



Northern Ireland
Assembly

Committee for Employment and Learning

OFFICIAL REPORT (Hansard)

Zero-hours Contracts — Pre-consultation Briefing:
Department for Employment and Learning

11 June 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Robin Swann (Chairperson)
Mr Thomas Buchanan (Deputy Chairperson)
Mr Sammy Douglas
Mr Phil Flanagan
Ms Bronwyn McGahan
Mr Pat Ramsey
Mr Alastair Ross

Witnesses:

Mr Tom Evans	Department for Employment and Learning
Mr John McKeown	Department for Employment and Learning
Ms Deirdre Walsh	Department for Employment and Learning

The Chairperson: I welcome Tom Evans, deputy director of the strategy and European employment relations division; Mr John McKeown, head of employment relations policy and legislation; and Mrs Deirdre Walsh, from the employment relations policy and legislation unit. Folks, good morning, you are very welcome. Tom, over to you.

Mr Tom Evans (Department for Employment and Learning): We appreciate the opportunity to come to the Committee to talk about what is, I suppose, one of the more topical issues that has been floating around for some time. Zero-hours contracts have attracted significant media interest in the last six to eight months. The Minister has answered questions from Members in the Assembly about the issue, and we are aware that a no-day-named motion on zero-hours contracts is on the stocks. The Minister, recognising that there is big public interest in this, has decided to review the use of zero-hours contracts in Northern Ireland, initially through a public consultation. He wanted us to come here today to give you a sense of that. The Minister has placed a fairly pressurised timescale on us in which to turn it around. He has not cleared a consultation document but is aware of most of the stuff that would go into the latest draft. He wanted us to talk to you about that, with the view that, if the Committee has any other issues that we can build into the consultation, we will endeavour to do that. The Minister is committed, as with the wider employment law review, which we talked about last week, to doing it in a way that looks to give flexibility to employers, meet competitiveness objectives and, at the same time, protect the rights of employees.

In today's presentation, I will give an overview of what we know about zero-hours contracts. It is important to make the point that there is an awful lot of rhetoric around zero-hours contracts. It is time to start focusing on what they mean and whether there are any issues that need to be addressed. We will take account in that overview of recent research in GB and the GB consultation on zero-hours

contracts. We will then talk about some of the parallel research that we plan to undertake in Northern Ireland, which will inform that policy review.

As a starting point, it is important to emphasise that there is no legal definition of a zero-hours contract. There is nothing in the Employment Rights (Northern Ireland) Order 1996 to say what a zero-hours contract is. The term is used to cover a wide range of employment relationships. Many are often legitimate contracts that are established between an employer and employee, where that person has a status as either an employee or a worker, but the issue is that they both freely agree to enter into a contract.

Again, there may be a perception that people on zero-hours contracts have no employment rights. However, your employment rights are determined and dictated by your status, and the statuses are "employee", "worker" or "self-employed". Many people on zero-hours contracts will probably be workers, and they have access to certain core entitlements, particularly national minimum wage, protection from unlawful deduction of wages, and paid annual leave. They are also entitled to rest breaks and protection from discrimination.

Research shows a fairly imprecise picture at this stage, again, because the focus has only come to the fore in the last six months. The Office for National Statistics (ONS) conducts the labour force survey. Between October and December in 2013, it found that 583,000 people categorise themselves as being on a zero-hours contract, an increase of 250,000 reported for the same period in 2012. I am not sure that you could argue that, suddenly, 280,000 — it may be the case, or maybe it is just that the ONS is becoming much more precise about how it counts and assesses the numbers.

More recently, in April of this year, the ONS published the results of its survey of 5,000 employers, which indicated that employers in Great Britain are using around 1.4 million employee contracts that do not guarantee a minimum number of hours. It may be the case that the same person is being counted a number of times.

