



Scottish Affairs Committee

Oral evidence: Zero Hours Contracts in Scotland, HC 275

Wednesday 11 June 2014

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Members present: Mr Ian Davidson (Chair); Jim McGovern; Graeme Morrice; Pamela Nash; Sir James Paice; Lindsay Roy

Questions 467 - 739

Witnesses: **David Dickson**, Route Managing Director, Scotland, and **Robert McIntosh**, Regional Director, Investment Projects, Scotland and North East, Network Rail, gave evidence.

Q467 Chair: Welcome to this meeting of the Scottish Affairs Select Committee. As you will be aware, we are conducting an inquiry into the use of zero hours. The session today follows on from a session that we had with the RMT and then a private meeting with some of your colleagues in Network Rail, after which we thought it was appropriate to bring you in for some formal evidence. Can I start off by asking you to introduce yourselves and to tell us where you fit into the grand order of things in Network Rail?

David Dickson: I am David Dickson. I am the route managing director for Network Rail in Scotland. In terms of accountability, I am responsible for the strategic direction within Network Rail in Scotland and for day-to-day delivery.

Robert McIntosh: My name is Rob McIntosh. I am the regional director for investment projects for Scotland and the north-east within Network Rail. My accountability is to deliver the renewals and enhancements portfolio of work across Scotland and down the east coast main line.

Q468 Chair: Would you clarify for us the management arrangements for Network Rail, and how you interface with both the Scottish and the UK Governments? Who is responsible for what? Where are the lines of accountability and who pays your money?

David Dickson: In general, there are three layers to the governance. Transport Scotland effectively act for the Scottish Government and are the funder and specifier. They specify what they want us to produce, whether in terms of project outputs or train running performance outputs. They define that, and we have agreed funding to provide those outputs over a five-year period. We started the latest in April this year, which is control period 5. We then are in a position to deliver that. The Office of Rail Regulation monitor

us and hold us to account. They monitor how we are performing against our outputs. They hold us to account on behalf of Transport Scotland and the Scottish Government.

Q469 Sir James Paice: Would you sketch in for us the overall employment situation within Network Rail, specifically in Scotland, in terms of the proportion by numbers of those you directly employ or who are employed by contractors who are engaged by you and so on. Can you give us some ballpark figures of what we are talking about?

David Dickson: In the day-to-day business there are about 2,500 employees in Network Rail Scotland. Nearly all the people routinely working for Network Rail Scotland are Network Rail employees. We supplement that for specific work activities that bring peaks to our work. A lot more of it would lie within the infrastructure projects world. With the day-to-day maintenance such as the signalling and operations type of activity, the vast majority of staff at any given time are Network Rail employees. If you looked at how many labour-only subcontractors were working within maintenance today, it might be half a dozen within each area—there are two areas in Scotland.

Q470 Sir James Paice: Half a dozen subcontractors or half a dozen workers?

David Dickson: Half a dozen workers. Routinely in day-to-day work it is very low, but when we go into work activities that need peaks of activity, that is when we would tend to have workers that are not core Network Rail employees.

Robert McIntosh: With regard to our contractors, I obviously have a portfolio where we largely contract out the investment and renewals work bank that is funded for us. We do not have the numbers of the total people they employ within Scotland. There are a few reasons for that. It is worth the Committee understanding the nature of project and construction work, in that you have a finite point of time and you move projects around. The work force is by its nature migratory. For example, staff we currently employ on the borders rail project bring their own employed staff from other parts of the country to supplement those in Scotland. When we commission that project in June 2015 they will go to another project, wherever their company decides to send them.

Q471 Sir James Paice: They will be employed by the contractor to whom you have let that particular piece of work.

Robert McIntosh: Correct.

Q472 Sir James Paice: I want to be absolutely clear. Are the 2,500 that work for you on conventional employee contracts, with fixed hours of work, and so on?

David Dickson: That is correct.

Q473 Sir James Paice: None of them is on zero hours.

David Dickson: Network Rail do not employ anyone on zero hours contracts.

Q474 Sir James Paice: Thank you. I want to move on to the direction that you are taking. Network Rail has said that during this new control period it is going to reduce the headcount and make greater use of tier two contractors. Can you explain to us what tiers one, two and three contractors are and what that actually means?

Robert McIntosh: The reason that we need to reduce our costs is the regulatory targets set for us on delivering our efficiencies. In terms of our contracts and mechanism, tier one is what we refer to as our primary contractors. There are 40 of those that we use around the country. They tend to be the major infrastructure suppliers—the Balfour Beattys and the Carillions of this world—and some more specialist contractors.

Tier twos are the contracting and subcontracting bodies contracted to those main contracting entities, or they could also be labour providers to those contracting entities. We also contract with those labour providers ourselves to supplement some of our work force needs as and when we need. Tier three is a further and what we would call a more specialist layer of contracting. They subcontract on the specialist services required to deliver the investment.

Q475 Sir James Paice: You say that you may use some labour-only contractors and subcontractors. Where do they fit in overall? We were told just now that you have a maximum of six at any one time who are not on your full-time payroll. I am confused now. Where would the employees—workpeople—coming in under labour-only subcontracts be working if they are working for you and not for a contractor?

David Dickson: The day-to-day business does not require many. We would have them where we have work that brings peaks. It may be that we have our normal day-to-day maintenance activities, but there are certain activities that we just can't undertake in the access that we have. We have very limited access to the network for obvious reasons, whether it is for train running or special events; for instance, you may have big football matches on, or the Commonwealth games—very topical this year. We cannot undertake a lot of work, so we have to focus it and maybe undertake a track renewal, or what we might term heavy maintenance, which is quite a substantial amount of maintenance. That would be a peak of work where people have to go in, and we need a lot of supplementary staff to undertake that work.

Q476 Sir James Paice: But they would be coming in to work for you as opposed to a contractor.

David Dickson: Yes.

Q477 Sir James Paice: What sort of employee arrangements would they be under when they are working for you?

Robert McIntosh: They will have their own contracts with the employer. We are not necessarily privy to those contracts. One of the improvements that we are making in response to our need to deliver more efficiently in CP5 is to develop with that supply

chain a code of conduct on how they would employ people in that service. That is part of our strategy for reviewing this, and we are going to award our new set of framework contracts to a reduced and lower number of contractors with that code of conduct embedded. We are also working with our primary contractors so that they sign up to the same code of conduct, so that we have consistency across the Network Rail infrastructure on how we employ those staff.

Q478 Sir James Paice: What will be the central criteria of this code of conduct?

Robert McIntosh: That people are treated reasonably and ethically.

Q479 Sir James Paice: Can you build on that a bit more? Are they going to have set hours? Are they going to be paid the minimum wage or guaranteed the minimum wage for all the hours they work, and so on? What criteria are you going to put into it?

Robert McIntosh: I am not in a position to go through the specifics of the criteria here and now. It is quite a comprehensive document.

Q480 Chair: You are not in a position. Why is that?

David Dickson: The code of conduct is in draft form. It will be introduced with the new contracts at the start of October. We can share the draft with you separately from this meeting. It covers a number of areas about our behaviours and our safety vision. It covers a whole number of things such as the driving of vehicles and health and wellbeing.

Q481 Jim McGovern: Pension schemes?

David Dickson: No; it does not cover pension schemes.

Q482 Jim McGovern: Why not?

David Dickson: We are trying to set out criteria with our contractors. It sets out the minimum standards that we expect people to have on site, so that people are working within proper controls in terms of their hours, the safety that is applied to them and awareness of their responsibilities on site.

Q483 Jim McGovern: That is not what I am asking. The question was about pension schemes.

David Dickson: But that is what it is for. The intention of it is not to enter into the contractual relationship between the employer and his employee, although our contracting strategy will tend to focus on fewer contractors so that they can build a more consistent relationship with their employees.

Q484 Jim McGovern: You haven't answered the question. Why are pension schemes excluded?

David Dickson: The code of conduct does not define what they have to do in terms of pension schemes, no.

Q485 Jim McGovern: But I am asking why.

David Dickson: Why? What Network Rail are trying to achieve is set out in criteria under which people should operate on site, but it is not trying to go into the contractual relationship between the subcontractor and the employee who works for that subcontractor.

Jim McGovern: Various things have been included such as health and safety and T&Cs, but not pensions. Pensions are not regarded as important.

Q486 Sir James Paice: Can we take this on a stage? Because you are not engaging in the relationship between the contractor and the people who work for them, does that mean that the code will not be addressing such things as hours, job security or rates of pay? I am asking you broad questions so that you can answer them without detail.

Robert McIntosh: It does not specifically go into the finite details of pay and hours. We are seeking to address the commitment in terms of volume. Our commitment in the code of conduct is that we will commit to a much longer term volume of work through the suppliers, to allow them to make a longer-term commitment to the employees. As we enter control period 5, we have contracted more of our work with the suppliers than we have done in any previous control periods. That will cascade down to the employees.

Q487 Sir James Paice: Does that mean therefore that in theory, regardless of what may or may not happen, all those employees could at one extreme be on zero hours contracts for the contractor they are attached to?

Robert McIntosh: I don't think it is appropriate to answer on a potential theory.

Q488 Chair: Yes, it is. You are being asked whether or not it is possible that they could be. If you had something in the contract that ruled it out, you would be able to say, "No, it couldn't." I would prefer it if you answered the question.

Robert McIntosh: Yes, it would be possible, if that were to happen, but that is not our policy. Our policy is to minimise zero contracting hours.

Q489 Chair: If it is your policy to minimise, why don't you specify it in the contracts that you are discussing?

David Dickson: What we are trying to recognise is that in some cases zero hours contracts have a place in the workplace. We are trying to create a framework in which there is a

greater commitment between the contractor and the people who are working for him on the railway. No one can work on the railway unless it is effectively via a sponsoring company who acts as their employer and who is primarily responsible for their training, their safety, and so on. In looking at our procurement—whether procured through us or our contractors—we found there were all sorts of different ways of contracting, and different specifications and a lot of contractors. It makes it difficult for the relationship to be firmly built up between the employee and his primary sponsoring company.

What we tried to do was create a framework between the code of conduct and our contracting strategy. We are going through that now with our contractors. We will probably put more work into fewer companies, who we have worked with to subscribe to this code of conduct, so that we have a common way of working across the industry, and with our principal contractors as well, to apply the same standards. We want to build up that relationship, so there is a better relationship between company and employee, and they are more able to commit, so there is less chance of them having a lot of people on zero hours contracts. It still allows for the fact that in some cases zero hours contracts are a suitable method of contracting for specific services.

Q490 Sir James Paice: Just to be clear, I am not opposed to zero hours contracts per se. You are right; they have a role to play. All I am concerned about is that they are not used as an excuse for bad industrial relations and treating people badly. That is why I am trying to get to the bottom of the position you and Network Rail are taking in terms of your contractors and subcontractors who employ large numbers of people to work on your railways. You say you are trying to create an environment in which they will not need to employ so many people on zero hours, which I understand, but are you going to go a stage further and make it clear that out of preference you don't want them to employ people on zero hours, other than where it is really necessary?

David Dickson: As a company we want a strong, committed relationship between employee and employing company, but we are not going to go into the specific contractual relationship between the two. As I say, it is about creating a situation where the contractor feels they are in a position to put people on longer-term-type contracts.

Q491 Chair: Can I be clear? The answer to the question is no.

David Dickson: As a company we have not decided to specify that people can't be employed on zero hours contracts.

Q492 Chair: So the answer is no.

David Dickson: That is correct, yes.

Q493 Sir James Paice: I want to turn to one other linked area before I pass it on to somebody else. If you are going to reduce the headcount, which is your declared policy, are you talking about natural wastage, or reducing employment by some form of redundancy programme?

Robert McIntosh: We have followed both in terms of that. We have a commitment to reduce our operating costs. We have recently negotiated and gone through a programme commencing with voluntary redundancy. That has now moved into a compulsory redundancy phase.

Q494 Sir James Paice: My consequential question, therefore, is, does it matter to you if there is a possibility that people you have ceased to employ, by whatever mechanism, then have to work for one of your contractors on less favourable terms?

Robert McIntosh: The nature of the work that our direct staff do, and that we are being more efficient with through this redundancy process, is very different from the nature of the work that any zero hours-type contract would require within our supply chain. We would not expect that anyone we make redundant through this process would be re-employed by zero hours.

David Dickson: When we are talking about front-line delivery staff in particular, it is not a case of running down their numbers to replace them with contingent labour per se. We are bringing in different processes and technology. We now have remote condition monitoring and risk-based maintenance. We are bringing in all these different processes, procedures and technology, which allows us to have fewer people. It just requires fewer people to undertake activities, with greater automation and so on. That process is something that we are running down.

In terms of numbers, it tends to be natural wastage or voluntary severance. At this time we have a no compulsory redundancy commitment in operation for front-line staff. Currently, front-line staff cannot be made compulsorily redundant. That is the path we are tending to go through. It is not a case of, "We still need all this work done but we will get rid of Network Rail staff and replace them with contingent staff." If the numbers can be run down, it is on the basis of new technology, new procedures, new processes and automation. That is how we are achieving that reduction in manpower.

Q495 Lindsay Roy: Can you tell me who has overall responsibility for health and safety? Is it Network Rail or the subcontractor who takes on from Network Rail? If so, how do you monitor the health and safety procedures of any subcontractor who has people on zero hours contracts?

Robert McIntosh: First, it is the responsibility of Network Rail to ensure health and safety on our projects. We do that through the CDM regulations. We manage and control that in several different ways. I will start with how we select our contractors. Before you are able to tender for Network Rail work you are required to go through a process called link-up, which is an independent audit of a supplier against our set criteria to work for Network Rail. That includes health and safety arrangements within that company.

Q496 Lindsay Roy: There is a quality assurance framework.

Robert McIntosh: Yes, through the link-up audit. When individual work is tendered for, we will evaluate the tender against certain health and safety criteria of that organisation. It

is adjusted according to the tender in terms of weighting, but we will measure them against their health and safety performance. In the execution phase, we will work collaboratively with the contractor to ensure that the principles that have been set out through the audit and through the tender are followed through in delivery of the project.

Q497 Lindsay Roy: You said there was a big investment in training for anybody who went on site. Is that correct?

Robert McIntosh: Yes.

Q498 Lindsay Roy: How do you ensure that people on zero hours contracts have adequate training?

Robert McIntosh: Our minimum threshold for going on to site is something called a personal track safety qualification, which is an industry-wide competency that we have put in place and administer on behalf of the industry. No one is allowed to come and work on our infrastructure without having gone through that training course and passed the necessary levels of competency. Having sat that test earlier this week, to renew mine, it is pretty hard. That is how we ensure the competencies of any staff that come on to the network.

David Dickson: We operate a system called Sentinel, which Network Rail owns but which is operated by a management company. Anyone who wants to work actually on the railway has to have their Sentinel card. That database records every competency that the person has, and it records his medical fitness to work on the railway. All of these things are kept there. It verifies people's qualifications, which are time-bound. They need to be replaced if they are within their time. For anyone to work out there, they have to have been trained up to that level. It is recorded and it has to be in date. If it goes out of date, they cannot get access to the infrastructure to carry out tasks for which they are not competent.

