

ZERO HOURS CONTRACTS – MEMBER-LED REVIEW INTERIM REPORT

To: **Cabinet**

Date: **15th April 2014**

From: **Resources and Performance Overview and Scrutiny Committee**

Electoral division(s): **All**

Forward Plan ref: **N/A** *Key decision:* **No**

Purpose: **This report sets out the findings and recommendations from a member-led review that investigated the Council's staff on zero hours contracts.**

Recommendation: **Cabinet is asked to:**

- a) Consider and comment upon the findings and recommendations contained within the report**
- b) Respond to the recommendations contained within the report.**

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MEMBER-LED REVIEW CHAIRMAN'S FOREWORD

A review was commissioned by the Resources and Performance Overview and Scrutiny Committee in September 2013 to look at the Council's use of zero hours contracts, specifically the Council's policy and practices. I chaired the review group, with support from Councillors I Manning and Reeve.

As well as statistical and policy information from Human Resources officers, the member-led review directly consulted staff, on a confidential basis, on their experience of zero hours contracts.

I presented the group's interim finding to the Committee meeting on 20th March 2014. Given time and resources constraints, it was not possible to run this review through to its conclusion, but the Committee agreed that it was important that this was reported on to Cabinet, so that the impetus in this area is not lost during the move to the new Committee structure.

In commending the report to Cabinet, Overview and Scrutiny Committee Members recognised:

- That zero hours contracts are generally fairly run by the Council. This includes no *mutuality of obligation* (i.e. work does not have to be accepted by the employee, but nor does the Council have to offer any hours), and extending terms and conditions such as sick leave and annual leave to staff on zero hours contracts;
- Zero hours contracts offer valuable flexibility for both the Council and the zero hours employees – in particular, zero hours workers are used as an alternative to agency workers because this is more economical, and potentially offers better continuity and control in terms of the use of these staff in certain service areas;
- Management of the zero hours staff was a key issue. Where there was a good management arrangement and communication, staff were generally happy. However, the potential impact of poor management was exacerbated, as zero hours staff were generally more isolated and did not have access to the same information as other staff. Committee Members were very concerned that some zero hours staff were potentially in unhappy work situations and did not know how to raise/address their concerns/problems;
- This issue disproportionately impacts on female workers, who make up nearly three-quarters of the staff on zero hours contracts.

Recommendations (1) and (2) are set out in the report and below. Recommendation (3) was added by the Committee at their meeting:

- 1) Guidelines are put in place for those staff who manage zero hours staff. Additionally, information should be provided to zero hours staff, so that they have a neutral/independent contract they can refer to if they have concerns about their employment or management arrangements.
- 2) Whilst there may be operational reasons behind further recruitment of zero hours staff in individual cases, careful consideration should be given to whether additional zero hours staff need to be employed at all, or where zero hours staff are working long or regular hours, whether the most appropriate solution is to recruit on a more permanent basis.

3) A policy is established on how the Council uses and manages zero hours contract staff.

I would like to pass on particular thanks to all of those zero hours contract staff who took the time to take part in the consultation, as the issues raised in their responses formed the main part of the report.

Councillor Ashley Walsh

1. BACKGROUND

- 1.1 At its meeting in September 2013, the Resources and Performance Overview and Scrutiny Committee agreed that a member-led review would be carried out into the Council's staff on zero hours/relief contracts. Zero hours contracts are employment contracts where there is no guarantee of work by the employer.
- 1.2 The issue of zero hours contracts has been the subject of considerable attention nationally. A consultation was launched by the Business Secretary, Vince Cable MP, in December 2013¹.
- 1.3 This national consultation document provides a wealth of information about the use of zero hours contracts nationally. It came about following concerns of potential abuse of staff of zero hours contracts.
- 1.4 The national consultation identified the two key problems of zero hours contracts as being transparency and exclusivity:
 - (i) Transparency: employees are not always clear on their terms and conditions when undertaking a zero hours contract, and employers do not always fulfil or understand their responsibilities;
 - (ii) Exclusivity: whereby a person who signs up to a zero hours contract does so on the basis that they will not work for any other employer, despite not being offered any guarantee of hours under their zero hours contract.
- 1.5 The national consultation recognises that there are many benefits, to both employee and employer, in a well-run zero hours contract arrangement, not least flexibility in the labour market for both parties. However, due to the actual or perceived problems with zero hours contracts, the use of zero hours contracts may reduce, with the result that the economy as a whole, along with employers and employees who benefit from these type of contracts, could lose out.