The Chartered Institute of Personnel and Development (CIPD) did its own research and suggested some time ago that there could be around 1.2 million. We are saying that it shows that there is not a clear picture. I suppose that, were you to extrapolate the 1.4 million to a Northern Ireland context, you are talking about 35,000 people. However, again, that may not be 35,000 individuals; it may be people under a number of employment contracts.

The most recent ONS survey focused on non-guaranteed-hours contracts, which seems to be a different description that it felt was more accurate, in that hours are not guaranteed, as opposed to zero-hours, which means that people are getting no hours. The survey was the first employer-based survey to be conducted by the ONS, but it did not include Northern Ireland employers.

During summer 2013, our sister Department across the water, the Department for Business, Innovation and Skills (BIS), conducted its own informal information gathering. It was very much a preliminary exercise, and, in December 2013, it was followed by a full public consultation, which closed in March. It was reported in the papers that there were 38,000 responses. You can imagine that the civil servants across the water were quite busy. I think that there were about 750 substantive responses. The rest were the result of a sort of lobby group that encouraged people's input.

The preliminary information-gathering exercise indicated that zero-hours contracts can be useful and valuable for employers and individuals in specific circumstances by providing that sort of flexibility, and you can imagine situations in which that might apply. However, it also identified certain concerns about the use of exclusivity clauses in zero-hours contracts. Another issue was a lack of awareness amongst workers about what it means to be on zero-hours or a non-guaranteed-hours contract. Those concerns have been echoed here in Northern Ireland, particularly since the Minister announced in the Assembly in March that he intended to consult on zero-hours contracts.

As part of the BIS consultation, some suggested that this form of contract is a vital element of a modern, flexible and responsive labour market, and an important reason why unemployment is lower and the level of employment higher than might have been expected during the recent economic downturn. Other commentators have suggested that the increase in the number of people employed through lowly paid zero-hours contracts may partly explain the resilience of the UK labour market during the downturn. That is the sort of picture of what we have got so far from broader research.

Regarding our own situation, we conducted a literature review in the latter part of 2013, and we shared, through correspondence, the findings of that. I will go over the key points. It flagged up a

need for further research to gain a better understanding of the numbers that are involved and where they are most prevalent. It highlighted that there is an increase in the number of people who are employed in low-pay contracts. That may partly explain — again, in a Northern Ireland context — the resilience of the Northern Ireland labour market during the downturn. It would appear from the literature that zero-hours contracts are over-represented in the private sector and that larger companies are more likely to use them. Workplaces such as hotels and restaurants and those in the health sector were the most likely to employ people on zero-hours contracts. The care sector seems to have a high prevalence of zero-hours contracts. Some estimates were that as many as 60% of care workers were on zero-hours contracts in the period covering 2011-12.

Those who are employed on zero-hours contracts tend to work fewer hours on average — 21 hours per week — than those who are not on such contracts, who work on average 31 hours per week. Those on zero-hours contracts tend to receive lower gross weekly pay — £236 on average — compared with those who are not on zero-hours contracts, who earn £482. That obviously reflects the duration of work patterns.

The planned consultation that the Minister wants to launch will include all the areas that are covered by the GB consultation. However, it will also include a broader range of issues informed by the research and findings of the GB consultation. In that consultation, they talked about whether exclusivity clauses should be banned or retained. Our consultation may show that there may be different types of exclusivity clauses. One such area may be when an exclusivity clause applies and somebody is getting only 20 or 30 hours a week. When you multiply that by the national minimum wage, you see that they are not on a living wage. We may ask whether that is a reasonable thing to do.

In parallel to the consultation, the Department intends to undertake further qualitative and quantitative research to complement any findings that come out of the consultation. Building on the literature review, we will engage directly with expert researchers. An organisation called the Work Foundation has produced quite a lot of written material on zero-hours contracts. What we will do is organise a range of engagement, such as teleconferences. We will take that work forward with our research and evaluation service — our economists and statisticians in the Department — to see whether we can drill down into that policy area.

