Karen Whitefield: Yes. We will go away and reflect and look at whether or not we can give you some suggestions.

Chair: Colleagues, are there any other points that you wish to raise? No.

As I indicated earlier on, at the end we always ask whether or not there are any answers you had prepared to questions that we have not asked. So is there anything in particular that you think perhaps we haven't covered just now that you would want to add on to the evidence you have already given us?

Karen Whitefield: I think your questions have been pretty robust and thorough, so thank you.

Chair: Robust? I think you got off fairly easily actually. I think that you are sympathetic witnesses rather than the converse. Thank you very much for coming along and giving us both the verbal evidence you have given us today and the written evidence, which I think we have found very helpful. We will want to come back to you perhaps to seek clarification on some of the points. Similarly, it would be helpful if you could let us have any other information that you think would be relevant. Thank you very much for coming along.