Q499 Lindsay Roy: You say you are planning ahead in terms of volume of work. Surely that should reduce the number of people required on zero hours contracts.

David Dickson: I will separate two things, and I will let Rob talk about the big infrastructure projects that are out there. Day to day, we generally have a fairly level and well-planned work bank. We can always improve it, but that is why, on day-to-day normal business, we do not operate with a lot of people who are not Network Rail employees.

The railway is subject to all sorts of things. Vagaries of weather is the biggest thing; we have seen that in the south of England. We had a huge event, a hurricane, at the start of December last year. We then need to bring in large quantities of non-Network Rail staff—qualified staff—from our subcontractors so that we can deal with trees and get them off the line. We bring the network down but bring it back up again so that people can get home and pick up their kids, and so on. Those are the kinds of events that tend to drive our requirement within the route for larger numbers of staff or, as I say, if we have specific large maintenance activities or track renewals. The geography of Scotland is large; it is not easy to move people around, so you take qualified resource that is more local to that

renewal or heavy maintenance. Again that is where we would buy in from subcontractors. That is how it operates there.

It is not that we have a big load that we can level out. We generally do, but there are activities that create peaks, whether it is for renewal or whether it is the vagaries of the weather or something like that. Day to day that is what drives our requirements.

Robert McIntosh: In terms of the investment portfolio the answer to your question is, “Yes, absolutely.” The forward work bank that we now have allows us to minimise the use of zero hours contracts to only where it is beneficial to both the individual and us. Our view and our policy is that there are needs for them with particular skill sets, because of the nature of the work that we do, but the volume of the work that we have and the commitment we now have allow us to make that a minimum, and only where necessary.

Q500 Chair: Before we move on to some other questions, I want you to clarify some of the points you are raising. You mentioned Sentinel and PTS. Am I right in thinking that everybody who works on the track has to have PTS and has to be registered with Sentinel?

David Dickson: Yes.

Q501 Chair: Am I right in thinking that people can be registered with more than one employer? We were told that some people on zero hours had been registered with up to 17 employers.

Robert McIntosh: One of the improvements we previously made to Sentinel was to mitigate that scenario. Some years ago Sentinel allowed people to be sponsored by a large number of organisations. The rules we put in place some years ago now require any individual to have what we call a primary sponsor—only one—and they are allowed a maximum of two sub-sponsors to give them some flexibility. They can only ever be on three sponsors’ books.

Q502 Chair: Would that overcome the issue that was raised with us, whereby people who were on zero hours, if they were offered shifts back to back, could be working 16 or indeed 24 hours, one after the other, without any individual employer picking it up?

Robert McIntosh: One of the key roles of the primary sponsor, when we realigned Sentinel, was to manage that and ensure that it does not take place.

Q503 Chair: The fact that you have restricted the number down from, say, 17 to three presumably means that people will be restricted. If they are stuck on zero hours they presumably want to take whatever work is available, yet if they pick the wrong three they could end up not being able to work for a fourth one if opportunities are going there but they have already made their pick. Is that true?

David Dickson: If that scenario was to take place you are not tied to that sponsor. You could leave that sponsor and move to another one, but you are still limited. Someone else could become your primary sponsor, so you are not tied for ever to those three.

Q504 Chair: Mr Dickson, you mentioned that Network Rail did not employ anyone on zero hours contracts directly. Is that right?

David Dickson: No Network Rail employee is on a zero hours contract.

Q505 Chair: I want to pursue this question of the code of conduct. Jim McGovern has already raised the question, “Why no pensions?” Sir Jim Paice raised questions about what is not in it. If the concept of a code of conduct is about treating employees properly, surely it should cover not only things like zero hours but wage rates to make sure that they are paid at least the national minimum wage. It should make sure that there is sick pay and pension provision. It need not necessarily specify what the pension provision should be, but it should specify that there is pension provision. Why doesn’t it do that?

Robert McIntosh: We consider our role in this to be the customer, not the employer. We consider the specific nature of those issues to be the employer’s responsibility. They should deal with those with the individual. Our role as a customer through our code of conduct is to set out how we expect them to do that.

Q506 Chair: It is quite clear that in the past some of the contractors you are employing were not particularly good employers. Surely in those circumstances, as we have discussed both in this Committee and elsewhere, the ultimate responsibility lies with the customer for the treatment of the people who are delivering the service, even though there might be contractors in between. Surely you ought to be specifying that employees being paid to do work for you are dealt with properly.

David Dickson: As Rob says, we have tried to take a client-led approach to this. We are not trying to run their businesses for them. From that point of view, that is why we are trying to set out a lot of criteria, so that people are treated in a correct way, and that they understand their responsibilities and are provided with the right safety, training and competencies. These are all the sorts of things that we believe people need to have, and it is only fair that they do have, on the network, but we are not trying to run their business for them.

We have tried to enter an arrangement whereby, rather than just imposing everything upon our contractors, the code of conduct is an engagement with the contractors to try and come to something that they can operate and sign up to in a voluntary way. We want people to have enthusiasm and a real buy-in to what we are trying to do. That is the intention of the code of conduct.

Q507 Chair: In those circumstances, presumably, you would be perfectly happy to have people operating blacklists unless you specified that they shouldn’t. You would want them to buy in, but if they didn’t so be it.

David Dickson: No. We absolutely expect all contractors, as part of it, to comply with all legislation.

Q508 Chair: Is anti-blacklisting in the specification?

David Dickson: It is not mentioned specifically but there is a specific requirement for all of these sponsoring employers to comply with legislation. Therefore I believe it is covered by the legislation.

Q509 Chair: Like pensions, they abide by the letter of the law, which they would have to do anyway, but you are quite happy for them to do the minimum—because that is the letter of the law—and nothing else.

David Dickson: No.

Q510 Chair: You do not specify anything better than that.

David Dickson: No; the code of conduct goes beyond the letter of the law.

Q511 Chair: But not on pensions.

David Dickson: It doesn't go into pensions, no.

Q512 Chair: On what other things does it not go beyond the bare minimum that you can get away with?

David Dickson: I can't comment on that.

Q513 Chair: Maybe you can write to us. You are going to let us have some access to that. We'll have a look at that.

David Dickson: I need to explain that it is in draft; it is not a complete document.

Chair: Good. There is the opportunity for you to improve it then. Presumably you might want to do that.

Q514 Jim McGovern: Picking up where you left off, Chair, on the subject of pensions, obviously health and safety is very important as are terms and conditions, the minimum wage and personal protective equipment. Why would you deem pensions unimportant?

Robert McIntosh: We don't deem pensions unimportant. We just don't deem it to be our role as the customer to specify what should be done in terms of pensions between the employee and the employer.

Q515 Jim McGovern: But you can with health and safety, wages and terms and conditions. Pensions are not deemed important enough to come into that category.

Robert McIntosh: Our policy is that they are not deemed appropriate to come into that category.

Q516 Jim McGovern: Why are they inappropriate, which is the opposite of appropriate?

Robert McIntosh: We are not saying they are, necessarily.

Q517 Jim McGovern: You are saying it is not appropriate, which in the version of English that I learned at school means inappropriate.

Robert McIntosh: No. We have a code of conduct that sets out the way we expect our supplier chain to employ their staff. We do not see it as our role, as the customer, to say how they will specifically employ them—their terms and conditions with those individuals—which would include pensions.

Q518 Jim McGovern: For the record, you lay down certain criteria which, if I have understood you correctly, mean health and safety and personal protective equipment, but pensions are not deemed appropriate for you in taking on a subcontractor. An occupational pension scheme is not something you regard as important enough.

Robert McIntosh: Not to be in this code of conduct, but it is a draft and it is being consulted on with our suppliers.

Q519 Chair: Do you specify that people working for your contractors have to get any holidays?

Robert McIntosh: Do we specify they have to get any holidays?

Q520 Chair: Do you say anything at all, or is that again just something where they are left to do the legal minimum? What about sick pay? I want to clarify this. You seem to have a very narrowly focused area of concern. It is only things that are a legal minimum for you and to make your business run better, but you are not really bothered about anything else to do with the standard of living of your employees. Is that fair?

David Dickson: No. We are trying to create a better relationship with the contractor. I know I have said it before, but we are trying to have a better relationship, where someone can be more loyal and committed, both ways, between the employee and the contractor or employer, but we have not gone into the contractual agreement between employee and employer.

Q521 Chair: But does this not come under the heading of treating people properly? Is it or is it not a concern of yours whether or not your contractors treat their employees properly?

Robert McIntosh: It absolutely is a concern of ours that our contractors should treat their employees properly. If there are cases where contractors have not been treating their employees properly, we would take appropriate action with that contractor.

Q522 Chair: Can you give us examples of when you have taken appropriate action with contractors?

Robert McIntosh: No, not at this stage. I just don't have any to hand.

Q523 Chair: Have you ever taken action against a contractor for not treating their staff properly?

Robert McIntosh: Not that I am aware of.

Q524 Chair: You have never ever found anything that any contractor was ever doing that was so inappropriate that you would consider taking action. I think that tells us a great deal.

Robert McIntosh: Where we find that staff are treated unfavourably we will speak to the contractor about why that is the case, and ask them to put it right. I don't have any specific examples.

Q525 Chair: Has it ever happened, to your knowledge?

Robert McIntosh: Yes. I can speak about my projects and the projects that I have run. Where individuals have been treated unfairly, I have had the necessary conversations with the management of those organisations about what they should be doing in terms of the employment and treatment of those persons.

Q526 Jim McGovern: What sort of sanction would be imposed if they did not heed your advice?

David Dickson: We have a process that we go through. We apply a fair culture review, which we use for individuals and for organisations. If we deemed it was necessary, we have sanctions right up to terminating the contract.

Q527 Jim McGovern: The subject of bogus self-employment was brought up by the RMT trade union. A perfect example would be where a line worker was employed by a company—for example, Jarvis—earning £9.50 an hour and then had to go to a payroll company, where nominally the pay was still £9.50 an hour but by the time administration costs and national insurance were deducted it went down to the national minimum wage of £6.19. Is this something that you recognise? Are you aware of it?

David Dickson: I have no information relating to that at all. There is certainly no record of it that I am aware of.

Q528 Jim McGovern: You have not read the RMT report.

David Dickson: Network Rail have no information that records that as taking place.

Q529 Chair: I presume you have read the evidence that the RMT gave us on this specific subject. Presumably you read that that was stated.

David Dickson: Yes, but I cannot remember all the detail.

Robert McIntosh: Yes, we read that but we have not verified it.

Q530 Chair: Did you approach the RMT just to try and verify it?

Robert McIntosh: Not specifically, no.

Q531 Chair: I would suggest that you did not take it all that seriously. To be fair, it does not specify that it was Network Rail in Scotland particularly, but I would have thought that if it had been a cause for concern you would have got on to them and said, “Is this us?”

David Dickson: It is certainly not an issue that the RMT have ever raised with me, I have to say, and we meet with them regularly. It has certainly not been raised with me.

Robert McIntosh: As far as we are aware, they have not raised it directly with Network Rail either.

Q532 Jim McGovern: But you are aware of the report. You have read the report. Both of you.

David Dickson: Yes.

Q533 Jim McGovern: And you are aware of that point being raised in the report.

David Dickson: Yes.

Q534 Jim McGovern: Yet you haven’t thought fit to raise it with the RMT.

David Dickson: I haven’t pursued it.

Q535 Jim McGovern: We have probably covered the pension issue. Do workers on subcontracts receive annual leave pay and sick pay?

Robert McIntosh: That would depend on the nature of their specific contract with their employer.

Q536 Jim McGovern: But you can influence that. You have already said you can influence things like health and safety and PPE. Could you influence whether or not employees or workers receive sick pay, annual leave pay, paternity leave or maternity leave?

Robert McIntosh: Yes, we could influence that. That is what we seek to do within our code of conduct. We seek to influence that they are employed in an ethical way.

Q537 Jim McGovern: What is the feedback? What is the outcome? Do the subcontractors get back to you and say, “Yes, we pay annual leave. We pay sick pay. We pay paternity leave and maternity leave”?

Robert McIntosh: As I said earlier, with the labour-only contractors and the code of conduct that we are currently putting into those contracts and contract awards, they will come back and confirm their compliance with the code of conduct. They will be required to comply with that code of conduct before we award the contracts.

Q538 Chair: You have already said that the code of conduct does not cover pensions. Does it cover annual leave, sick pay and paternity leave or maternity leave?

Robert McIntosh: Not specifically.

Q539 Chair: What does “not specifically” mean? Does it mean “Not at all”?

Robert McIntosh: It does not make reference to maternity leave, sick pay or annual leave specifically within the document, which as we said we will gladly share with you.

Q540 Jim McGovern: The question I asked was why doesn’t it include that?

Robert McIntosh: Because we consider that to be the arrangement between the employer and the employee, not us as the customer.

Q541 Jim McGovern: But you stress things like health and safety, PPE and terms and conditions. You exclude pensions, paternity leave, maternity leave, sick pay and annual leave pay.

Robert McIntosh: We say within the code of conduct that staff will be provided with the necessary PPE and we say that they should be employed ethically.

Q542 Jim McGovern: The RMT report also states that railway workers have seen a significant fall in their terms and conditions and rights of employment in recent years. Is that something that you recognise?

David Dickson: I certainly don’t recognise that in terms of Network Rail employees.

Q543 Jim McGovern: When you meet the RMT, which you say you do regularly, have you said to them, “Why have you put this in here? It is inaccurate.”

David Dickson: No, but they certainly have not raised any issues such as that with ourselves. We have not changed the terms and conditions recently such that it would lead to some erosion of their terms and conditions or their rights.

Q544 Chair: I want to be clear. You referred a couple of times to staff employed by Network Rail.

David Dickson: Yes.

Q545 Chair: But Jim raised the question of staff working on the railways. That is not the same thing. I doubt very much that you have been able to reverse all that many conditions and terms that people employed by Network Rail have, but surely people now being on worse terms and conditions with other companies has actually resulted in a deterioration for a lot of people working on the railways over a period.

David Dickson: It is certainly something I am not aware of within my area.

Robert McIntosh: I am absolutely not aware of a reduction in the terms and conditions.

Q546 Chair: Am I right in thinking that people who are working for some of these agencies and some of the subcontractors are on worse terms and conditions than employees that you are directly employing?

Robert McIntosh: I don't think we can say they are on worse terms and conditions. We can say they are on the terms and conditions they have with their employer. The nature of those terms and conditions is designed for the work that they do. The terms and conditions that Network Rail have are different from those of the labour supply market because of the nature of the work.

Jim McGovern: You should be in politics.

Q547 Graeme Morrice: I think Jim McGovern and Lindsay Roy have very helpfully raised some of the questions I was going to ask you. Perhaps I could take that last point from Mr McGovern in terms of what RMT said. They have obviously given evidence to us, and they specifically said that Network Rail has overseen a reduction in workers' rights and job security in order to cut costs. It is obviously a means towards an end. In relation to the cost-cutting aspect of that charge, how would you respond?