We also started work to look at conducting a telephone survey that would be based on the ONS suite of questions. So, there would be some consistency between the analysis of the GB survey and the Northern Ireland base. That is really a telephone survey. We are hoping at this stage to do it with 500 employers initially to see what we can get out of that. Again, standard practice in any consultation is that we will run a number of consultation events and focus groups. Hopefully, we will generate some feedback about how they work, whether there is any need for remedial action, whether that could be handled through better guidance or whether we need to regulate on those issues.

In summary, the consultation seeks to determine the extent of the use of zero-hours contracts and give a clearer picture of their benefits or impact on the economy. The consultation will also explore a number of options around exclusivity clauses and how to make such contracts more transparent. A key thing in employment rights is that people understand what that means when they go into a country.

One option that may be included in the consultation document could be to ban exclusivity clauses in zero-hours contracts or prohibit them where they guarantee less than a given weekly level of gross pay or hours. Another option would be to introduce a right to request guaranteed hours or fixed-term working on the part of a worker following a period of continuous employment on a zero-hours contract. Another option, which links to legislation in the Republic of Ireland, is to introduce a minimum payment in lieu of work where no work is provided but there existed an expectation or an intention to provide work under that contract. Others are to encourage the production of an employer-led code of practice on the fair use of exclusivity clauses and to continue to rely on the common law redress systems, obviously through the tribunal system. If somebody feels that they are not getting the rights that they are entitled to, that is available.

Moving to the second issue of increasing transparency, again, we are seeking views on improving the content and accessibility of information, advice and guidance. Again, it is a code of practice, but a code of practice that will also have a readership and understanding regarding employees. It will be tailored to their needs. Also, is there a value in producing model clauses for zero-hours contracts, which would increase good practice? It may be that some employers who are using zero-hours contracts could be helped by some guidance.

As with any consultation, the Minister is keen that we target a number of more generic questions at employers and employees. I fielded a number of calls in the last two weeks from people saying, "I'm on a zero-hours contract. I'm not happy. What's your Minister doing?" I said that we are going out to consultation in the near future and there will be questions directed to people who are on those contracts. We will also include a number of open-ended questions so that people can provide input on issues that were not covered in the consultation.

The Minister is keen to go out as soon as possible, because I think he is being pressed in the press and I think members are keen that some action is taken. We will then consider the findings of the consultation, which, we hope, will be informed by questions that members pose today. I imagine that he will want to bring it to the Executive. It may be about legislative changes, better regulation or better guidance. We will see where we get to.

We are happy to field questions.

The Chairperson: OK, Tom, thank you very much. It is not a declaration of interest, but as somebody who used to manage a company that used zero-hours contracts, I know where a lot of this is coming from on both sides. In regard to the letter and the presentation you put in front of us, the Minister is making a statement next Tuesday. You are saying that he hopes to do something in the near future because of pressure from the press and a number of members. If you are already fielding calls on it, what is the Minister's realistic timeline for doing something so that we can see that it is not just an exercise and you can say to somebody who calls you that you are doing something?

Mr Evans: I think the Minister declared his intention to launch a consultation before the summer recess. If there is a need to take forward any changes through legislation, which would probably require primary legislation, he would like to align that to the other measures so as to have a single Bill that would address it. I talked about a Bill maybe being introduced to the Assembly in the latter part of the session after the summer recess. He is mindful that it cannot be just a consultation. If there are recommended proposals that get consensus, he will need to take action, so what he would like to do is include it in the wider employment law review, which would have a Bill that would take forward a range of measures.

The Chairperson: Right, so it would be towards the end of the next session if he gets agreement. The options include introducing a minimum payment in lieu of work when there is no work. The other contract there is an annual-hours contract, which I know a lot of the supermarkets use. You are guaranteed so many hours per year and that can be at the discretion of the employer whenever they want. Is that not what that would move to?

