

**University of Limerick Study on the Prevalence of Zero Hour Contracts and Low
Hour Contracts in the Irish Economy- Consultation**

IMPACT Trade Union Submission

January 4th, 2015

a) Findings

IMPACT is satisfied that the findings contained in the report are broadly an accurate reflection of the situation pertaining to zero hours, low hour and 'if and when' contracts. We would, however, like to raise the following specific points:

- While we accept the finding that the level of zero hour contracts within the meaning of the OWTA 1997 are not extensive in Ireland, we believe that a greater proportion of such 'zero-hour' arrangements exist in practice in an informal manner, particularly in sectors which are **largely non-unionised and therefore a lack of regulation and enforcement of the current OWTA 1997 provisions may not be operational.** (Ref- Finding 1)
- It is beyond question that the flexibility of these arrangements suits employees in some specific cases based on their personal circumstances. However, the **current lack of oversight** and legislation in this area allows for these situations be taken advantage of by employers, and also to justify insecurity in other situations where such flexibility is not necessarily suitable, appropriate or preferable for the employee. (Ref- Finding 4)
- The **experiences of IMPACT members** working in health, social work and community work sectors would support the data referred to in Findings 5 and 12. We have included some information on this at the Appendix at the end of our submission. **
- *'A significant proportion of those who work 19-35 hours per week are in education and health'-* **Significant challenges arise regarding the sustainable delivery of quality public services into the future should this situation be allowed to continue.** (Ref- Finding 10)
- It is of particularly grave concern that 32%, almost one third of our total workforce, are found to be working less than 35 hours per week.
- The negative implications outlined in this finding are in line with the issues encountered by IMPACT officials. There is significant anecdotal evidence, particularly amongst the student population, that the 'belief amongst individuals' that they will be **penalised by their employer for not accepting work** in certain sectors such as bar and retail is well-founded. This manifests itself through threats around the maintenance of roles which involve full-time summer and part-time weekend work, which are relied upon by many students to fund their college studies. (Ref-Finding 15)

b) Recommendations

1. We support this recommendation, as it is a basic requirement of an employer which should be reflected in legislation.
- 2, 3 & 4. We support these recommendations as a means of ending the current practice of significant deviations between 'real' and contracted hours amongst employees working under these arrangements, and the 'inadequate protections' outlined in the report when employees are not contractually required to make themselves available.
5. We support the aspects of this recommendation in relation to the notice period and 150% for hours accepted outside this period. However, **we would raise the concern** that the 'exceptional and unforeseeable circumstances' caveat may in practice may allow employers to **effectively opt out of compliance with this provision in the absence of more effective regulation**, as has been experienced in relation to other provisions currently contained within the OWTA 1997.
- 6 & 7. We support these recommendations.
- 8 & 9. We support these recommendations, and believe that flexibility and security for both employers and employees can **best be achieved through these sectoral agreements**, with the protection of baseline legislative protections for employees not covered by a sectoral agreement.
10. We support this recommendation, in keeping with the spirit of the current legislative provision to prevent part-time employees being treated less favourably than full-time employees, and to ensure unguaranteed hours are not used as a loophole to work around this.
11. We support this recommendation which should enhance the regulation and monitoring of low hour and 'if and when' contracts. However, we believe this should go further through **bolstering the functions of the Low Pay Commission so that a regulatory framework for issues pertaining to zero hour, low hour, and 'if and when' contracts, as well as unpaid internships, is brought within the remit of the LPC.**
12. We support this recommendation, which is necessary not just as an economic and social measure, but in light of Findings 7 & 11 which clearly identify the prevalence of low hour and 'if and when' contracts as being a gender equality issue in highly feminised sectors, and Finding 13 which identifies the absence of an accessible, affordable childcare system as being a key factor driving the existence of 'if and when' contracts.
13. We support this recommendation, given the need for a **joined-up approach** to tackle an issue which is relevant to a large number of Government departments, including notably Health, Education & Skills, Social Protection, and Jobs & Enterprise.
14. We support this recommendation which should hopefully lead to improved data collection and information quality in this area on an ongoing basis.

Appendix- IMPACT Sectoral Examples

1) Personal Assistants

Personal Assistants are employed within third level ETB's across the country and act in a care and support role that is non-teaching in nature. The role which they hold is similar to SNA's, however, their terms and conditions do not reflect that of SNA's.