Robert McIntosh: I am sorry; can you just repeat that specific statement so that I can get the response right?

Q548 Graeme Morrice: RMT are saying that you have overseen a reduction in workers' rights and job security specifically in order to make cutbacks. In relation to that aspect of reducing costs, how would you respond to that charge from RMT?

Robert McIntosh: We would contend that we don't—

Q549 Graeme Morrice: Have you reduced costs?

Robert McIntosh: We have reduced costs.

Q550 Graeme Morrice: How have you reduced costs?

Robert McIntosh: How have we reduced costs? We have become more efficient in our delivery.

Q551 Graeme Morrice: A big proportion of those costs would be labour costs. Have you looked at reducing costs in your labour supply?

David Dickson: Maybe I could clarify a wee bit. The biggest part of the day-to-day cost reduction in the railway lies within the operations and maintenance world. It is predominantly Network Rail employees who undertake that work. Again we have not done that through reducing people's wages—in fact, you could say that railway wages have continued to rise quite significantly beyond average wages; it has been through the adoption of new technology and different ways of working. We have a national operations strategy, for instance, which is renewing a lot of the old signalling and how we control the railway; putting them into far fewer and much more modern electronic arenas. It is much more like air traffic control. You have fewer people controlling a vastly bigger element of the railway.

It has tended to be through things like that—different ways of working processes. We can now monitor equipment. We don't need to send people out to site literally to see what is happening on the track and what is happening with points and so on. We can see it from control centres with remote condition monitoring. It has tended to be much more through introducing technology and better equipment. Equipment is much more reliable now, so it costs less in terms of materials. That has been the big driver in terms of reducing cost. We hear about the large reductions in the cost of running Network Rail and the railway day to day. That is what people are largely referring to. It is that day-to-day operation and maintenance of the railway, which is done predominantly by Network Rail employees. Again their terms and conditions and their wages have certainly not been in decline.

Robert McIntosh: We have taken steps to increase job security in our approach to contracting the work in this control period. As we came towards the end of the last control period we spoke with our tier one, two and three suppliers and said, "How can we get better in the next control period and how can we respond to the efficiency challenges by the regulator so that we can continue to have record levels of investment?" The unanimous feedback was, "Give us more commitment in terms of volume and getting into contracts early." We have absolutely done that, and that has cascaded down to the work force. When I go out on my projects, as I try to do as often as I can, and I have conversations with the guys who have taken my PTS numbers and do these roles, they are all people who are pleased to be working on the railway in an environment where they have a guaranteed five-year funding window, because they know there will be work there. I would contest what the RMT have said there.

Q552 Graeme Morrice: Perhaps you need to sit down with the RMT and discuss that specific issue with them. That is certainly what they have been saying to us. Clearly we have to put that point to you.

On the issue of the casualisation of labour, we know that in the rail industry casual labour is proportionately quite high. In response to questioning from Mr Roy earlier, you said that was to do with the peaks and troughs in demand. You made specific references to weather conditions, breakdowns and so on and so forth. In terms of your planned work I am looking at investment over a five-year period, so you are able to plan ahead and look at all your resources to plan how you are going to best use those resources—labour being a significant aspect of that. Why are we still looking at a high level of casual labour when, over a medium to long-term situation, you can look at the greater use of permanent staff as opposed to casual labour?

Robert McIntosh: Could I just ask you to clarify your perspective of “casual labour”? I think it is worth us just agreeing what we are talking about.

Q553 Graeme Morrice: Not permanent; temporary.

Robert McIntosh: Non-permanent staff.

Graeme Morrice: Yes.

Robert McIntosh: Let me try and answer that by explaining the environment in which we deliver our construction projects. I will give you some examples.

Q554 Graeme Morrice: That would be helpful and I look forward to hearing from you on that, but would you agree with my analysis that there is a disproportionate amount of casual labour being used on the railways?

Robert McIntosh: I don’t believe there is a disproportionate amount of casual labour. That means it has to be disproportionate against something else, and taking into account the context—

Chair: That is right; too hot and too cold, depending upon what you believe to be desirable. That is the issue. It is a question of whether or not the use of zero hours and short-term contracts could be further minimised.

Q555 Graeme Morrice: I would have said there is a high use of casual labour on the railways.

David Dickson: I will let Rob talk about projects, but in terms of our general use we never really used them in the operations environment, but within the maintenance environment. We have actually seen a decline in the amount of non-core labour that we employ to carry that out.

Q556 Graeme Morrice: To contract? We are talking about on the railways, so it is not just yourselves but obviously your subcontractors. That is looking at the picture overall.

David Dickson: As for core, I will let Rob talk about that.

Robert McIntosh: First, on the specific issue around zero hours contracts, we are committed to reducing those to only where absolutely necessary and to the mutual benefit of the parties.

Q557 Graeme Morrice: Did you not say earlier that Network Rail do not have anyone on zero hours contracts?

Robert McIntosh: For our contracting staff, I am talking in the context of the part of the business I oversee, which is our construction contracts and investment. We are committed through more security in that work bank to absolutely minimising zero hours contracts to only where necessary and beneficial to both parties.

It is important that I explain what I think is your perspective about whether we have a disproportionate use of casualised labour. My wife never really sees me at Christmas because that is the only time we get to close the railway substantially and do large volumes of work. The reason we have to involve large peaks is that we only get limited access to the railway.

Graeme Morrice: I understand that.

Robert McIntosh: For example, on the Crossrail project, last Christmas we had to have 600 people on shift to deliver work over a 48-hour period because that is the only time in the year when we are allowed access to the railway to do this work. That requires us to have some flexibility in the work force, and labour available for only those two days. Normally during the week, the Crossrail project was running at about 150 people on site in any one shift.

Q558 Chair: I want to clarify the difference between 150 and—was it 480? What do you expect these people to do the rest of the time? You mentioned earlier that you would use zero hours when it was beneficial to both parties. I can see how it is beneficial to you. I cannot see—we have not been able to see from virtually anybody at all—how it is beneficial to somebody that wants to put food on the table for their family. The example that we used in the universities is a barrister who occasionally comes in for a lecture or an expert hired for a particular topic. People working on the railways in maintenance or construction are not in that exalted position. I cannot see how it is in anybody's interest to be working on the railways on zero hours contracts.

Robert McIntosh: I don't think we can answer for what is of interest to those individuals, because it is for them to determine how they want to put themselves to work.

Chair: I think that tells us a great deal.

Q559 Graeme Morrice: Do you think casualisation of labour and zero hours contracts, where you have them, are a disincentive for people to seek employment on the railways, particularly experienced staff? Do you think you are losing experienced staff because of the casualisation of labour?

David Dickson: The suggestion is that it is an ongoing greater casualisation, which I don't recognise. We use them specifically where we have peaks of work, whether that is for large projects, weather events or whatever. In our core business, I would suggest we are using less casual labour, and we tend to focus on Network Rail employees. In no way are they on zero hours contracts. They are on the full terms and conditions that Network Rail offer.

Q560 Pamela Nash: I want to return to the matter of health and safety; some of my colleagues have mentioned it already. In the evidence we have taken, the Committee's attention has been drawn to a report from the Rail Safety and Standards Board back in 2011, which looked at the reporting of accidents in the five years leading up to that. It was mentioned that up to 600 accidents at Network Rail were not notified to the company. It gave various reasons. My understanding is that that has been raised with us—it has not been picked out of the blue—because it led to a further inquiry and inspections by the Office of Rail Regulation. Are you familiar with this?

David Dickson: Yes; we are aware that a culture of under-reporting was identified. The company has set out on a huge campaign and mission to address that. We have all sorts of processes by which people can report unsafe behaviours or conditions and so on. It can be safe work procedures, where if someone has a concern they can stop the work; there is a process to deal with that, to address whether their concerns are right and something has to be done about it, or whether it is okay and the work can proceed.

We have a close call procedure. Anyone at any time can report, either online or by phone, unsafe behaviour or unsafe conditions. There has been a real drive to address the culture of under-reporting that was identified. I am sure we still have some way to go, but in terms of the number of reports that have been coming through it has gone through the roof. We really have seen quite a step change in terms of reporting.

Q561 Pamela Nash: Are there figures for that? I apologise for spending a bit of time on my iPad while I have been here, but I was trying to look for the most up-to-date figures possible and I found that quite difficult. If there is information on that, or if you could point us in the right direction, that would be extremely helpful.

David Dickson: We can provide that for you afterwards.

Q562 Pamela Nash: It was interesting that you said you don't use zero hours contracts at all on your site. Was that in response to this report, or has that been a long-term policy?

David Dickson: We have never been using zero hours contracts, no.

Q563 Pamela Nash: But subcontractors do still use them.

David Dickson: Yes; we are aware of that.

Q564 Pamela Nash: That is one of the main fears that came out of that report and inquiry, with contract staff who were on zero hours contracts saying that they were frightened they would lose their jobs and not be re-employed if they reported an accident. I have to say I agree with Sir Jim and the Chair that there is sometimes a place for zero hours contracts, but doesn't this mean it is just not compatible with safety on the railways and that your subcontractors should not be using zero hours contracts for these positions?

David Dickson: I appreciate we have said this before, but as a company we recognise that we want a stronger competence and safety culture on site. As part of that we want better and more committed relationships between employee and employer; not necessarily with Network Rail, but as a subcontractor employer. In our ongoing procurement strategy that is where we are trying to get to. We want fewer contractors but working within a framework that everyone can sign up to in terms of how they deal with people.

If we were to hear of things where people were being suppressed in terms of reporting and so on, I would like to think that we at least have a lot of conduits, whether by close call or anonymous reporting lines, where these sorts of behaviours could be reported and would be flagged up to Network Rail for us to investigate. If companies were guilty of that, it would be something we would take very seriously.

Q565 Pamela Nash: If staff of a subcontractor were reporting an accident, who would they report it to?

Robert McIntosh: If the subcontractor is reporting an accident on a Network Rail site it would be reported through to their supervisor and that would be specific to that site. That data is then collected by the contractor and we then collect that data ourselves and report it to the office of the rail regulator periodically.

In response to the report in 2011 Network Rail has worked incredibly hard to address what was clearly a cultural issue. It is not just our policy; the behaviour we expect of our staff is to actively encourage the reporting of unsafe acts or potential incidents. David mentioned what we call close calls, which is where we encourage people to declare anything they see as unsafe. We acknowledge them and applaud them for that.

Q566 Pamela Nash: Are you encouraging your subcontractor staff or your own staff?

Robert McIntosh: Both.

Q567 Pamela Nash: How does that function in terms of subcontractor staff? You said that there are no zero hours staff working directly for Network Rail. I am particularly interested in staff working for subcontractors on zero hours contracts who might be involved in an accident on site and are frightened that if they raise it they will not get re-employed. Do they still have to go to their supervisor in their company? Where does Network Rail fit into that procedure?

Robert McIntosh: They do not have to go to their supervisor. When they are inducted on to our sites they will be made aware of our close call reporting number, which is confidential. They can call that number, report it and it will be treated confidentially. One of the enhancements we have made is to introduce what we call the life-saving rules. These are principles and guidance on what is safe and unsafe. They are designed to be understandable to everyone. We have a fair culture procedure beside that for our contractors to abide by. If the life-saving rules are deemed to be broken or breached there is a process to be followed, so there is a demonstrable consequence of someone acting unsafely.

Q568 Pamela Nash: Does that cover every single subcontracted member of staff who is working for Network Rail?

Robert McIntosh: It is applied on all our project sites without exception.

Q569 Pamela Nash: How do staff members know about that procedure and the number? Does every member of staff know that there is a line where they can report anonymously?

Robert McIntosh: Before anyone comes to work on any of our projects or goes on site they are required to do a site induction. That is a joint induction setting out Network Rail's requirements and the requirements of the employer, and setting out the tone of the underlying culture of the site. Within that they will be given access to the telephone number and various other forms of media for how to report things.

Q570 Pamela Nash: Is it advertised as well? It might sound as if I am being a bit picky, but if someone had to go and ask their supervisor for the number to report anonymously then it would be a bit silly.

Robert McIntosh: We have cards. We have banners and media. You are made aware when you do your personal track safety training. I was made aware of it again when I did my training this week. We use many different ways to get the message across.

David Dickson: We do sample tests with staff. We have people going out to check whether people have the close call number on their phone. Certainly in the last couple of survey results I have seen, which is a periodic update, 100% of people had the close call number on their phone. We at least have some reassurance that there is a good penetration within the organisation and our contractors and that it is getting there.

Q571 Pamela Nash: This figure was from 2005 to 2010. Are you quite confident that if that report was repeated you would not have 600 people saying that they did not report an accident? Do you think it has changed?

David Dickson: I really think you would see a massive change in terms of attitudes to reporting.

Q572 Pamela Nash: I am going a little bit off topic, but this is also related to our inquiry on blacklisting. I noted that the report highlighted that staff were discouraged by the prospect of being named and shamed on internal lists. There is also mention that staff were fearful of reporting accidents and incidents in case they were marked out as troublemakers and lost their jobs. This is very familiar to members of the Committee who have been looking into blacklisting in the construction world. What did Network Rail do in response to those specific fears? Was there a blacklist, and what has been done to tackle blacklisting within Network Rail?

Robert McIntosh: I do not believe we are here to respond on blacklisting, but I will. We do not blacklist in Network Rail, and nor is it our policy. If any of our suppliers were to be blacklisting, we would have to take the necessary action.

With regard to the reporting culture and addressing that, part of our overall strategy for the last five years has been to try to embed what we call our close calls and our life-saving rules. We are making further improvements in terms of our safe work leaders developments. There is strong promotion of that. All of the Network Rail staff are being put through various degrees of what we call behavioural-based safety training, which is equipping our staff to go and have a conversation with a construction worker about how that individual might feel. That is what I do when I visit sites. I have a conversation with a guy and say, “Is there close call? Do you feel comfortable reporting unsafe things?” If they are not, if they feel uncomfortable in that environment or on the project, we will stop that job there and then.

Q573 Jim McGovern: I want to explore the point made by my colleague Pamela Nash a bit further. If someone is working through an agency or on a zero hours contract and they phone the anonymous helpline from Cowdenbeath at three o’clock in the morning, it would be pretty easy to identify them. The agency or whoever could just say, “We don’t have any more work for you.” Would that be a fair analysis?

Robert McIntosh: That could be your analysis. That would be entirely what the agency decided to do.

Q574 Jim McGovern: Is it fair?

Robert McIntosh: No; I do not believe it is fair at all.

Q575 Jim McGovern: But it could happen.

David Dickson: If that is what they were doing, they would cease being contractors to Network Rail. Our view now on reporting is that it is a lot more serious not reporting something than it is reporting it. That is very much the culture, and we are explicit on it in our safety vision. If you even feel that something is unsafe, to take away that onus of competence, you should challenge it. The actual direction has gone far beyond what was there in the past and I recognise that. It has actually gone the other way; non-reporting is a more serious issue for us. If an agency was removing staff because they reported

something, and if we were made aware of that, investigated it and it turned out to be the case, they would not be an agency we would support or contract to Network Rail.