Mr Evans: I do not think it would move to that, but it is certainly an option that could be considered. I know that, in the education world, back when there was education reform, teachers had to work a minimum of 1,265 hours annually. It is not something that has been discussed. I think it is an interesting concept.

Ms Deirdre Walsh (Department for Employment and Learning): One of the things that we have asked for in the consultation is to be given those types of suggestions, because, obviously, we have not thought of everything. That is certainly something that could be taken into consideration.

The Chairperson: Do not jump on it as an answer, because annual-hours contracts are not popular either from the employer's point of view. Whereas, in a zero-hours contract, the employee has the right to say no, in an annual-hours contract, that right is removed because they have to work the hours. Deirdre, you mentioned what is in the consultation at this stage. How far down the line are you in preparing the consultation? I would like to have seen it today rather than just a letter from the Minister.

Ms Walsh: The paper is complete, except for the input that we receive from you today, which might be —

Mr Evans: The Minister has not cleared the document. It is fairly complete. You know yourself that, with a consultation, there is some fine-tuning to do. We have talked to our people on the research side and, as much as we know, it is ready to go to the Minister. However, he wanted to know the Committee's view on those issues before he got it.

The Chairperson: I have two points. The first is on the code of practice. Are there any teeth behind the code of practice?

Mr Evans: That is a general debate in employment law. We retained the statutory discipline and dismissal procedures instead of moving to a code of practice. However, in the absence of anything, I have no doubt that a code of practice with a statutory basis could potentially add value, especially if it is linked to some best practice guidance on good practice models. Again, that will be for consultation.

Those are just offerings at this stage and stuff that we squeezed out of our BIS colleagues that they had not thought about. We will try to make the consultation document a broader document with a broader set of issues so that we can take views from consultees.

Ms McGahan: Thank you for your presentation on this very important area. Do you acknowledge and agree that zero-hours contracts are a form of inequality?

Mr Evans: At this stage, I would not, because we have no understanding of how they operate. The consultation is very much about finding out how they are being used and whether they have good or bad impacts. If, through the consultation, we identify any negative equality impacts from their use, the Minister will want to take action.

Ms McGahan: The Minister attended the Committee in recent months and said that we need to quantify the use of zero-hours contracts and that part of the difficulty is that there is no agreed definition of them. How big a hurdle is that? I forgot to say that we were also told that the Department will do some research on that matter. Has that research concluded? Again, how big a hurdle is that no agreed definition?

Mr Evans: In its survey, ONS attempted to agree a definition. The Minister has asked us to undertake some research, which I just mentioned. We are going to launch a survey of 500 employers to try to firm up and tighten the definitions.

In the consultation, we will try to seek an understanding of how zero-hours contracts are being used. There will always be a general definition of them, but there will be also be different types. It is about identifying any types of contractual arrangements that disadvantage and that have adverse equality impacts. That is the attempt.

I have tried to get it across that it is a very patchy policy area at this stage. We are paddling feverishly under the water to try to get much — I would not say empirical research — more informed commentary about how they are being used in Northern Ireland. That will allow the Minister to make some meaningful policy proposals.

Mr Flanagan: Thanks for the presentation. One of the big problems is around trying to quantify the extent of the problem. You said that the majority of those contracts are in the private sector but then told us that, pro rata, you estimate that 35,000 zero-hours contracts exist here. The figures that I have been given by the Health Minister indicate that 19,600 public sector employees are on zero-hours contracts. That kind of puts to bed that myth that there are 35,000 of them and the majority of them are in the private sector. They are also very prominent in the public sector across all five trusts. What level of engagement you have had with officials in the Health Department on that matter and about how the contracts are being used in the trusts?

Mr Evans: On the general point about the 35,000, all we were doing was saying that the ONS survey suggested that, so we purely extrapolated from that. I take the point. We said in the survey that 60% of the health sector were on zero-hours contracts. We have not at this stage, but that will be part of the engagement. We now have some evidence from the literature review, and where zero-hours contracts predominate in certain sectors, we will have those sorts of engagements. The employer survey is one way, and the initial pilot survey will have to replicate that. We will be working with our economists and statisticians to look at that. The health and social care sector seems to be an area where it is prevalent, and it is something that we will want to explore.