Personal Assistants are employed on a 'cluster of hours' and their employment is entirely dependent on whether there are sufficient students studying at a given period.

Where students are out sick or go on placement, personal assistants are not required for that period, and can be notified of same on the day or a few days prior to placement.

There has been many cases where personal assistants have been informed on clocking in that their services are not required for the day.

Personal assistants contracts offer no uniformity in terms and conditions which impacts them in relation to sick leave and availing of annual leave. While they are not employed on zero-hour contracts and are all permanent members of staff, their terms and conditions of employment are highly flexible and precarious in nature.

2) Early Years and Education Professionals

Early Years and Education Professionals encompasses those employed in areas which provides educational services for children aged right from birth up until starting pre-school.

There are more than 25,000 workers providing early child care in Ireland who are engaged in approximately 5,000 service providers.

The profession is heavily dominated by women. It is a sector that has expanded rapidly over the past few years. A core reason in this expansion is due to the huge increases in demand for crèche services due to the changing patterns in the workforce over the past twenty years. While there is huge demand for further investment, this sector remains largely overlooked and is suffering from a lack of investment, with Ireland only paying 0.2% of GDP in the Early Childcare Sector in comparison to a European average of 0.7%. The drastic lack of funding into this sector has resulted in low rates of pay, no standardisation in terms and conditions and grave insecurity for those providing invaluable services to the working population.

Contracts-

Seasonal Contracts

A significant number of workers are employed on seasonal contracts, and which as a result of the very nature of these contracts, sees staff employed on a 9 month basis and then having to 'sign-on' in the Social Welfare office for the remaining 3 months of the year. This provides great insecurity for those employed on seasonal contracts.

The lack of funding into this sector results in providers who offer seasonal services unable to financially cover the staff for the three months they are not in operation for and which has resulted in the necessity for staff having to sign-on for these months.

Temporary Contracts

Much like seasonal contracts, temporary contracts contain very little security of tenure for those who have been employed on them. The utilisation of temporary contracts is as a result of the insecurity around the financial operations of smaller businesses, which have been accentuated by the introduction of the pre-school year (ECCE) and which has seen the capitation fee per child unable to meet the running costs of the business. Due to the financial struggles being experienced by many providers, this has a direct effect of the increasing use of temporary contracts by employers and again increases the precariousness for those employed within the sector.

3) Social Care Workers

Some of the issues experienced by IMPACT members working in the social care sector are as follows:

- Where a client/service user may have to be admitted to hospital, the contract hours have to be honoured but the 'if and when' hours do not. This can lead to a very sudden reduction in hours, for example from 30 hours a week to the contracted hours of 10 hours per week.
- Working well above 39 hours but afraid to refuse shifts, as they may be removed from the roster as has been the case in the past, and which the line manager has the power to do from week to week.
- Relief contracts being renewed on a year-to-year basis which do not take into account the average number of hours worked which have been established over a long period of time.
- Large amounts of hours being offered to workers on 'if and when' contracts on a seasonal basis where there is a high demand for relief cover due to annual leave considerations, but little certainty and security throughout the rest of the year leading to difficulties in meeting overheads such as rent and accessing credit.

4) Community & Voluntary Sector Workers

Significant reductions in funding to community & voluntary sector workers has led to an increased reliance on low hour contracts.

This is summarised in greater detail in the UL report 'Caring- At What Cost?: Rebuilding and refinancing the community and voluntary sector' commissioned by IMPACT in 2015:

<http://www.impact.ie/wp-content/uploads/2015/09/Section-39-Summary.pdf>

CASE EXAMPLE-

A national organisation where IMPACT represents a significant number of staff have reduced their contracted hours across the board, varying from 21 hours minimum to 33 hours. Management cite reductions to funding in all cases as the reason for cuts to hours.

The impact on workers is as follows:

1. Reduced income
2. Stress about stability of job

3. Stresses on money management and household budgeting
4. Increase in seeking loans but less likely to secure loans based on income instability
5. Little or no chance of obtaining a mortgage or re-mortgage
6. Inability to save for things like holidays, etc.

The impact on services is as follows:

1. Reduced hours = reduced service delivery
2. Most vulnerable have less access at times of greatest vulnerability
3. Increased stress on staff to meet normal demands with less hours
4. Reduced morale = Reduced positive outcomes for service users
5. Lack of preparation time and lack of follow-up time for service users
6. Inability to retain quality staff
7. Loss of consistency of service