Q576 Jim McGovern: Your colleague, Robert McIntosh, said that you are not here to answer questions on blacklisting, but sometimes zero hours contracts and blacklisting are entirely linked. Somebody could find themselves blacklisted because they had made a complaint on a safety issue. They are just not asked back. As far as I am concerned, that is a form of blacklisting, so I think it is a fair question to ask. How would you determine whether someone was not invited back to work because they had raised a safety issue?

David Dickson: I am not aware of that. I don't have any statistics of that being recorded.

Q577 Chair: I think you can take away the concern we are expressing about this. Why we have great reservations about zero hours, and similarly with casualisation, is the opportunity it gives employers to blacklist people for raising health and safety and legitimate issues without having to formally sack them. They simply don't re-engage them.

I want to pick up the point Mr McIntosh made. You said you would not have blacklisting amongst your suppliers, but you do, because some of your suppliers are confirmed blacklists. They were doing blacklisting. The Consulting Association evidence proves that they were blacklisting. What did you do when you saw that?

Robert McIntosh: I can't really answer that particular question, because I was not involved in that discussion.

Q578 Chair: I will ask Mr Dickson then. When all the evidence came out about all the construction firms that had been, and were, involved in blacklisting, what action did Network Rail take?

David Dickson: Again I don't have intimate details. I was not managing director at that point.

Robert McIntosh: We can confirm to the Committee what action Network Rail took in response to that.

David Dickson: In terms of blacklisting we have an absolute obligation on our contractors to comply with all the legislation applying to that.

Q579 Chair: At the time when some of them were doing it, it was actually legal. It wasn't moral but it was legal.

David Dickson: I am afraid I just don't have the knowledge of that to answer you.

Q580 Jim McGovern: I have a question about signal teams, in particular in Scotland. RMT told us that there seems to be a plan to reduce teams from three full-timers to two full-timers and one agency staff. RMT feel it is being used almost like the poll tax when Mrs Thatcher

imposed it on Scotland before it was imposed UK-wide. RMT seem to feel that Scotland is being used as a guinea pig to reduce full-time permanent staff for the whole of the UK. Do you have a view on that?

David Dickson: That is not the case. There is a joint working group between Network Rail and the RMT looking at all sorts of things, including the size of teams for specific tasks. There is no process whereby we take a full-time employee and replace him with a contractor employee.

Q581 Jim McGovern: So it will remain as three full-timers.

David Dickson: No. As I say, there is a joint working group looking at all sorts of things and the size of teams required to do different tasks. There is work with the union nationally. There is not some process whereby we are trying to take out full-timers and replace them with contractors. That is not the case. If we reduce signalling staff, whether they are signallers or signalling engineers, it tends to be in changes of process or technology. There is a move to remote condition monitoring, different types of equipment and risk-based maintenance. That is what is driving any reductions in staff, as we talked about earlier.

Q582 Jim McGovern: For the record there will be no casual staff employed in signalling.

David Dickson: I cannot say there will never ever be casual staff because occasionally—

Q583 Jim McGovern: But there are no plans for that.

David Dickson: There are no plans for what you have described.

Q584 Jim McGovern: It is a question. Are there any plans to introduce casual staff in signalling teams? Is it a proposal that is being considered?

David Dickson: There is not a proposal to remove full-time Network Rail employees and replace them with, however you term it, contingent labour instead. There can be occasions now where we can buy in people with specific skills to carry out signalling engineering activities. That can continue if there is a specific reason why we need someone in.

Q585 Jim McGovern: So it is already being done.

David Dickson: Occasionally we do buy in. I have talked about that. In maintenance, we can occasionally have staff with all sorts of different competencies and skills, dependent upon peaks of work and so on, to carry out work. What you have described is not something we have plans for, no.

Q586 Jim McGovern: It would be the exception rather than the rule.

David Dickson: Yes.

Q587 Jim McGovern: Or some sort of emergency situation.

David Dickson: Yes; it is very much an exception.

Q588 Lindsay Roy: We have had very complex discussions, and I am trying to draw this to a conclusion in terms of the Network Rail review. You said there would be a new approach to the use of labour-only agencies, as they are described. What big picture conclusions are likely to come from that? What are the key outcomes that you see coming from this review?

Robert McIntosh: The outcome for us is that we understand we have a role to play in making sure that we have staff working on the railway who are employed in an ethical and correct way. We have looked at the volume of work that we get to the market to give it more commitment, so that commitment is passed down the chain. We are looking to reduce the number of our labour agencies. We are committed to reducing zero hours contracts to only where necessary.

Q589 Lindsay Roy: When you say “ethical,” what do you mean by that?

Robert McIntosh: That they are not abused; their rights are protected.

Q590 Lindsay Roy: Would it be fair to conclude that you are looking at job security and more rights for safety in the workplace as a result of the review?

Robert McIntosh: Yes; we are looking to secure good rights for people in the workplace and a safer place for them in the workplace.

Q591 Lindsay Roy: Are you considering any other key things?

Robert McIntosh: Not in the context of this review, no.

Q592 Lindsay Roy: I am aware that Mr McGovern raised pensions and so on, but you declined to comment, or you said that that is not really part of the focus. Are these the key things? There is nothing else.

Robert McIntosh: Correct.

Q593 Graeme Morrice: On the borders rail link, which is a very extensive and prestigious project taking place in Scotland at the moment, are any workers employed through zero hours contracts on that project?

Robert McIntosh: We have quite a clear policy on that project with our supplier, which is BAM, one of the major construction companies, and our commitment is to minimise the use of zero hours contracts to only where they are necessary. There will be individuals employed on that contract on zero hours where it is necessary for specialist skills or where it is convenient for the individuals.

Q594 Graeme Morrice: So not directly through Network Rail but through subcontractors. You mentioned BAM Nuttall. They have said that they don't do it themselves but they are aware that other subcontractors do. You are saying that in the circumstances where that would happen, and you say it is minimal, it would be for people who have specialist skills, or are we talking about casual labour again?

Robert McIntosh: Specialist skills, or it is the way that they wish to be employed. They are sometimes linked. Specialist skills individuals like to have zero hours contracts so they can have flexibility.

Q595 Chair: Would these be people who had zero hours with you but were self-employed contractors doing some work for you and then some work for somebody else and all the rest of it? It would be a contractual relationship rather than an employment relationship?

Robert McIntosh: Sorry?

Chair: I don't quite understand the point that you still have people on that site who are on zero hours contracts. What I am trying to clarify is whether, if they are specialists, they are on short-term contracts to do a particular piece of work. Zero hours implies that you are sitting at home waiting to see whether or not you get phoned up saying, "We've got work for you today." For a specialist presumably that would be something that had been worked into the work programme, and they would be programmed for a certain period as a subcontractor to come in and do something. That is almost a contractual relationship rather than a zero hours relationship. You can see the distinction. It is casualisation and the exploitative nature of zero hours contracts that we have reservations about. We are not opposed to short-term contracts for specialists. From what you are saying, I am not clear about the nature of the work arrangement for the people you are referring to.

Robert McIntosh: First, we share your concerns. We absolutely do not want to see people exploited through zero hours contracting at all. That is not what Network Rail supports. We will have instances where specialist individuals will be called upon through zero hours contracting to do specific aspects of work.

Q596 Graeme Morrice: We are not talking about ordinary construction workers.

Robert McIntosh: No; we are talking about specialist skilled staff.

Q597 Graeme Morrice: Folks working on the line doing the hard graft are not on zero hours contracts. Just to be clear for the record, is that what you are saying?

Robert McIntosh: Yes.

Q598 Graeme Morrice: You don't have any of these folks on zero hours contracts.

Robert McIntosh: Our policy is for them not to be on zero hours contracts, but I couldn't categorically say that here today.

Q599 Graeme Morrice: If that is your policy why can't you categorically say that? Presumably you would be monitoring the implementation of your policy to make sure that it is adhered to—to the letter.

Robert McIntosh: That is for me to work out with the project guys. They may well have made a decision on the project today that requires them to call some people in.

Q600 Graeme Morrice: You will be aware that this was raised publicly in the *Daily Record* back in August. There were concerns about this, and even the Scottish Government were brought in to make comment. Unite the union said that they believed that zero hours contracts should be banned for public sector contracts. Back on 15 August this was raised as an issue in the *Daily Record*. What did you do when you read it or were previously approached to comment on it?

Robert McIntosh: Our response at that stage was to work with our contractors to set a clear policy that we would only use zero hours contracting where it was for specialist subcontractors doing specific elements of work.

Q601 Chair: We possibly have a communications difficulty about what you mean by zero hours contracts and what we mean. We are discussing this very much in the context of somebody who is sitting at home waiting for a call from you to see whether or not you have work for them that day. You seem to be expanding it into specialist line technicians who are doing exotic things. The parallel I had with the Glasgow Garden Festival was people who were experts in doing things with stained glass. They only needed one of them for a couple of days throughout the whole project. We did not regard them as on zero hours. They were on a fixed contract. They were brought in to do a certain amount of work. Is that the sort of employee that you are discussing?

Robert McIntosh: Yes.

Q602 Chair: Our use of zero hours concerns people who are casual and are only brought in as and when. They are sitting at home, maybe with their feet up, or not as the case might be, waiting for a call. You are saying that you don't have any of them on the borders rail link?

Robert McIntosh: Not on borders. We made a conscious decision.

Q603 Chair: But you did have?

Robert McIntosh: We may well have. I wouldn't know where it was in 2012, for example, but we made a policy decision on borders, because it is a project of significant duration, a significant period of time, that we don't have a need for zero hours contracting, other than with the specialist people we have just described.

Q604 Jim McGovern: Do the same rules apply for subcontractors?

Robert McIntosh: Yes.

Q605 Graeme Morrice: The *Daily Record* in its article on 15 August said that “subcontractors on the...Borders Rail link are using the controversial contracts”—what they mean by that is zero hours contracts—“for construction staff.” That would suggest people constructing things.

Robert McIntosh: They may well have been at that time.

Q606 Chair: We are taking the view that if it was in the *Daily Record* it must be true. Perhaps you could go back and clarify what the position was then compared with what it is now. We were under the impression that there were staff on that contract who were doing ordinary work, as it were, and who at that time were on zero hours work. Our impression from what you are saying to us now is that that has ended. Because of planning and so on, you may schedule in some people on very short-term contracts, for whom there is an objective justification that they are on short-term contracts. I think it would be helpful if you just clarified that for us after the meeting; otherwise we are at cross-purposes.

Robert McIntosh: Yes. Okay.

Q607 Chair: Similarly, in that context it would be helpful if you checked whether there were other major projects where the same sort of rules applied. We have some understandable anxiety about some of the things you have told us, but some of it may be exacerbated by a communications gap between us. Certainly when I and some of our staff met privately with somebody from your staff and your propaganda division, we were able to overcome that issue of communication so that we were clear what we were talking about. I am not sure we haven’t gone slightly backwards here. Is that clear enough? You can come back to us on that.

Robert McIntosh: We can.

Q608 Pamela Nash: This may fall into the same category. I wanted to ask you the same questions about the Commonwealth games and the infrastructure project that Network Rail Scotland has been carrying out in the run-up to the Commonwealth games. To be specific, the evidence we have had from RMT suggests that SWGR’s workers are predominantly on zero hours contracts. It is my understanding that they were subcontracting some of the work on this project. Were zero hours contracts used in the completion of this infrastructure?

Robert McIntosh: Which project was that? Sorry.

Pamela Nash: The overhead line works carried out in the lead-up to the Commonwealth games.

David Dickson: We have had some contractors in to catch up on some overhead line work, to give ourselves a greater level of assurance. We have been doing a lot of work running up to the Commonwealth games.

Q609 Pamela Nash: Network Rail was granted additional money because of the Commonwealth games to undertake that work. Is that not right?

David Dickson: No, we were not granted any money. Once we have a settlement we can redirect money and use it as we see best. We set aside some money because we believed that it was such a major event that we should do some special work to give ourselves some greater assurance leading up to the Commonwealth games and through the Commonwealth games. No one has given us any extra money to do anything for the Commonwealth games.

Q610 Pamela Nash: I will blame our staff for that. We were told you were given £300,000 for overhead line work.

David Dickson: No. We have spent more money on overhead lines, but no one has given us any money.

Robert McIntosh: We will come back to you specifically on that project, but I am struggling to understand which of the projects it was.

Q611 Pamela Nash: It was infrastructure improvements on overhead line work.

David Dickson: I know what you are referring to, but, no, we didn't get any extra money for that.

Q612 Pamela Nash: I appreciate your clarifying that there wasn't extra money, but the question concerned the extra work that has been carried out for the Commonwealth games. Have zero hours contracts been used?

David Dickson: The short answer is that I don't know the answer to that.

Chair: Maybe you can come back to us and clarify again what definition of zero hours you are using and whether or not it is specialist contractors for whom an objective justification can be provided.

Q613 Pamela Nash: The reason we raised this is that the RMT said that zero hours contracts were given to labourers working on the project.

David Dickson: It is reasonably specialist in terms of people being qualified to work on the overhead line, but I will find out the answer.

Q614 Chair: I have some difficulty in understanding why somebody who is reasonably specialist, and presumably highly skilled, should ever be satisfied with being on zero hours contracts, with all the uncertainty implicit in that. Therefore I cannot see how you can use the term "mutually beneficial," as I think you have done on several occasions, as applying to that member of your extended work force.

David Dickson: I don't know whether what has been described is the case or not. I know we did work on the overhead line, but I can't confirm what contractual arrangements there were.

Q615 Sir James Paice: We have probably done to death your attitude to how much you can lay down in either a code or in any other way about your contractors and subcontractors and their labour practices, for want of a better phrase. Just for the record, is there anything that could stop you, if you were so inclined, from laying down very clear requirements in all your contracts about the terms and conditions on which they employed staff? Could you ban zero hours contracts, for example, if you chose to do so? There is nothing to stop you doing that.

Robert McIntosh: Our way of addressing this is through our policy, which we have discussed. What we must consider is our role in the wider construction industry. We are part of a large construction industry, and we should not take action like that in isolation because that would be—

Q616 Sir James Paice: You misunderstand. I am not trying to establish whether it is right or wrong—I have my own views on that—but whether there is anything that would stop you doing it if you decided it was the right thing to do. You would not be breaking any agreements with the Scottish or UK Governments, for example, about your contractual practices, or anybody else.

Robert McIntosh: No.

David Dickson: All I can say is that it is not an approach we have taken because—

Q617 Chair: We know that. The question is, are you able to dictate the terms? It is a pretty simple yes or no. If you are saying, “No, we cannot do that for x, y or z reason,” we want to hear it. If you are saying, “Yes, we could but we choose not to,” it has the merit of clarity. We can then decide whether or not we are happy with it, but at least we know where we stand. You seem to be singularly evasive on this question. Just tell us whether or not you feel you are able to dictate the terms and conditions if you wish to do so.

Robert McIntosh: The policy we have set out was the policy that was decided by the Network Rail board. Although we are here to represent Network Rail, it is that board that sets the policy and could make that decision.