Mr Flanagan: So, you have not engaged with them as part of the pre-consultation.

Mr Evans: No. The reality is that, other than analysing what GB has done and looking at what some expert researchers have done, we have set this out, and the Committee is the first place that we have

come to. We have not had any engagement, but there will be a fairly intense level of engagement. I think that the initial pilot survey might help us with that as well as further research, but the point that you are making is very persuasive: we should look to our health service colleagues.

Mr Flanagan: I do not think that the Committee will criticise you for bringing it here first. It is something that we welcome.

Exclusivity clauses were mentioned. Will part of the work look at the impact not only on the individual who is negatively affected by such clauses but on the wider economy because that person is unable to be employed elsewhere?

Mr Evans: Yes. At face value, if somebody says, "You can only work for me and nobody else", there are sometimes good reasons for that, particularly if somebody is getting lots of hours and it is a particularly competitive market where they work for somebody for 20 hours a week. They are passing on the knowledge in a competitive environment, so we need to look at where exclusivity clauses may be appropriate or not appropriate. The point that you are making is that, if somebody is only working for one employer for 10 hours a week, you are losing that person in the labour market if they want to work more hours. We need to look at that. We are trying to segment the issue of exclusivity to see whether there are positives and negatives so that the Minister can take action only where there are negative impacts.

Mr Flanagan: In terms of access to benefits and employment rights, there are problems with people who are on zero-hours contracts trying to get a mishmash of jobseeker's allowance, working tax credits and income support. As part of the consultation, will you try to come up with some system whereby people who might work no hours for three weeks in a row and then work 40 hours the following week can get a regular income stream, whether it is on a weekly or monthly basis?

Ms Walsh: Some of the options that we have would address the potential for people to have some sort of certainty about their income. One option involves introducing a right to request guaranteed hours or fixed-term working or, over time, the right to request a fixed-term working pattern. That would take the uncertainty out of those types of arrangements and give people a bit more stability and security around their financial arrangements.

Mr Flanagan: That is the right to request it; it does not mean that you will get it.

Ms Walsh: That is why we are consulting on it. We want to know —

Mr Flanagan: The example that I am talking about is this: somebody who works no hours for three weeks in a row would probably be entitled to claim jobseeker's allowance if they can demonstrate that they are out looking for alternative work, but, the following week, if they work more than 16 hours, they cannot claim jobseeker's allowance. They have to come off that benefit and try to get back on to it at a later stage, which is hugely problematic. As part of the work, that is one problem that you need to try to resolve. It is not going to be easy, but it is something that you need to try to resolve.

Mr Evans: I think that it will surface those sorts of issues about inconsistent working patterns and how it affects their entitlement to a wider benefit. You are absolutely right, and that is something that we will look at.

Mr Flanagan: The final thing that I would like you to look at is a growing trend in the employment market of employees being forced to register as self-employed. Some employers want to get out of paying sickness benefit, holiday pay and things like that, so they are making employees register as self-employed as opposed to being direct employees. Is that something that you are also considering looking at as part of this work?

Ms Walsh: No.

Mr Evans: It is not. That is a broader issue. It is about an employer in some way forcing somebody out of full-time employment and into self-employment. That may be something that needs to be redressed. It is almost constructively dismissing somebody.

Mr Flanagan: I am talking about when they are hiring somebody; when they are taking on a new recruit. Instead of registering them as a direct employee, they are being registered as self-employed.

It is a trend you see in employment statistics with the huge surge in the number of self-employed people.

Mr Evans: If we find through the research that an increasing number of people are on zero-hours contracts who are neither employees nor workers, as defined in the legislation, but are self-employed, that may tell us something about that trend, but we have no evidence to determine that.