2. PURPOSE OF THE REVIEW

- 2.1 The focus of the review was on assessing the Council's own policies and practices, by:
 - Identifying the numbers of staff on zero hours contracts within the Council, their conditions of employment, the types of work in which they are employed, and whether these contracts were the best option to meet the work required;
 - Consulting directly with staff on zero hours contracts to determine what their views were about their employment arrangements.
- 2.2 The members would then analyse this information and, if appropriate, determine whether any recommendations needed to be made to Cabinet on the Council's use of zero hours contracts.

¹ <https://www.gov.uk/government/consultations/zero-hours-employment-contracts>

3. THE COUNCIL'S USE OF ZERO HOUR CONTRACTS

- 3.1 As of December 2013, the Council had 863 staff employed on 1105 zero hours contracts (i.e. some staff had multiple zero hours contracts). Of these 863 people, 578 have a zero hours contract only. The other 285 are people who have substantive contracts of employment with the Council but also have a relief contract for another post, team or establishment.
- 3.2 The average hourly rate for those on zero hours contracts is £9.89. The National Living Wage has been set at £7.65 per hour. However the distribution of wages across these employees needs to be clarified.
- 3.3 The gender split is 456 females and 122 males. Of the 578, 231 have not undertaken any work for the Council during the last 6 months.
- 3.4 Approximately 6.3% of the Council's staff are on zero hours contracts. In its consultation, the government suggests that around 250,000 people are on zero hours contracts. However CIPD research recently reported that in the UK just over 1 million (3.1% of the workforce) were employed on zero hours contracts².
- 3.5 There is *no mutuality of obligation* with the Council's zero hours contracts, i.e. those on these contracts do not have to accept the work when it is offered to them, but nor does the Council have to offer them hours. Additionally the Council does not operate exclusivity clauses, i.e. those on the Council's zero hours contracts can work for other employers as well as the Council.
- 3.6 Zero hours contract employees of the Council are entitled to sick pay and holiday pay. If they work frequently and regularly then they are considered for salary progression in line with colleagues on permanent contracts. The rate of pay for the work is the same as those on permanent contracts, albeit in most cases the bottom of the pay scale would be used.
- 3.7 Those on zero hours contracts are able to apply as internal candidates for any vacancies that occur within the Council and this is a distinct advantage as in most cases posts are advertised internally first.
- 3.8 Zero hours workers are also used as an alternative to agency workers wherever possible because it is more economical for the organisation to have a pool of relief workers to call upon than pay the rates agencies charge. This also gives a more regular workforce which is of benefit to the service user.
- 3.9 Many people, particularly in social care settings, have substantive contracts of employment and also pick up additional shifts when they are available through this process so one member of staff may have two or three additional zero hours contracts for similar roles in their own or another nearby setting.
- 3.10 In some cases staff on zero hours contracts will be used for work that is occasional rather than regular, for example a Bilingual Assistant who may only be required when there is a child who needs assistance with their particular language

² [http://www.cipd.co.uk/binaries/6395%20Zero-Hours%20\(WEB\).pdf](http://www.cipd.co.uk/binaries/6395%20Zero-Hours%20(WEB).pdf)

- 3.11 In terms of where the people live that are engaged on the zero hours contracts, they cover the full range of services across the County and there is no one area where this is particularly notable.