Q618 Chair: A big boy did it. Is that fair? You are basically saying it is somebody else's decision. To be fair, that is not what we are asking you. Let me just repeat this. We are asking you whether or not you are aware of any reason why you should not be able to dictate that if you wish to do so.

Robert McIntosh: I am not aware of any reason why we could not.

Chair: Maybe you could check that for us.

Q619 Lindsay Roy: Can I confirm that your major funding source is the Scottish Government?

David Dickson: We are funded by Transport Scotland, and via track access charges.

Q620 Lindsay Roy: Have the Scottish Government had any dialogue with you about contracts over the last year?

David Dickson: Transport Scotland have never raised any issue with us about contracts, no.

Q621 Lindsay Roy: Nor indeed Government Ministers, in the light of the issues around zero hours contracts.

David Dickson: Not that I am aware of. I have only been in this post for a number of months, but I am not aware of that taking place, no.

Q622 Lindsay Roy: That surprises me because there have been issues raised in the Scottish Parliament about zero hours contracts, short-term contracts, agency working and so on. There has been no contact whatsoever, as far as you are aware?

David Dickson: That I am aware of, yes.

Q623 Chair: Could you check that for us? We would not like to have the wrong impression. Maybe you could check whether or not there has been any contact from the Scottish Government or Scottish Office Ministers since the last Scottish Government election on this question of zero hours. That would be the easiest way of doing it.

I want to clarify this. If the Scottish Government take a decision that they want to follow our recommendation, which is that except in exceptional circumstances, or where there is objective justification, there is no use of zero hours contracts in contracts where there is public money involved, would you be able to abide by that? The money comes from them to Transport Scotland, to you and then to your major contractors and then to your subcontractors. Presumably if the line comes from the top, as it were, that this is how it is to be done and it just gets passed down, there is no impediment to that being implemented, is there?

David Dickson: The role of Transport Scotland is as a high level output specifier. They tell us what we need to achieve in terms of outputs. They do not tell us or specify how we do that; that is not how the process operates. They are specifying an outcome for a given amount of money, which the ORR validates on their behalf for an efficient value of money to do those works. They don't specify the inputs or how that must be done; they specify the outputs and for the money—

Q624 Chair: They have not specified that up to now.

David Dickson: No.

Q625 Chair: If they said that one of the outputs is the absence of zero hours contracts, then presumably, since they are paying you, you would abide by that?

David Dickson: I will probably need to come back in terms of how that process would operate and how it might be applied down the line. I am afraid I'm slightly in the dark about how the process would operate.

Q626 Chair: It would be helpful if you came back to us and told us the circumstances under which, if the Scottish Government, who fund Transport Scotland, then instructed you that that was the way it should be done, you would not feel able to abide by it. That would help us.

Before we came in, I indicated that at the end we would ask you whether or not there were any answers you had prepared to questions that we have not asked. Are there any points that you feel we have not covered or issues that you want to raise that we have not touched on so far? Is there anything like that?

Robert McIntosh: No.

David Dickson: I do not believe so. An awful lot of stuff has been covered. I want to emphasise that we don't operate zero hours contracts. We want our contractors to move away from them except where they really are necessary. We feel that we are trying to work to lead industry in a direction where that is the scenario that takes place. I think we are seeing quite substantial changes within the industry, and our contracting strategy will reinforce that. I detect that we have a contracting network who want to engage with us and go forward within the structure, controls and ways of working that we are trying to introduce. They really have bought into that, and that is part of how we decide who we are going to go forward with. I think we will see substantial improvements going forward.

Chair: Thank you very much.

Examination of Witnesses

Witnesses: **Sheila Gupta**, Director of Human Resources, University of Edinburgh, **Christine Barr**, Director of Human Resources, University of Glasgow, and **Helen Fairfoul**, Chief Executive, Universities and Colleges Employers Association, gave evidence.

Chair: Welcome to this meeting of the Scottish Affairs Select Committee. As you will probably be aware, we are conducting an inquiry into zero hours, which follows on from a number of other related matters that we have been exploring— blacklisting, health and safety and so on. In particular relation to yourselves, we have had the UCU in, and they raised a number of points with us. Arising from those we particularly wanted to bring in Edinburgh University and Glasgow University, as well as the Universities and Colleges Employers as a whole. We wanted to do that on the basis that Glasgow and Edinburgh

seemed to be the worst in terms of use of casual contracts and zero hours. We are aware from previous inquiries that we have had of the major role that the universities play in the economy. Indeed, we have had special pleading from them on a number of occasions in relation to various aspects of their activities, particularly things like immigration rules and so on. We are not unsympathetic to that, but, as you will expect, there is then an expectation that you would be among the first rank of employers in Scotland. Regrettably that seems not exactly to be the case.

I want to start off by asking you all to introduce yourselves for the record. Just give us your name, rank and number, as it were.

Sheila Gupta: My name is Sheila Gupta. I am the director of human resources at the University of Edinburgh.

Christine Barr: My name is Christine Barr. I am the human resources director at the University of Glasgow.

Helen Fairfoul: I am Helen Fairfoul. I am chief executive at the Universities and Colleges Employers Association.

Q627 Chair: Why do you believe the use of zero hours contracts is so widespread throughout the higher education sector in Scotland?

Helen Fairfoul: I would start by saying that we don't think the use of zero hours contracts is widespread in the higher education sector. We have looked at data. The reliable data, as far as we are concerned, are the data gathered by the Higher Education Statistics Agency. There is a difference in gathering numbers on contracts actually issued, which may or may not be active contracts at any point in time, and what the work force composition is.

If I could go on to talk about work force composition, if you look at the HESA data—the Higher Education Statistics Agency—they gather a staff record once a year. It involves my colleagues here and their teams producing very detailed individualised staff records. It is a very thorough analysis of the work force. They typify a category of employee called atypical. The atypical encompasses those on variable or short-term working arrangements.

If you actually look at the atypical numbers in higher education, across the UK they make up 3.7% of full-time equivalent employees in the work force. In Scotland it is a slightly lower number: 3.4%. It is a very small part of the higher education work force. Going a little further, atypicals encompass anybody who works in an atypical way. Zero hours are merely a component of those.

Q628 Chair: Of course 3.7% of full-time equivalent is an exceptionally misleading figure if you ask for the number of employees who are covered by atypical contracts compared with those who are not. Somebody on a 40-hour week and somebody on a one-hour week would average out at 2.5% or so, but it is not quite giving the full impression. Could you tell us how many people are on atypical contracts in the sector in Scotland compared with those who are on what would be considered normal full-time contracts?

Helen Fairfoul: I should have those data. Do you want actual body count?

Chair: Yes.

Helen Fairfoul: These will include people who do two hours in a year, so you can see why in terms of getting size of work force—

Q629 Chair: I understand that, but give us a feel for it.

Helen Fairfoul: The body count—that is a rather crude term but you know what I mean—for atypical across Scottish institutions, using the HESA data from 2012-13, is 9,800. The rest of the work force is 39,300.

Q630 Chair: Roughly 20% of the work force are on these atypical contracts, some of which will be very small, and so on and so forth.

Helen Fairfoul: Yes.

Q631 Chair: In terms of teaching staff, under what circumstances and at what grade do zero hours contracts tend to be used?

Helen Fairfoul: Zero hours, just to focus on that, or variable—because not every institution uses zero hours but a lot of institutions will have casual and variable arrangements—would be in about five main categories. I have had a think about this. The main one is the classic supply teacher syndrome: urgent and unforeseen cover. A typical example would be if a technician falls ill and you want the studio to be open for students to work in the studio. You get somebody in to cover for health and safety reasons in the studio.

We then have specialist professionals teaching on programmes where it is an absolutely core part of the quality and experience for the students that they have, for example, practising lawyers who come in and deliver a piece of the programme. Those people will, more often than not, have permanent other employment.

Practising professionals, particularly in the specialist institutions and conservatoires—musicians, actors and so forth—whose skills are needed are very much dependent upon the students enrolled. If somebody enrolls who wants to take trombone symphonic playing as opposed to jazz saxophone or whatever, you need a pool of highly skilled musicians able to respond to those sorts of demands.

There is seasonal work, as in any business. This includes exam invigilation and conference work. There will be seasonal peaks.

Crucially, I would say, there are work opportunities that are earmarked for students. That has really been quite a significant feature in the use of variable and casual arrangements. It would be at both ends of the spectrum. A lot of students hugely appreciate working as student ambassadors for their institution. They can work that flexibly around their studies. It gives them great experience on their CVs. Some of them do library shelving or bar work. There is a full range of employment opportunities across the kind of organisation that a university is. The other category would be graduate

students. Their numbers are increasing in our very research-productive institutions in the UK. They want exposure to academic life, so they are very frequently offered opportunities demonstrating, tutoring and occasionally teaching.

Q632 Chair: Much of that sounds, on the face of it, perfectly reasonable. We understand the precedents about sick absence and the question of specialists. The example that is always given to us is the barrister who is barristering all the rest of the time and comes in just for the odd lecture here and there. We accept that. We accept the principle of seasonal peaks, though of course there are issues about whether or not those are done on short-term contracts rather than zero hours, with all the uncertainty and so on.

We understand the principle of work opportunities when it is presented in that way, but of course the work opportunities issue perceived by those who are engaged in those opportunities is not always quite as favourable as you have presented it. Presumably you have read the UCU evidence and seen their material; they take the view that many people who are providing essentially mainline core services are being kept on vulnerable terms and conditions in a way that they would not wish to be if they could possibly avoid it. Leaving aside, to some extent, the first four, which I can understand, although we may come back to seasonal, the use of students as lecturing and tutorial staff is a bit of an abuse, is it not?

Helen Fairfoul: I would argue that it is not, but it might be appropriate to hear from the experience of a couple of our institutions.

Sheila Gupta: If it would be helpful. One of the really attractive opportunities that postgraduate students appreciate in coming to universities is certainly access to research and teaching opportunities. These people are full-time research students or full-time masters students, so there are limits on how much time they can work. They also see these as the opportunity to carry out tutoring and demonstrating roles. They are not actually jobs. They are very much career opportunities and the opportunity to earn additional income. It is not that these people are carrying out the full academic role as it is conceived. For example, a tutor may well do a limited piece of teaching or a limited tutorial, but it will be planned. They will not actually have done any of the planning of the curriculum. A demonstrator will likewise go in and support practical work in a laboratory. A researcher will go in and assist with a research programme. They use established research methodologies for gathering data, and interpreting it and analysing it.

The next step up for somebody who has perhaps already acquired their first degree is a postgraduate qualification. They may, for example, teach on one particular course or they may assist in writing research proposals. Those people, certainly at Edinburgh, have access to the postgraduate certificate of academic practice. It is a very professional approach, but they don't have the opportunity to do it as a full-time job. It is not a full-time role.

A full-time academic, by contrast, is somebody who would have to plan and lead the curriculum, and design, deliver and be accountable for the quality of that curriculum. In terms of their research work, they would actually have to write the research proposal. They would have to earn the grant; they would have to win the income. A completely different level of proficiency and complexity is involved. Edinburgh University would

never use tutors and demonstrators to fill a substantive academic role; they fulfil very different priorities.

Christine Barr: The requirement upon tutors and demonstrators to contribute in terms of teaching or research is very much one of work experience and skills development as part of the overall curriculum. Within the environment at the University of Glasgow the expectation is that those individuals would contribute as part of a teaching or research team. In relation to the exposure that they would have, they would be involved in tutorial-type work, where they would be accompanied by a full-scale career academic, or indeed a professor, in undertaking that activity. They would contribute to that process. Similarly, in a demonstrating-type activity they would be accompanied by a technician who is very experienced in that type of activity, as Sheila described.

Q633 Chair: You seem to be suggesting, Christine, that the people we are referring to are always working under close supervision, and that it is basically just a work opportunity. They are like apprentices.

Christine Barr: Effectively.

Q634 Chair: They are not undertaking any core functions like lecturing or tutorials.

Christine Barr: They would certainly be undertaking tutorials, having gone through a suitable induction and training and development programme, after a suitable period of time, but certainly not in year one of a doctoral programme. They would not be expected to undertake a tutorial, for example, on their own without having been fully inducted, trained and developed in accordance with a similar certificate in—

Q635 Chair: We are coming on to that later. Everybody who is undertaking a teaching or a supervisory role would have been put through some training or appropriate development. Is that correct? I suppose it is a question for you, Helen, because we are discussing covering the whole of the sector. Everybody in that position is required to have undertaken some training provision?

Helen Fairfoul: I don't pretend to be able to endorse exactly what goes on in every institution; there are 164 of them in the UK. I would certainly say, from what we see of employment practice in our member institutions, that the development of graduate assistant programmes and introductions to teaching—all that sort of thing—is absolutely well embedded across the sector. I would expect to see it in institutions, yes.

Q636 Lindsay Roy: You said that people on short-term or zero hours contracts are provided with training. Is that universal?

Helen Fairfoul: I think that question is similar to the one I was just trying to answer from the Chair. I cannot sit here and vouch for the practice in every employing institution in the UK. I am afraid it is a level of detail that the Employers Association simply does not hold.

Q637 Chair: At the moment we are not dealing with the UK; we are dealing with Scotland. Secondly, it would be helpful if you clarified whether or not it was an obligation upon them. You can't obviously be expected to police them all, but is it an obligation upon them to provide people with training before they go out and undertake these roles?

Helen Fairfoul: I would be confident that the employers—let's speak for the employers in Scotland—would be absolutely cognisant of the need to train anybody they put in front of students with basic skills.

Q638 Chair: So that is a yes. We should not find that anybody has been put in that role without training?

Helen Fairfoul: I believe so, and I would hope that my colleagues here would confirm that.

Q639 Lindsay Roy: It is very right to have that aspiration. How do you know it is happening in practice?

Helen Fairfoul: That is a level of detail that my association does not do. We are an employers' representative body and obviously you have invited two employers here to answer for what the employment practice is on the ground.

Christine Barr: The nature of the operation at the University of Glasgow is such that responsibility for the recruitment and, indeed, the training and development of those individuals is managed at a local level. In speaking directly with heads of schools and directors of research institutes that are involved directly in that process, obviously each discipline is extremely different. The nature of the training and development for that subject or discipline may be different; for example, for someone engaged in language training the nature of the induction and training period will be different from someone engaged in the delivery of a science subject. That is the arrangement at the University of Glasgow.

Q640 Chair: We understand that. We are not here to go into the detail of the scheme. What we want to be clear on, irrespective of the fact that the arrangements will be different, is whether or not there is some obligation to provide training for people who are undertaking these roles.

Christine Barr: There is.

Q641 Lindsay Roy: I am looking at more than an obligation; I am looking at a practical reality. How do universities know that it is happening on the ground? How do they monitor it?

Christine Barr: It is regularly monitored and reviewed, as I say, at a local level through the line management structure and through the conduct of the training itself. It is conducted by the research or the teaching team within which individuals are functioning. That is how it would happen at local level.

Q642 Lindsay Roy: In Glasgow there is 100% compliance.

Christine Barr: Under the policy within the University of Glasgow that would occur.

Q643 Lindsay Roy: That is the policy. I am talking about the practice.