That is accepted in the IT industry and people want that, so we need to look at that at this stage. If there is evidence of an increase in that and it is having negative impacts and people are saying it is having a negative impact on their ability to secure a living wage, that is something we would have to take account of.

Mr Ross: I am a wee bit concerned about the order in which we are going about things. I am quite sure that the officials here this morning will tell us that there is no predisposed outcome and the Minister has an open mind on this. But, given that we have acknowledged that we do not know the extent of the problem, do not have any solid evidence about the extent of zero-hours contracts in Northern Ireland, do not know how many people are on them or how many employers use them, and given the acknowledgement that the evidence in GB is somewhat patchy, it concerns me that we have discussed legislative change and a Bill potentially coming before the House after the summer. It also concerns me that the Minister has outlined in a letter a number of potential solutions to a problem that we have not yet established. Are we not doing this the wrong way round? If the Minister is already saying, "Here are a number of things that I may introduce", but does not know how big a problem this is, is that not the wrong way round?

Mr Evans: I think that, at this stage, all the Minister is saying is that it is a policy review and, if there is consensus on things that need to be done and those things could be done without legislation, that is fine. If it requires legislation, that is also fine. He is not, at this stage, committed to introducing legislation. The Chairman raised the issue with us about timescales. The question is this: if legislation is required, will it take years? The Minister is trying to be efficient by using a Bill that may be introduced in the Assembly at the end of the year. It may not be. Obviously, it is down to the decision that the Executive will take on that. All he is doing is saying that at least he is looking forward and, if something comes out of the consultation that is fairly compelling and there is consensus that there needs to be a change, he is committed to taking forward that change. The Minister has made no decision on any particular proposals. At this stage, it is very much about scoping and identifying areas where we would at least like to get a better understanding of how they are being used. So, the Minister is not committed.

Mr Ross: Has the Minister asked anybody to start drafting any potential legislation?

Mr Evans: Absolutely not.

Mr Ross: As an Assembly, we use zero-hours contracts. The Commissioner for Standards is effectively on a zero-hours contract. I do not think that there would be an appetite in the Assembly to pay him for work he is not doing. So, they are used even in the Assembly, and I do not think that I have ever heard anybody from any party argue that he should be contracted on anything other than a zero-hours contract.

It leads to the point that, for some people, they are essential. You mentioned caterers and employers in hotels who do not know what type of work they will be able to offer on a regular basis. That is also the case for some employees. For young people who are students and who maybe do not want a full-time job or cannot always do the hours of a part-time job, it suits them very well. They also work well for young parents who want to get back into the workforce or who have been out of it for some other reason. I do not think that anybody would argue that zero-hours contracts are for everyone, but they are clearly important for some people, and some people very much like them.

What would the impact be of banning zero-hours contracts or removing them, particularly on small businesses? If you run a small family catering business with perhaps only two of you and you do not know whether you will get a big order in for the following weekend, how would that small business be able to survive if zero-hours contracts were banned?

Mr Evans: There would have to be an impact assessment on any proposals that the Minister would be minded to make as a result of the consultation. It is interesting, because I think that it was referred to in the Assembly yesterday. A small business Bill is being introduced at Westminster. We are not

aware of the proposals, but they are coming out of the consultation. No proposals will be introduced without a full integrated impact assessment that looks at regulatory impacts and the equality impacts. It is not the first time that the Committee has raised the issue of SMEs — small employers — and we need to look at that. Maybe we need to include something in the consultation on that very issue. As I said, the Minister has no predetermined views; it is very much about considering the views of the wider stakeholders out there around the use of zero-hours contracts. If it comes back and it is fine, the Minister will not be making changes, but if there are real issues that can be evidenced in certain elements of any contractual arrangements, the Minister will consider them.