4. CONSULTATION WITH STAFF ON ZERO HOURS CONTRACTS

- 4.1 Staff on zero hours contracts were invited to submit their views to the member-led review team, via the Acting Scrutiny Officer, on their experiences (good and bad) of zero hours contracts. All responses were treated as confidential, to encourage a full and frank response, and the member-led review considered anonymised data, so that staff could be reassured that their identities would not be shared with anyone else within the Council.
- 4.2 Fifteen responses were received to the consultation: seven were mainly positive, four were mainly negative, and four were mixed. The majority of respondents worked in various aspects of social care or for the Registration service. All respondents were female.
- 4.3 The Councillors involved in the member-led review would like to pass on their sincere thanks to all of the staff who took the time to respond to the consultation to share their experiences and views, which raised many important areas for them to consider.

Main themes arising from the consultation

- 4.4 **Flexibility:** the benefits of flexibility, for both the employee and service, was stressed repeatedly. Many respondents value this flexibility, especially those with other commitments e.g. childcare, voluntary positions and other jobs. A number of respondents acknowledge that the variability of income works well if the income from the zero hours contract is being used for luxuries or to top-up the family income, and not as the major source of income. Where an employee is reliant on the contract as their major source of income, they are often dissatisfied and feel insecure. A number of respondents acknowledge this and stress that this type of relief contract should not be relied upon for a steady income.
- 4.5 **Management:** employees' overall assessment as to whether a zero hours contract is a good or bad thing appears to be largely dependent on the attitude and behaviour of their manager. Where a good, open relationship with management had developed, and employees were kept informed, employees were generally happy. However, some respondents report a range of negative experiences, from bullying, favouritism, to a 'divide and rule' approach to communication, whereby employees on these contracts are actively discouraged from sharing information. Whilst some of these practices could be just seen as symptomatic of bad management that could equally impact on Council employees with other types of contract arrangements, the effect is clearly exacerbated where an employee is isolated, is kept poorly informed and as a result insecure, and their hours/income are very much at the discretion of their managers.

- 4.6 **Working as part of a team/being valued:** again, this seems to be dependent on individual managers. Positive comments included *“I feel fully part of the team”, “the managers are supportive and willing to talk things over with you when you need them”,* and *“I feel that the key to a successful zero hours contract is developing a good and honest relationship with the manager so that the person is always fully aware of their situation and what the future may hold for them and vice versa”.*
- 4.7 However, others do not feel valued or involved, and therefore are very dissatisfied and feel alienated: e.g. *“...told in the past not to speak amongst ourselves”, “feel we cannot discuss work issues for fear of a negative response”.* Whilst these points could equally apply to those on other types of contracts, the risks of the impact of bad management are clearly greater when staff are home-based, work few hours, and have little or no opportunities for team working/networking. Moreover, because income is dependent on work being allocated by managers, some staff feel justifiably insecure: *“there is a great deal of humiliation involved, in knowing that a manager can take a dislike to you (for whatever reason) and determine whether you pay your mortgage or put food in your children’s mouths”.*
- 4.8 **Conditions:** whilst there is a clear disadvantage in terms of security of income when compared to staff on full-time contracts, the point is made by many of the respondents that this is what they signed up for. As outlined in 3.7, sick pay and holiday pay conditions are the same or similar to those for staff on permanent contracts.
- 4.9 **Continuity:** A number of respondents referred to problems caused by not offering a continuity of service to a client through using zero hours staff, and the disadvantages this leads to for both the employee and the client: *“My only concern with not working with families regularly is that you may not know the clients fully, may not know how to manage difficult situations when they arise with that client and know what they like/dislike”.*
- 4.10 **Homeworking:** in addition to the isolation of homeworking, one of the respondents commented *“I do not receive any compensation from ensuring I have the use of a computer, printer, heating my home, etc”.* With office-based staff on other types of contract, such compensation is not usually received for days they chose to homework, with the trade-off acknowledged to be time and money saved from not having to commute to their office base. Some services within the Council offer a non-taxable homeworking allowance for staff who usually work from home.
- 4.11 **Recruitment costs to the Council:** A number of respondents suggest that there has been a recruitment drive for zero hours contract staff in various teams, whilst there is already a pool of experienced zero hours staff willing to do the work in those teams. If this is the case, given the high costs of recruitment (advertising, staff time in shortlisting, interviewing, assessing, etc) it is questionable whether this is a good use of Council resources.