Christine Barr: Based on the heads of school I work with, yes.

Q644 Lindsay Roy: Is that the same in Edinburgh?

Sheila Gupta: At Edinburgh we moved all our staff from hours to be notified contracts on to guaranteed hours contracts specifically to reinforce how important they are as a part of the work force. We did that last September. We made a commitment to move away from hours to be notified, which also carried full terms and conditions and access to the pension scheme. They were never zero hours contracts in the way that they are broadly understood to be in the press.

Having said that, we have a tutoring and demonstrating handbook. It is the responsibility of programme managers, graduate teaching officers and module managers to ensure that they apply the principles and practice of that handbook. There is a general university-level orientation offered to tutors and demonstrators, which is provided by a central institute for academic development, so there is consistency of practice in terms of general orientation. They are given a grounding in what constitutes effective tutoring and effective demonstrating, and how to deal with general skills of feedback and assessment.

At a school level, there is subject-specific orientation and skills-specific training. For example, if someone is dealing with fieldwork, one would have training in fieldwork and health and safety issues, because it is critical. We cannot send our students out if they don't have that. They would also be trained in other specialist skills such as mathematical and computing techniques. It is very much ingrained at an institutional level and a local level, to ensure that our tutors and demonstrators are prepared properly for the roles and the opportunities that they undertake.

Q645 Lindsay Roy: Are they universally paid for their training?

Sheila Gupta: We now offer guaranteed hours so they are paid for the whole proportion of that which they undertake. That is what the guaranteed hours contract permits.

Q646 Chair: I am not quite sure what that meant. I think the question was are they paid while they are undertaking the training?

Sheila Gupta: They are paid for the training, the marking, the preparation and every aspect of what they are doing.

Q647 Chair: I just wanted to be specific on that. Coming back to Ms Fairfoul, is being paid for the training a standard provision throughout the sector?

Helen Fairfoul: I would say it is pretty standard.

Q648 Chair: I am not asking whether or not it is pretty standard. Is there a central obligation? Do you as an organisation have a rule that says (a) people should be undertaking training or given the opportunity for training; and (b) should be paid for doing it?

Helen Fairfoul: No. As an organisation that is not our function. We don't police or invent rules for the universities. They are mature, large, autonomous employers in their own right. We collect a lot of data. We monitor. We advise. That is why I understood you had invited employers to come and speak for themselves. You need to ask at employer level what the detail of practice is.

Q649 Lindsay Roy: Would it surprise you to know that we have had some evidence that people are not paid for preparation for teaching, preparation for marking and preparation for giving feedback, all part of their quality assured experience?

Christine Barr: I can comment on the position at the University of Glasgow. On the basis of hours that individuals are engaged in tutoring or teaching activity, they would receive the equivalent of 0.5 for every hour engaged in a teaching or tutorial capacity.

Q650 Lindsay Roy: Half an hour for preparation.

Christine Barr: Half an hour for every hour. There is 0.5 for development time for any course or programme they are developing; and the equivalent of an hour as a minimum for marking for the purposes of the assignment, examination, coursework or whatever they may be marking. That is the provision as a minimum.

Q651 Lindsay Roy: Is that per student?

Christine Barr: Per student based on what they are doing. It depends on the nature of the subject discipline. It might be appropriate that they are paid a greater proportion, but that is the minimum.

Q652 Lindsay Roy: To clarify, if you had eight students in a tutorial you would have four hours' preparation time and eight hours for marking.

Christine Barr: Depending on the number of assessments, coursework and examinations they had to mark. As I say, it is discretion at a local level based on the nature of the subject discipline.

Q653 Lindsay Roy: How is that work quality assured? People want the very best experience at university.

Christine Barr: In a similar way to that I described, whereby they would be part of a teaching team. We operate a process of second marking, oversight and supervision of

work, particularly work that tutors and demonstrators are undertaking, to ensure that there is appropriate QA.

Q654 Lindsay Roy: Is that universal throughout Glasgow University?

Christine Barr: That is universal throughout the university.

Q655 Lindsay Roy: Is it the same position in Edinburgh?

Sheila Gupta: When we moved to guaranteed hours at Edinburgh we ensured that people were paid for every aspect of what they did: preparation, marking, assessment, teaching and demonstrating. Our quality assurance is evaluated externally by Quality Assurance Agency Scotland. We recently had an enhancement-led institutional review. The review found overarching confidence in the quality assurance processes at the university, which covered the student experience, monitoring and reviewing the quality of our programmes and ensuring that the quality of our programmes was absolutely appropriate in terms of the degrees we were conferring. There was overarching confidence in Edinburgh's quality assurance processes. Those are underpinned by internal programme reviews, where we have externality as well.

Q656 Lindsay Roy: Did that focus on the students?

Sheila Gupta: It is every aspect of the learning experience. It will evaluate not just—

Q657 Lindsay Roy: Those on guaranteed hours are included.

Sheila Gupta: Guaranteed hours cover every aspect: the preparation, the teaching or demonstrating and the assessment afterwards. That is the whole intention of having something that clear cut. There is transparency and there isn't an opportunity for not understanding what one is actually being paid for.

Q658 Lindsay Roy: Green lights throughout; no amber and no reds in terms of provision.

Sheila Gupta: In terms of how the guaranteed hours process is working, it seems to be very well understood. We introduced it in September. Clearly we are still in the first year of it. We very much intend to review it and see how that first year ran to ensure that it was a green light process. If at the end of that first year we discover that there are any ambers—we are sure there aren't any reds—we will absolutely pick that up. The other issue for us is continuous improvement. If there are issues that we find are fuzzy or still unclear, of course we will pick them up.

Helen Fairfoul: If it would be helpful, I could give an overview comment on the general approach that we see in the sector around apportionments of time with teaching. I certainly looked at the evidence you heard from one of your witnesses, who suggested that if she calculated back from her hourly rate she thought she was only being paid £1 or £2 an hour,

which would be a pretty horrifying scenario. I would be utterly confident that that is not the practice embedded in the contractual arrangement.

In essence for many years now, and in fact through some guidance documents that we worked up with the trade unions, a baseline model has been applied. Essentially a formula is applied so that for every hour of teaching most institutions will apply a formula. There are variations around it. It often varies by discipline, but the variation around it is two and a half for every hour's teaching. If you use that calculation of £15 per hour teaching, and of course teaching sessions quite often come in at more than an hour, you would probably be paid closer to £40. You would really struggle to work out how you could be getting an hourly rate of £1 or £2. If you were saying for that hour's teaching, "I needed to do 37 or 40 hours of preparation," it would be an extraordinary situation for a graduate student. Given the assessment and selection process that goes into assigning graduate students these opportunities, it really would be completely extraordinary that any leader of that teaching team would allow a situation to arise where the student needed to do a week's work in order to deliver one hour of teaching. It would be quite extraordinary.

Q659 Lindsay Roy: In terms of the lecturing process we have been told that on occasion PhD students are used. Are they paid for preparation, lecture time and a follow-up?

Chair: Unfortunately *Hansard* does not record nodding, so I am afraid that if you want to express a view you have to say something.

Q660 Lindsay Roy: At what level are they paid?

Christine Barr: Those engaged in lecturing at the University of Glasgow would be paid on a similar basis to that outlined for those engaged in specialist lectures.

Q661 Lindsay Roy: A similar level of salary to a full-time lecturer.

Christine Barr: It would be consistent with the nature of the duties that they are undertaking, depending on the particular role. For example, a demonstrator would be based on a different grade to a tutor. A tutor would be paid at a different grade to a lecturer and so on. It would be conducive to the nature of the work that is being undertaken.

Q662 Lindsay Roy: Are those who are expected to fill in on occasion trained prior to this?

Christine Barr: Yes. It would operate on the basis of a pool.

Q663 Lindsay Roy: There is a pool of available students.

Christine Barr: Yes, or specialist lecturers for that purpose.

Q664 Chair: Before I turn to Pamela to pick up a point, let me clarify this. Ms Fairfoul, you mentioned that most institutions would apply the formula. That implies that some don't.

Helen Fairfoul: There will be variations on the formula. A lot of this will be what has been worked out in local consultation discussions with the trade unions at a local level.

Q665 Chair: I understand the general principle that different subjects will have a different formula. The impression you gave was that there is best practice, which is that there is a formula, but not everybody necessarily abides by it, which implies that some don't.

Helen Fairfoul: No; I didn't mean to imply that. What I meant to imply is that there is a general formula and we found something very akin to that formula in institutions.

Q666 Chair: There will be those who, believe it or not, watch this either live or subsequently, or who read the evidence, so nobody should come back to us and say, "This doesn't apply in the institution in which I work." Is that right?

Helen Fairfoul: For teaching hours and tutoring hours, they should not come back with any assertion that they are being paid without due account being taken for necessary preparation, marking or other aspects of the development of the programme they are engaged in. I would not expect to see that in any institution. I hope my colleagues would agree.

Q667 Pamela Nash: We heard evidence from UCU that they had done quite a small survey, it has to be said, at the University of Edinburgh; 83% of those included in the survey were tutors. From that survey, they said that 40% did not get paid for preparation time and 48% did not get paid for marking; and they went on to say that 31% had been on zero hours contracts for four or more years. Only two thirds of them had received specific training for the role they were in. Do you not recognise that, in terms of what they said about not getting paid for their preparation time?

Sheila Gupta: It is very interesting. I do not know about that particular survey but my position on this would be very clear, which is that there was perhaps a lack of transparency previously under the old HTBN model. That might be what is coming through in that survey.

Q668 Pamela Nash: Are you saying that staff members were getting paid but they didn't know they were getting paid for preparation time?

Sheila Gupta: I think that is very often the case. People are often not clear about what they are being paid for. There is a lack of clarity.

Q669 Pamela Nash: They picked out specific examples. There was someone who said that the University of Edinburgh pays one hour preparation time for each hour of tutoring. Is that still the case?

Sheila Gupta: That is one person's interpretation. If I can just answer your question, I think what we had in essence under the old hours to be notified system was a lack of clarity. It did come out of this sense of "What am I being paid for?" By moving to

guaranteed hours we have addressed that issue, so people should not be confused about whether they are being paid for preparation or not, or whether they are being paid for marking or not. All of that should be absolutely clear now.

In terms of driving this forward, it has been led by the locally devolved HR teams working with local management so that people are being issued with contracts. We have always done that, but people get written contracts and they get written terms and conditions of service. It is also all available on the web, so that if they can't find the written version everything is accessible to them, and there is absolute clarity. In addition, people have mentors, buddies or a senior academic allocated to them. If they have a question such as, "I don't think I'm being paid for everything I'm doing," they have a range of people they can go to. We also have graduate teaching officers and programme managers. If there is a lack of clarity, there is no reason why they can't go and clarify that with somebody.

Q670 Pamela Nash: I take that on board, but I have to suggest that this is not just people who are on zero hours contracts, or hours to be notified contracts. Although I appreciate that you are saying there might have been a lack of clarity in the past about what people were getting paid for, those are certainly not the issues being raised. It is quite specific: people are saying they know what they are getting paid for, but it is not enough. It was raised earlier—in fact you mentioned it yourself—that we had evidence that someone felt they were getting paid well below the minimum wage when they factored in all the preparation work.

I do not think that would come from a lack of clarity on the contracts. For them it is a simple calculation—how many hours are they actually working divided by how much they are getting paid. If that works out at less than the minimum wage, either there is a problem with the pay and the contract, or they are spending far too long marking and preparing for their classes.

Sheila Gupta: I can certainly tell you what the hourly rates are. Perhaps before I do, I should say that we work in direct partnership with UCU and our other recognised trade unions. On this, it is clearly UCU. Colleagues in my team are working with them on a continuous basis. They are probably having weekly meetings with UCU about a whole range of things. We are very open to the unions coming to us and bringing any issues, because if there are issues out there we want to know about them and we want to address those practices. It is our aim and ambition to be sector-leading as an employer.

I can say that none of the points you mentioned has been brought to me. They have not been brought to my colleague, because she has not mentioned them to me either. If those are issues, I am very happy to go back from this meeting and speak to our local union officers and say, "Look, if there are things that we need to know about, share them with us." Certainly they have not been raised and we do encourage that.

In terms of hourly rates, just to give you a sense, if people are coming in on the first level of opportunity, where I was talking about doing quite prescribed research or tutoring, the bottom point is £13.76 an hour and the top discretionary point is £17.41, which I think is an attractive proposition when you are a full-time student. The level above that, which is more specialist training or helping to write research proposals and assisting research, starts

at £16.41 an hour and goes up to £21.39 an hour. That is way above the national minimum working rate. I am very confident that we are paying people very fairly.

Q671 Pamela Nash: No one has raised an issue with us, as far as I am aware, about the contracted hourly rate; it is the fact that they are working more hours and are required to work many more hours than they are contracted for in order to do their job properly. Therefore that brings down considerably the actual wage that they are paid.

Sheila Gupta: I understand the point.

Q672 Chair: Let me be clear. I am genuinely surprised at what you said to us about not being aware of some of the points that Pamela raised with you—when you say you do not recognise this. To some extent we are working off the written evidence on the use of zero hours contracts in Scottish universities submitted by the University of Edinburgh’s joint union liaison committee. Then there is an electronic survey of members and non-members, November 2012 to January 2013, which gives all these figures. Are you saying that you have never ever seen this?

Sheila Gupta: Yes. I have never ever seen it. The joint union liaison committee is a committee of the unions. It is not a management committee. We have a combined joint committee.

Q673 Chair: But they have never raised these issues with you.

Sheila Gupta: They have never raised these issues with me. If they had—

Q674 Chair: How long have you been in post?

Sheila Gupta: Seven years.

Q675 Chair: That would suggest you were around when this was being discussed.

Sheila Gupta: Absolutely.

Q676 Chair: We had a witness before who was basically saying, “It was before my time,” and that he had only been there a couple of weeks. We are aware to that one.

Sheila Gupta: I am not using that excuse. I can say with confidence that those particular points, which are important points and I note that very much, have not been raised with me. We have the unions in our offices all the time. We work very closely with them, so it is interesting.

Q677 Pamela Nash: The fact is that they have raised it with us. We would need to go back to them; I do not know why that has not been raised with yourself. That would cause me

concern too, but it is them who raised it and not us. I would hope that that is something that would give you some concern.

Sheila Gupta: I will certainly go back from this meeting and have conversations with them. In fact, I am meeting one of our university level UCU elected officers tomorrow. I will certainly raise it with her.

Q678 Pamela Nash: I do not mean to pick on you, Sheila, but we had those very specific comments about the University of Edinburgh. I want to ask Christine about Glasgow and the same issues. You spoke a little bit to Mr Roy about the fact that people are concerned that academic staff—not just at the University of Glasgow but in Scotland—are not being paid adequately for preparation and marking time. Is this something that comes up with the unions at Glasgow University? Is it raised by staff?