Mr Ross: There are some areas that the Minister is seeking views from the Committee on and that will be in the consultation. I would be fairly open-minded regarding banning exclusivity clauses on the basis that you are not getting any work at all, so why would you sign a contract like that in the first place? You should not sign up to it if that is the expectation. There is probably some area around that. I take Phil's point that, if it is preventing employees getting some of the rights that we all expect them to get, work is required around that as well.

If the minimum payment in lieu of work where no work is provided were introduced, would that not hit small businesses in particular twice? Again, I will use the example of a catering firm. If there is an expectation from a small business that it might get a big piece of work and that does not come in, it would suffer from the fact that it did not get the work or the contract and it would also be hit by the fact that it would still have to employ people who had not done any work.

Mr Evans: Again, it is a proposal. We have tried to scope out all the options. There is legislation in the Republic of Ireland that states that, if somebody is on a zero-hours contract, they are required to work for an employer possibly on an exclusive basis. If they were either promised or there was a predetermined notification that they would be working x number of hours and that did not happen, they would have no revenue and no income, and a minimum payment should be made. It is an area that we need to explore. It is not as simple as saying that we should ban or retain zero-hours contracts. We have tried to start to drill down and segment that whole policy area to see whether there are elements that we can critically evaluate, not in isolation, but at least identify as areas where there may be some negative impacts. It is not the case that the Minister is going to do that; he is at least opening it out for discussion. I think it is helpful that we have had the impact on the economy and the impact of money in the economy if people have less money through exclusivity clauses. It is not a predetermined policy issue; it is purely an option.

Mr Ross: There is obviously discussion about this at a national level, and the Government are not particularly persuaded by the argument to bring in legislation around zero-hours contracts. I think that the Opposition would see it as something that they may wish to do. Has the Minister had discussions with his counterparts at Westminster on their view of taking this forward? Will that be kept in mind when he makes a decision about whether it should be introduced in Northern Ireland, bearing in mind the fact that he should ensure that we are competitive on a regional basis?

Mr Evans: I am not aware of that. The Minister was keen that we went across, and we had a fairly extensive visit to talk about their consultation and where they were going on that. We are not privy to what is going into the small business Bill, but we understand that it is around exclusivity and the right to request. I think that those are the issues, but I am not sure whether the Bill is published yet.

Ms Walsh: It is not published, but I think that it was announced in the Queen's speech last week. We know that they have made provision for protected contracts, as they call them, which prevent exclusivity clauses and contracts that do not have stated paid contractual hours. Those are powers that are only just being introduced, the detail of which would be in any regulations and subject to impact assessments and, probably, to further consultation.

Mr Evans: I suppose that it is one of the advantages. It is not deliberate, but the reality is that we end up being a little bit behind, so we can see how the passage of the legislation goes. We can look at the documents that are looking at the impacts and things like that to pick up on those very issues. They are required, under better regulation, to do exactly the same as we do, and they do.

Mr P Ramsey: Tom, you are nearly back here full-time. We have seen you a lot about the place. Certainly, it is a hugely important piece of work on this area, and I warmly welcome it. I am not coming back at Alastair, but it is important that we have a workable, equitable environment for the workers in those areas. The mere fact that you say that a number of workers have contacted you directly shows that there is uncertainty, fear and worry. There is an environment where somebody is getting sick pay

or somebody is getting holiday pay, but somebody else is not, yet they are doing the same hours and the same job. So, we have to be fair in all this. It is necessary to bring forward some statutory guidance that gives protection to those workers.

I do not for a minute suggest that we should ban zero-hours contracts, but this is important. Your own document talks about identifying legislative and non-legislative ways forward and you refer to a code of practice. If there was a good code of practice that involved employers coming together, that would be fine, so long as they were honourable and all that, and going forward to ensure that we are protecting the same interests of the workers. However, there is absolutely no doubt that it is necessary to have this. I agree with most members. It is very hard at this stage to find out how many there are. I know scores of people who work in the health system and through contractors. They are, for example, cleaners in the hospital whose morale is not good but they are forced into a situation to take this work, though the conditions are intolerable.