5. ANALYSIS/CONCLUSIONS

- 5.1 **Pay distribution** – the information available suggests that staff on zero hours contracts tend to be at the lower end of the payment spectrum. Whilst this is a reflection of employment market conditions, it does suggest that extra consideration needs to be given to managing and valuing these staff, some of whom may have difficult or challenging duties, and often work alone without any direct supervision or with co-workers. This is one of the many reasons that these staff should feel supported and appreciated for the valuable roles they undertake, and not feel that their zero hours contracts bestow any lesser status than staff on other types of employment contracts.
- 5.2 **Flexibility** - the many benefits of zero hours contracts were noted, especially the flexibility offered for both the Council and the employees. However, a number of employees raised concerns that they faced financial hardship resulting from the uncertain nature of these contracts. Whilst recognising these very genuine concerns, the review team recognise that this is partly due to a wider national economic situation. One of the advantages of zero hours contracts is that they enable employees to gain experience and apply for internal vacancies, which are both very valuable benefits for those seeking permanent employment opportunities with a more secure income stream.
- 5.3 **Management** – it is clear from some of the responses that many zero hours staff benefit from working from good managers, who value these employees and treat them with respect and consideration, and these managers provide these staff with the appropriate support and communication. However, it is also clear that a number of zero hours employees have had some very negative experiences. Whilst it is acknowledged that managers have many pressures on their resources, not least time, given the isolated nature of the work undertaken by many of zero hours employees, it is absolutely vital that all measures are taken to make sure that they feel valued and are kept informed, and feel that they can contact their managers and raise concerns, without having to worry that this will have negative consequences.

Recommendation 1: For the above reasons, it is recommended that guidelines are put in place for those staff who manage zero hours staff. In addition, it is also recommended that information is provided to zero hours staff, so that that they have a neutral/ independent contact they can refer to if they have concerns about their employment or management arrangements.

- 5.4 **Effectiveness of Service Delivery** – one of the major advantages of using zero hours contract employees is that they not only offer a more cost effective solution to short term demand issues than agency staff, but they can also provide a degree of continuity and consistency when working with vulnerable client groups. This again depends on good management arrangements, especially in terms of appropriate deployment of zero hour staff. However, a number of consultees queried why additional zero hours employees were being recruited, when insufficient work was being offered to existing zero hours employees.

Recommendation 2: Whilst there may be operational reasons behind further recruitment of zero hours staff in individual cases, careful consideration should be given to whether additional zero hours staff need to be employed at all, or where zero hours staff are working long or regular hours, whether the most appropriate solution is to recruit on a more permanent basis.

- 5.5 **Reviewing the use of zero hours staff** – following on from the previous point, it was noted in the review that Registration Services was already considering the use of zero hours staff as part of its restructure consultations: *“The Council is concerned to ensure that relief contracts (particularly zero hours contracts) are utilised appropriately and not abused. For the Registration Service, it is important to ensure that the number of staff employed, trained and managed is not overly burdensome, with sufficient permanent staff employed to cover the core work on a regular basis. This is a careful balance between managing the service as cost effectively as possible, whilst avoiding the hidden costs of managing large numbers of staff, each working very few hours.”*
- 5.6 The review team found no evidence of any similar consultations as part of restructures elsewhere within the Council, and were interested whether a more fundamental review was taking place of the types of contracts employees were employed on, and whether this was likely to result in more or fewer staff on zero hours contracts.

Source Documents	Location
Referenced throughout the document. Consultation responses are confidential.	