Christine Barr: I work with the trade unions consistently. The policy to which I have referred was in fact agreed jointly with the trade unions when it was introduced in academic session 2009-10. I am working with them at this moment in time to review that policy, and it is right and proper that we do that. It is fair to say that when the policy was introduced it was recognised as progressive in identifying exactly the minimum amount of time that would be paid for preparation, assessment, marking and feedback-type activities. Historically, there had been issues of the nature you described, where people did not feel that they were being appropriately recompensed for the amount of time that was being put in.

In general terms, if there are issues of an individual nature, they would be raised directly through the heads of HR within each of the colleges in the University of Glasgow. Those would be processed to conclusion. That would be the process through which they would be dealt with at a local level at Glasgow, or they would be raised directly with me through the relevant trade union representative.

Q679 Pamela Nash: How do you keep track of the actual hours that staff are working? How do you analyse that?

Christine Barr: To refer again to the policy, we regularly monitor and review the number of hours, and indeed the salary levels that people are paid. That is managed through the HR teams within the devolved structure. They regularly review that information, particularly in terms of those engaged in variable hours employment-type arrangements to ensure that they are on the appropriate set of terms and conditions. If it is appropriate, they will transfer individuals to more formalised contractual arrangements, such as annualised hours or part-time fractional appointments and so on. That occurs regularly. Certainly there are differences within each of the areas. Some monitor it monthly on a rolling basis. Some monitor it quarterly, and others monitor it yearly.

Q680 Pamela Nash: In different departments?

Christine Barr: It is across the four colleges that we have within the University of Glasgow. At a central level we also monitor it regularly. It is something that is regularly

monitored and reviewed. We pursue individuals accordingly in relation to the consultation process around the nature of the contractual arrangements for their circumstances in terms of the pattern of hours that they may be working over a period of time.

Q681 Pamela Nash: Can I ask Edinburgh University as well what procedures are in place there to keep track of staff members?

Sheila Gupta: This is managed at school level. We have graduate teaching officers. They will have local processes. They align the number of hours that are required for tutoring and demonstrating. That is how they will track them. It is just part of an established process and works quite effectively. Now, with the guaranteed hours, it makes it much easier because you are not dealing with something that keeps changing. By moving to a more systematic model, if you like, the whole process of monitoring to check how many hours people are doing is quite clear.

The other point to make is that even when we had hours to be notified contracts that were open-ended—

Q682 Pamela Nash: Sorry. I do not understand that. Would staff members' hours not be changing throughout the year depending on what stage it was in the assessment cycle?

Sheila Gupta: The way the guaranteed hours contract works—I will just make the figures up—is that somebody might be offered 20 hours in semester one, which they accept and that is fine. That might be all they want because they want to spend semester two writing up their thesis. However, at the start of the year the programme manager, through the graduate teaching office, will say, “Do you want to do 20 hours in semester one and a further 20 hours in semester two?” That will already be recorded, and you know when those hours are being worked because of the timetable. There is no need to do any additional monitoring of that. They are going to get paid for that.

The basis of the model is quite a different one. The only difference would be, for example, if somebody was offered additional hours on top of that, which could be possible, and then that would go on the record as well.

Q683 Pamela Nash: But what if it takes them more hours to prepare or mark than was first estimated?

Sheila Gupta: The whole point of the guaranteed hours model is that all of that is factored in when they are offered the work in the first place. Clearly if there is an unforeseen additional set of hours that had to be carried out by this person, for whatever reason, we would take that into account and pay them for it. The payroll process is automatic.

Q684 Pamela Nash: Is there a mechanism for that in the contract? Can they contact someone and say, “There are more hours of preparation required for this than expected?”

Sheila Gupta: And it goes into the payroll system and gets paid automatically. All the terms and conditions are calculated on the basis of the actual hours worked in addition. It is the minimum plus anything more somebody has done.

Q685 Pamela Nash: Is there any variation between departments or is that throughout the University of Edinburgh?

Sheila Gupta: There will be disciplinary variations but all of that is taken into account at the beginning. For example, somebody doing demonstrating work is obviously doing less preparation time than someone doing a tutorial where they have to do quite a lot of preparation. All of that is agreed in advance.

Q686 Pamela Nash: Christine, I touched on it earlier but are there any differences between the colleges within the University of Glasgow on policy and whether people should be paid for preparation and marking, and how much they get paid for it?

Christine Barr: It is a consistent policy across the university.

Q687 Pamela Nash: Helen, how does getting the payment that is made for preparation and marking work compare in your knowledge of other universities? How are the actual hours worked by staff kept track of and analysed?

Helen Fairfoul: I can't give guarantees because that is not what my association does, but I would expect to see exactly the sorts of practices that you have had described existing across institutions. Just as a general comment, and I think it is a feature across any work force, when people are very new to a job they take a bit longer to do it, and then they get faster. I have worked with academics for many years in universities, so I know what it is like when they have to start a new course. They say it is a lot harder work in the first few weeks and it then gets easier. There is something of the swing and the roundabout in an allocation model that continues to give a sizeable chunk of preparation around every piece to be taught, recognising—

Q688 Chair: I think we would take the view that as long as the process for deciding these things is there, the haggling over the detail is not something on which we would want to focus.

Helen Fairfoul: It is what academic managers do; it is their job to supervise the staff.

Q689 Graeme Morrice: Looking at those on zero hours contracts in Scottish universities, as far as you are aware, to what extent are there similarities with those on permanent contracts? For example, if you have a lecturer on a zero hours contract and they are unable to do a lecture because of ill health, are they paid sick pay?

Christine Barr: In relation to the University of Glasgow, those employed on variable hours contracts and on a zero hours basis enjoy the same terms and conditions as a full-time equivalent member of staff. They would be entitled to holiday, sick pay and sick

leave entitlement. It would include aspects like career development performance and development review. They would have the same access to the full facilities within the University of Glasgow as a full-time equivalent person but on a pro rata basis, including access to our pension schemes and so on.

Q690 Graeme Morrice: That sounds good in Glasgow, but are there any differences?

Christine Barr: Within the University of Glasgow, no.

Q691 Graeme Morrice: What about Edinburgh?

Sheila Gupta: At Edinburgh all of our previous hours to be notified contracts and our guaranteed hours contracts have always had the complete and full terms and conditions enjoyed by all other members of staff—full holiday pay, sickness, maternity and full access to pensions.

Q692 Chair: That would be the gold standard. You have no way of knowing whether or not that applies to all your members.

Helen Fairfoul: I have no way of assuring you that I know, but I can tell you that the higher education sector has had the principles around pay grading and equal pay embedded in it for a decade now. My association, prior to my time in my association, was responsible for negotiating with the trade unions a whole framework for embedding new pay and grading structures, pay transparency and job evaluation systems in universities. It has been a feature of university terms and conditions and the setting of terms of conditions. The issues around the calculation of appropriate hourly rates, drawing those from appropriate pay bands, and transparency around the other terms and conditions are something that I know universities across the UK have been dealing with for many years.

Q693 Graeme Morrice: You are saying it is the same situation across the entire university network in Scotland.

Helen Fairfoul: I would certainly expect to see it across the whole university network, based on what I know of the work they have been doing for the last decade, yes. I should say that is in partnership with their trade unions.

Q694 Graeme Morrice: In terms of those on zero hours contracts, we talked earlier about the whole issue of transparency and it was suggested that it was not always transparent, though hopefully things have improved. Are people aware of their terms and conditions when they are on zero hours contracts? Do they fully understand the situation, particularly with regard to expectations about the hours that they work?

Christine Barr: In the University of Glasgow they are issued with a full set of written particulars of terms and conditions of employment, which detail each aspect of their terms and conditions and the fact that they are engaged as a zero hours employee.

Q695 Graeme Morrice: I did not quite pick up on what you said at the beginning. Are you saying they are in effect provided with a written contract?

Christine Barr: They are provided with a written contract of terms and conditions of employment.

Q696 Graeme Morrice: What about Edinburgh?

Sheila Gupta: At Edinburgh, everybody is given an offer letter and written terms and conditions of employment. We also have all our terms and conditions of employment on the web. If people lose their hard copy somewhere, they have immediate access to absolutely everything. We have always ensured that each person engaged has exactly the same experience as a professor. They get the full pack.

Q697 Graeme Morrice: Helen, what is the position across the HE sector?

Helen Fairfoul: I was expecting that question.

Graeme Morrice: It was a no-brainer that I was going to ask that.

Helen Fairfoul: Again I can be confident that it is absolutely standard practice for universities to issue written terms and conditions. Going back many years, when I worked in a university and when a lot of the casual engagement was done at a localised level, they went to huge lengths to establish pro forma contracts with terms and conditions very clearly set out so that there could be no confusion, even when people had been engaged on a casual level at arm's length in the institution.

Q698 Chair: So we should not find anybody coming to us saying that they do not have clarity in their terms and conditions or a written contract if they are undertaking work for their educational establishment.

Helen Fairfoul: You should not find that.

Q699 Jim McGovern: I realise that the reason we asked you to come here and provide evidence today mostly concerned tutorial staff. Given that you, Christine, and Sheila are heads of human resources I imagine you are responsible for everyone who is directly employed within the university. Are there zero hours contracts among support staff, for example, catering staff, cleaning staff and janitorial staff?

Christine Barr: There are some.

Q700 Jim McGovern: Why is that?

Christine Barr: It is where their requirement for work is ad hoc, unpredictable and irregular. The kinds of things I would be thinking about are exam invigilation, student helpers and unique conference and banquet-type events that are outwith the norm.

Q701 Jim McGovern: We have heard in other evidence sessions about people on zero hours contracts who are not allowed to work for anyone else; it is called exclusivity. They have to sit waiting for a phone call hoping they might get a day's work every so often.

Christine Barr: The zero hours terms and conditions of employment do not have an exclusivity clause within the University of Glasgow.

Q702 Jim McGovern: What about Edinburgh?

Sheila Gupta: It is the same for Edinburgh. Our guaranteed hours do not have exclusivity. Our hours to be notified never had exclusivity. We have never, ever exercised that. We have never wanted to have it in our contracts.

Q703 Jim McGovern: Are the support staff that I mentioned—catering, cleaning and janitorial—directly employed by the universities?

Christine Barr: In relation to Glasgow, catering, cleaning and janitorial staff are directly employed. Catering and janitorial staff are on substantive contracts of set hours of work. They are not on zero hours employment.

Sheila Gupta: At the University of Edinburgh it is a fundamental value that we directly employ all of our staff. We don't want to have people on contract arrangements. We do not want agency staff. One of the reasons underpinning that value is that we want everyone working at the University of Edinburgh to be on the same terms and conditions of service. We feel it would be wrong to have a two-tier work force; we just think that would be fundamentally unacceptable.

Q704 Chair: I want to follow that up to clarify it. We have heard from various organisations about the peaks and troughs. It has been suggested by some companies that having to use zero hours contracts when you have peaks and troughs is quite often just a question of lazy or poor management, and that they are not making sufficient effort to make sure that they are allocating people time throughout the year or the week. How would you respond to that?

Christine Barr: For the University of Glasgow, in relation to tutorials and our tutors and demonstrators, work force planning occurs on the basis of at least a semester. Individuals would be very clear for at least a four to six-month period ahead, and in some cases a year ahead, what their requirements would be for that session. In relation to support staff, it would be on the basis of at least a month ahead. That is again detailed in the terms and conditions of the zero hours contract.

Q705 Chair: Would Edinburgh be equivalent?

Sheila Gupta: It would. We believe that in most areas of our work we have a clear sense of the trends, and where the hours are required. We think we can do that in an annual planning model.

Q706 Chair: Looking at colleges and universities generally, if Edinburgh and Glasgow can do it, there should be no need for anybody else to have people on zero hours contracts where they are sitting by the phone just waiting to hear whether or not they are called, even for the non-academic spheres. Is that fair?

Helen Fairfoul: I think most employers will need a casual element in their work force. That is probably what we would observe across most universities. They are no different from other employers; there will be short-term needs and there will be peaks and troughs. If you choose to put in a zero hours framework, it may be an entirely suitable framework. We know that it works very well. We have had very positive feedback in a lot of institutions where students are employed for a year. They can say, “We will open this contract. I want to work for the university. I would like to take job opportunities as they arise when it suits me, with no exclusivity clauses at all.” They can go and work for Asda, McDonald’s or whoever else, but they like working at the university. It is often very interesting work experience doing things like ambassadorial work, which they love.

Q707 Chair: I think you are getting away from the point. There is always a justification of the status quo. Has any assessment been made of whether or not people on these sorts of short contracts want more hours?

Helen Fairfoul: The indication, certainly from students, who are a lot of the casual work force in institutions, is that they appreciate it when they get offered work. They like to be able to turn it down when they don’t want the work, or when they are busy. They appreciate the fact that the university understands that exam time is a very bad time to ask them to work and that it will not rely on them as a part of the work force at that time of year. On whether individuals who are on casual working arrangements want more working hours, I do not think any employer can legislate for the fact that some may want more and some may want less.

Q708 Chair: I can understand the joys of working for the university at £17 an hour. The joys of working for McDonald’s for less are not as immediately apparent. People having to go off to work for McDonald’s or other places suggests that they would much rather work for you but they are not going to get as many hours from you as they might want. Would you accept that?

Helen Fairfoul: Not necessarily, but there is a finite limit and most universities will only ever want the casual variable part of their work force to be a small component, just as my colleagues have described.

Q709 Graeme Morrice: Picking up on the aspect of recruitment in your various universities and across the board, how are teaching staff recruited to zero hours contracts? Are these openly advertised? Is there a transparent selection process? How does it work?

Christine Barr: On an annual basis, a call will go out for the requirement for tutors or demonstrators or whatever. Arguably, given the fact that we have 17,000 students potentially available, there is a ready-made pool. If it is appropriate to a particular subject

discipline, it may be that we go external, but the norm would be that it would be advertised within broadly the subject discipline. We then go through a recruitment and selection process based on the job description and the individual's ability to meet the requirements of that role. There is certainly no mandate or obligation on the individual to do so. It is to complement their studies. That is the process that would be gone through on an annual basis. Obviously the nature of the student provision is that they are there for a year or whatever the period of time may be. That is the process. It is on a devolved basis at school level, but that would be managed. Beyond that, on appointment, they would go through the training and development process to which we referred earlier.

Q710 Graeme Morrice: Is it the same situation in Edinburgh, Sheila?

Sheila Gupta: At Edinburgh, because they are career opportunities—they are not jobs; they are very much opportunities—each school takes responsibility for advertising that opportunity. There is a definition of what responsibilities are covered by it and the selection criteria: what qualities are being sought? There is an assessment process to see to what extent the person coming forward matches the criteria by looking at their CV. A selection process is gone through, but it is very much managed at the school level. That is because you want to ensure disciplinary expertise and so forth.

Q711 Graeme Morrice: Helen, you probably know what I am going to ask you.

Helen Fairfoul: Again, I would absolutely expect to see that sort of practice. Those are the answers I expected them to give—talking about the opportunities that are being made available, particularly to graduate students. There was an example of a Scottish institution that advertised in the media for zero hours specialists very recently. I picked it up because it was relevant to this Committee. The story was that they were chided by the unions for advertising zero hours contracts, but what they were doing was being very transparent. They were saying that what they wanted was very specific specialists for particular programmes and—

Q712 Chair: They were not being chided for advertising; they were being chided for having zero hours contracts.