I welcome it going forward. I would be very keen to see best practice, models from elsewhere and how we can go forward. I look forward to the further consultation with the House and the Committee, but also with the business community and the trade unions. It is a good piece of legislation that we need in Northern Ireland. I do not particularly care what happens in Britain. If they do not want to go forward with it, we will be in a stand-alone situation in Northern Ireland. We have distinct issues and problems here, and we need to be dealing with them.

The Chairperson: A comment, rather than a question, Pat?

Mr P Ramsey: Yes.

Mr Douglas: Tom, I will ask you a couple of very quick, simple questions. Someone came into my office recently. They had been working in a place for three or four weeks but nothing had been signed. If an employer offers you work and you agree, does that constitute a legal contract?

Mr Evans: It would do, but John has worked in HR so he might know better.

Mr John McKeown (Department for Employment and Learning): Obviously, the preference is to have something signed: a legal document that is binding on both parties.

Mr Douglas: I suppose that there should be some sort of timescale within which the employer would have to offer that person a written contract.

Mr McKeown: Absolutely.

Mr Douglas: Pat mentioned the importance of workers, and he also mentioned businesses. How do we ensure that we get a balanced approach to this consultation? That is the key to it.

Mr Evans: I have come to this Committee a few times and have sought a balanced view. The reality is that we have an excellent relationship with all the stakeholders: the unions; the Northern Ireland Affairs Committee; the CBI; and the Institute of Directors (IOD). I am meeting the CBI at lunchtime today and we will engage. More generally, the Minister is minded to go back into a round of meetings with stakeholders to get across his message that we should try to get consensus on some of the broad issues around equitable contractual arrangements that are for the benefit of employees and, at the same time, give flexibility and contribute to a competitive Northern Ireland economy. That is what he is after. That is almost a stock phrase, but the reality is that we actively engage and, through this consultation, we will actively engage with those stakeholders.

Ms Walsh: We also have very pointed questions in the consultation that are directed at employers and employees, alongside the policy option questions.

Mr Douglas: Alastair made the point that we do not really know the extent of the issue. It is the same in GB, where I think there are about one million people on those sorts of contracts. Will we get other, better information to ascertain and give us a better picture of where we are?

Mr Evans: As I said, we will do a pilot telephone survey with about 500 employers. That will be based on the ONS's suite of questions, which it has refined and tested. I think that it is better that we use a framework that is consistent with the UK's, so that at least we can get Northern Ireland analysis but

have a better understanding of how to extrapolate the UK figures into a Northern Ireland situation. So, that is what we are doing. It will be not just quantitative but qualitative. The people doing that are experts. Our economists and statisticians have very much taken the lead in determining how the survey will run. We will see how it goes and whether we need to do something much wider than that or whether it leads into other research.

Mr Douglas: I have a final question. I know that Pat said that he has no interest in what happens in Britain. In an all-island context — I think that I asked you a similar question about another issue recently — have we had or will we have contact with our counterparts in the Republic of Ireland? I know that, in the past, when it came to redundancy in an all-Ireland company, the situation was totally different North and South.

Mr Evans: We will reference it briefly. The international research and evidence are very patchy and limited, but we will reference the legislative basis in the Republic, and Deirdre, in particular, will talk to our colleagues in the equivalent Department.

Mr Douglas: OK. Thanks very much.

Mr Buchanan: This is more or less a comment. While this may be looked on as an important piece of work, we need to be careful here. I think that what we really need to do in the consultation is make sure that there is full cooperation with employers and that they have full input. Let us remember that, at the end of the day, they are the people giving employment. If we do anything to scupper that, it will not be to the advantage of the Northern Ireland economy. It is a delicate issue, and we need to be careful how we move forward on it.

The Chairperson: OK, members. Tom, John and Deirdre, thank you very much for your time. We look forward to the consultation document being presented to the Committee. It would have been helpful to even have a preliminary one before the Committee today.