Helen Fairfoul: I think they were being chided for having the temerity to advertise zero hours contracts in an environment where they are de facto considered to be something that is problematic. Whereas what they were saying was that they have a small part—

Q713 Chair: We had this discussion with our previous witnesses. There is a question about what are zero hours and what is short term or finite? It is the question of the barrister or advocate case. If you are advertising for two hours because you only want two hours of that particular course, it seems perfectly reasonable that that is advertised as two hours because that is all you need. Graeme is raising the question whether or not that is open. The suggestion has been that there is an element of cronyism or nepotism in some of these circumstances. You are assuring me that that should not be the case.

Helen Fairfoul: I would not expect that to be the case. I think the allegations of cronyism or favouritism relate to the sense that students feel that, if they don't do what a head of department expects, they won't get an offer of work. I would not expect our sophisticated institutions, with channels for complaint and so forth, to allow that sort of situation to arise.

Chair: Yes. It is a bit like if you don't write what a lecturer wants in your essay you don't get a good mark. It is the same sort of argument, in a sense. It is whether or not people accept that, as the case might be.

Q714 Lindsay Roy: In response to a question from Pamela, Sheila and Christine presented a picture of sunshine and roses compared to what was there before. How many complaints have you had about short-term and zero hours contracts in the last year within your organisation?

Sheila Gupta: I personally have not received a single complaint—not a single formal complaint.

Q715 Lindsay Roy: Any concern?

Sheila Gupta: The only dialogue that I have had has been with the trade unions, as I think I said previously, looking at new models of employment. We recognise that there are better ways of engaging people.

Q716 Lindsay Roy: That was a corporate dialogue.

Sheila Gupta: I do not know what you mean by corporate dialogue.

Q717 Chair: The unions and the university as a whole rather than individuals raising individual complaints.

Sheila Gupta: Yes; it was not an individual. It was very much in dialogue with the unions.

Q718 Lindsay Roy: Christine, what about yourself and Glasgow?

Christine Barr: I have been approached by about three people in the last year in relation to the nature of their zero hours contract. I too have been engaged in a corporate dialogue with the trade unions.

Q719 Lindsay Roy: And their concerns were?

Christine Barr: Their concerns were that they believed they had reached a threshold where there should be more formalised contractual arrangements, and those should be taken forward to conclusion.

Q720 Lindsay Roy: Were you able to address that?

Christine Barr: We were.

Q721 Chair: I am conscious that a couple of you have planes to catch.

Lindsay Roy: We'll finish before nine o'clock.

Chair: Yes—the midnight sleeper. We'll try to finish before then. In terms of the reports that we got back, it struck me that the University of Edinburgh seems to have addressed this quite seriously, and much more so than the University of Glasgow. Would you accept that as being true? Glasgow seems to be much more defensive about its use of zero hours. With Edinburgh it is the sinner that repented; they have said, “Look, there were some bad things that went on in the past, but we are now trying to change this and we are in constructive dialogue.” Glasgow seems to be much more defensive about the status quo. Is that fair?

Christine Barr: The University of Glasgow, as I said, is working with the trade unions to review its policy with a view to minimising and reducing the number of variable hours contracts. That is the position we are in as we speak. That work is ongoing. You will appreciate from the discussion we have had that it is a fairly major exercise. It involves individual consultation with each individual in that circumstance. As I indicated in my written evidence, the intention from a university perspective is that we use a variety of different employment practices and arrangements. We firmly believe that one size does not fit all in terms of reducing that number. We believe we will use a mixture of annualised and part-time contracts.

Q722 Chair: Would it be reasonable for us to say that in six months we want to review this and have observations from the UCU and yourselves to see whether or not everybody who is capable of being made happy has been made happy, and similarly across institutions as a whole? I appreciate that it is not your job to police or represent them. None the less it is reasonable for us to expect not to have complaints from other institutions as well, and that they would be following what seems to be best practice elsewhere.

Helen Fairfoul: I can certainly pick that up. I do not think there is going to be one model of best practice, and I don't think institutions will necessarily wish to do what Edinburgh is doing. I have spoken to a lot of institutions about the kinds of arrangements that they have. I am really pleased with what we have just agreed with the trade unions. We have been in dispute with them—

Q723 Chair: It is the two Scots that have to leave, so can we come back to you in a second and first clarify whether there is anything else they wish to say? Are there any other points that you want to raise with us, Ms Gupta, before you go?

Sheila Gupta: One very important point I would like to raise, if I may, is that these opportunities are really appreciated by postgraduate students. They see it as one of the main reasons why they are attracted to come and study in the United Kingdom and at the University of Edinburgh. We would like to have the opportunity to make sure that these

are seen as very attractive propositions in supporting people to prepare for an academic career, and indeed to enjoy exposure to academic opportunities that they may not otherwise have the opportunity to do. By modelling new contracts and new ways of working, we can ensure that we have a win-win, where the postgraduate students will have a very positive experience and are fairly remunerated, rewarded and recognised for the contribution they are making, but that there is no sense of a negative perception of these opportunities that might be national or international. I think that would damage UK higher education and the university as well.

Q724 Chair: This applies to both of you. We just want everybody to be happy. We would not be looking at this if we had not had people complaining to us, and if zero hours had not been seen as an example of exploitative working arrangements. We will probably want to look at this again in six months and see whether or not there are still anxieties. Your plane is slightly earlier than the Glasgow plane, so unless there is anything else you want to say, please leave us now.

Sheila Gupta: Thank you.

Q725 Chair: We will turn to Christine to clarify whether or not there is anything she wanted to say.

Christine Barr: There are a couple of things. As I have indicated, I have been working with the trade unions, as have my colleagues, for the past 10 months or so and that is ongoing. I would say that six months is a relatively short period of time. I would prefer 12 months, but I appreciate this is not a negotiation. I am being very honest with you about the time it takes to consult with individuals.

The university is committed to reducing and minimising the number of variable hours contracts. However, the reality from some of the discussions we have had is that there are individuals for whom these suit their personal circumstances. They are very reluctant to move from a variable hours arrangement. That is where I am anticipating that it will take a little more time.

Q726 Chair: It comes back to the question of everybody being happy. We have raised this in other contexts. If a norm has been set, there could be objective justification for exceptions. The assumption is that zero hours are a bad thing and I think in general terms they are. Helen outlined several categories earlier on. We have accepted that trombone players or specialist barristers are exceptions. We understand that. It is a question of the balance that is struck. I would be unwilling to extend it to a year on the basis that, if you cannot show progress in six months, things need to happen. Everybody needs to be happy about the direction of travel.

This is a competitive market. If Edinburgh can do it by then, I see no reason why Glasgow can't either. It is only fair to flag up that, if we feel the need to have other sessions in six months' time, it would not necessarily be yourselves as personnel people that we want. It might very well be the principals as well as yourselves. To be fair to you, you are not running the university—though you might wish to and think you could do a better job of it—and we appreciate there are other people involved in taking these sorts of decisions. With those caveats is there anything else you want to add before we let you escape?

Christine Barr: I would just invite you to talk to our trade unions at a local level and also our student representative council with whom we are working on this matter. There is nothing else that I would want to add. Thank you for the opportunity of speaking with you today.

Q727 Chair: Thank you. Helen—for the remaining five hours of our meeting—we were in the middle of a point before the staff told me that we had to draw things to a close to let others escape. On the sort of points that I have been making, the difficulty for us when dealing with a trade body like yourself is that all trade bodies turn round and say, “We cannae command, and people do it themselves.” Often that seems to us to be a bit of a cop-out. Short of actually bringing in every institution one by one it is difficult to see how else we pursue it, other than by speaking to yourself as the collective voice.

Helen Fairfoul: I appreciate that. I hope you do not feel I was trying to duck answering questions. I am here to speak for the sector and the Scottish institutions. I do not think there will be the same solution in every institution. I am absolutely sure that you will find a whole host of arrangements, as you have found already, because there is such diversity in the sector.

What we can do at the macro level—the cross-institution level—is to have dialogue with the trade unions. I was about to explain that we offered a year ago to do some joint work with the trade unions, because they raised these concerns with us in the national dialogue. Their concerns have been a sense that there is an increase in casualisation. I have not given you all my data, but the data indicate that casualisation is not on the increase. We are interested in spending some time with them looking at the data to see if we can get to a shared understanding of what the data tell us.

We have repeated this offer of joint working. On 2 June we achieved a settlement and agreement with the trade unions. They are now happy to go ahead and do joint working with us, which is great. We will be working with all five of the sector trade unions who are represented at our table. The work we are going to be doing will run from as soon as we can get members of the joint working group appointed through to February 2015.

I will read the main objectives of this work because it is the agreed language: “To establish some shared understanding of how HE employers can achieve appropriate flexibility in the workforce while delivering fair and equitable employment practice.” It is that point of balance which I think one of you asked in a question. Secondly: “To achieve a better understanding of the nature and extent of contractual flexible arrangements in use in higher education, any trends in their use and examples of practice. The work would go on to identify a sample of HE case studies to illustrate examples of the staffing models in use, modes of employment, the nature of the relationship and the contractual arrangements for both academic and support staff.”

The essence of this work is really trying to get to the bottom of whether there is real substance to the concerns that are being voiced by the national trade unions. I appreciate that those are some of the concerns that you have picked up.

Q728 Chair: I have had the terms of reference of the working group drawn to my attention. It did seem to me—maybe this is unfair—that this was something that had all the hallmarks of having been drawn from yourselves a bit like teeth. The language does not suggest an enthusiasm for tackling the abuses of zero hours. It suggests that you are really doing the minimum that you think you can get away with, because you have to have some discussion. I got the impression that it was maybe something you were going to enter into in the hope that it might go away in a while.

If you are saying to me that that wording disguises an enthusiasm for tackling all the difficulties that have been identified and the abuses that undoubtedly take place in some locations—not across the board—then we would welcome that. I think it is reasonable again for us to say that in six months' time we should be able to clarify whether or not substantial progress is being made, or whether there is a feeling that either yourselves collectively or some of your institutions are dragging their feet. Does that seem reasonable?

Helen Fairfoul: I do not think it is reasonable for you to think that this disguises a lack of enthusiasm. We have been pressing the trade unions to do this work with us for a year now, and we are very keen to do this work. My sense of the purpose of this work is absolutely to surface the concerns. We get anecdote and conjecture rather than facts and evidence. What we are really concerned to do is to sit down together, look at what we can learn from what is going on in the sector and look at the data together so that we agree what the challenges are, if there are challenges. If there are abuses, we would love to know what those abuses are so that we can look at the kinds of practice that would prevent any abuse of the casual labour force.

There will always be a casual labour force. On your point about making everybody happy, there are certain schools of thought that there should never be any casual element of the labour force. I do not think that will ever happen. What we are concerned about as employers is that we, as an HE sector, can show and absolutely will prove that there is excellent employment practice out there. I think higher education has been completely inappropriately picked on. It is not an exemplar of rampant zero hours employment or an exemplar of bad employment practice.

Q729 Chair: To be fair, we are not just picking on you. We were late today, because we were picking on Network Rail earlier. There are other people we have been seeing over a period, so I would not like you to think that you were being unfairly selected. There again, we would not be speaking to you at all if UCU and other unions weren't raising these issues with us. Are the meetings that you have with the UCU and the other unions negotiating meetings, or are they just exploratory meetings and then negotiations have to take place at every single institution?

Helen Fairfoul: We do not negotiate the employment arrangements at every single institution. At the national table we have a very restricted mandate for what we negotiate on behalf of the employers. It is essentially the base pay uplift for staff below professor. Absolutely everything else is down to the unions to sit down at the tables that my colleagues were describing, where they are recognised, and they negotiate the terms and conditions that will apply in local institutions.

We have the ability through this kind of joint work to produce meaningful material, which can be used very proactively. What I did not say is that there is then a commitment to disseminate and communicate the findings in a report. This is not about hoping it all goes away; it is about trying to open the books to get a better and shared understanding of what the issues are around this kind of variable and casual employment.

Q730 Chair: It is reasonable then to expect, if not an actual template agreement that should be applied willy-nilly, an agreement coming from the centre about what basic principles should be pursued and an indication of the desirable direction of travel.

Helen Fairfoul: We have suggested that we would be very happy to review the principles that we have already agreed with the trade unions around casual and fixed-term working. There are some principles that my predecessors negotiated and agreed with the trade unions back in 2002, and they produced guidance material. We have committed ourselves to reviewing those principles.

Q731 Chair: When we meet you in six months, if everybody is not happy at least they should be happier.

Helen Fairfoul: We will have moved on.

Q732 Chair: Having moved on is not necessarily an enjoyable experience. In six months from now some people will be dead, so moving on is not in itself something to be pursued.

Helen Fairfoul: What I mean is that I really hope that together with the trade unions we will have moved on with a better understanding of the issues. We have encouraged them to bring forward precisely the sort of anecdote that they say causes them concern.

Chair: Are there any other points? I think we have left few issues unexplored.

Q733 Pamela Nash: I wanted to ask Glasgow and Edinburgh universities about the reviews they proposed, but we did not have time. Helen, are you aware of other universities conducting internal reviews?

Helen Fairfoul: I have certainly heard of others, yes.

Q734 Pamela Nash: Could you share that information with us?

Helen Fairfoul: As to which they are? I do not have that information systematically. I have merely heard from certain institutions that they are conducting reviews. It is very much to do with local employee relations. This is not the bread and butter that we get involved in.

Q735 Pamela Nash: I understand that, but as far as I am aware your organisation primarily exists to provide guidelines and advice.

Helen Fairfoul: We advise, certainly.

Q736 Pamela Nash: It says on your website that the “UCEA provides members with timely advice and guidance on employment matters pivotal to the higher education sector.” That is one sentence that says what your organisation does.

Helen Fairfoul: Yes; that is fine.

Q737 Pamela Nash: I presume you must be in conversation with them about what they are doing on this kind of topical issue.

Helen Fairfoul: We will be as part of this work; absolutely. This work will get started very shortly. I know you have a six-month time line. I am trying to do the maths in my head. We will not be finished before February, but we would be very happy to bring back our findings.

Q738 Chair: If we are bringing others back it makes sense to have you as well, because we are going to be looking at some other things within that time scale. We have covered everything. Are there any final points that you want to raise with us?

Helen Fairfoul: No. Towards the end I indicated that we have data showing that atypical working is on the decrease in the sector. I do not think I gave you that data earlier.

Q739 Chair: It would be helpful if you passed stuff like that on to our staff. I heard your point about 3.7%, but, as I indicated, I do not think we can regard that as giving the full picture. I am taken by your trombonist example, but how many of the 3.7% fall into the trombonist category and how many fall into the other categories? That would probably be helpful for us.

Helen Fairfoul: We can certainly look at the average size of the contract that helps people to derive that FTE. It is a level of detail that does not exist within the published staff record.

Chair: We are not asking you to get somebody’s PhD written on the basis of exploring this, but it would be helpful to let us have what you’ve got.

Helen Fairfoul: Yes.

Chair: Thank you very much.