



Health and Social Security Scrutiny Panel

Zero Hours Contract

THURSDAY, 15th OCTOBER 2015

Panel:

Deputy R.J. Renouf of St. Ouen (Chairman)

Deputy G.P. Southern of St. Helier (Vice-Chairman)

Deputy T.A. McDonald of St. Saviour

Witnesses:

President, Jersey Farmers Union

Vice-President, Jersey Farmers Union

Member, Jersey Farmers Union

[11:01]

Deputy R.J. Renouf of St. Ouen (Chairman):

Gentlemen, thank you for coming to see us. This is a hearing being conducted by the Health and Social Security Scrutiny Panel and we are conducting a review at the moment into zero hours contracts. We invited the Jersey Farmers Union along to make their submissions to us. This is a public hearing so it is open to the media and members of the public and it is being recorded. We therefore start with some formalities and, for the record, we will give our names and then I will ask you to give your names and then we will ask you some questions, but please relax and feel free to explain to us all that you want to explain. If I can start with the formalities. I will begin. I am Deputy Richard Renouf of St. Ouen, and I am Chairman of this panel.

The Deputy of St. Ouen:

Thank you. There is just one thing I want to mention. I should declare some interest perhaps in that Doug was one of the persons who kindly seconded my nomination at my election. Whether he regrets it now I do not know. **[Laughter]** But anyway that is for the record. Can you tell us how the farming industry is organised in employment terms in the Island?

President, Jersey Farmers Union:

I am now retired but obviously very involved with the Farmers Union. We have had many, many meetings with Mr. Witherington from J.A.C.S. (Jersey Advisory Conciliation Service) in setting up the contracts which all farmers have, whether it be a long-term contract or zero variable hours contract. We speak to them on a fairly regular basis. Many of our growers send their contracts to him to be checked out and I think these 2 growers have contracts as well. There is not a lot of zero hours contracts in the farming industry. A lot of them are long-term contracts. A lot of them are short-term contracts as well because people come over for 5 or 6 weeks to do a particular job and then go back to their native country.

The Deputy of St. Ouen:

In fact there was a report released just 2 days ago, which made the headlines yesterday in the paper, but drilling down into it, it tells us that there are about 1,300 full-time workers in agriculture and fishing, 160 part-time and 500 on zero hours. Is that the sort of feeling you get?

President, Jersey Farmers Union:

No, most people are on variable contracts rather than zero hour contracts.

The Deputy of St. Ouen:

It depends how it has been divided in this report.

President, Jersey Farmers Union:

Absolutely, yes. Additionally most farmers are on what is called a zero variable hours contract.

The Deputy of St. Ouen:

So can you explain to us what is understood by a variable hours contract?

Vice-President, Jersey Farmers Union:

Yes, Mr. Chairman, back in ... we were on fixed term contracts and then an incident occurred where it was apparent that there might be an issue when you would have a number of staff returning back to their homeland ... when fewer of them would return for the next proceeding crop which required fewer, the issue of redundancy which had come in did not handle that very well and

a number of us looked at ways of ... there was no way around the situation so we spoke with J.A.C.S. and they ... the idea of the zero variable hour, as it was put to us, because we do have zero hours, for example, when the work does dry up, and it does - several times a year it dries up - and the variable is within the work. There is variability and so a number of people in the industry went to the zero variable hours contract. It works very well. The advantage of the contract is that the staff are paid their holiday pay right up to date of the 4 per cent and many staff do leave at very little notice, which is fine, because it is accepted by both parties that that can happen, and it works very, very well. A number of staff are ... when there is not a lot of work some of the staff are hired out to other companies engaged in similar sort of work and, as I say, it works very, very well.

The Deputy of St. Ouen:

Are you saying that whereas formally some of the staff would have been employed on full-time contracts they were then moved on to zero hours variable?

President, Jersey Farmers Union:

They went back to their native country and ... let us assume there are 40 or 50 working for you and they went back and you only re-employ 30 of them and the 20 you did not re-employ have the right to claim redundancy.

Vice-President, Jersey Farmers Union:

It was an oversight when this was being drawn up by the then ... I think it might have been Senator Gorst, at the time I think it was an oversight. Then it was obviously subsequently ... like all these things it is evolving. It is new territory for a lot of people and it was subsequently corrected, but with the meetings we had with J.A.C.S., et cetera, some people in the industry have moved over to the zero variable, which works very, very well. It is a more expensive way of employing because your workers invariably are better off because they are getting ... if they are working some long hours for a short period of time they are getting the benefits in terms of extra holiday pay for that. You do not get the holiday pay wrong because it is calculated in that way and it is a lot less paperwork as well.

Member, Jersey Farmers Union:

I think some of the change in attitude to which contracts suit both the farming employers and the staff themselves has been the change in the industry itself. If you go back 10 years, a lot of farms were busy all year round. They would do their potatoes in the summer or they plant them in the spring, harvest them in the summer, they move on to courgettes and perhaps some caulis through the winter, many farmers will mix, they had some cattle as well. So there was full-time work for the staff the whole 52-week period. Then through that time ... of course most of the staff are from abroad, so they enjoy longer holidays than we would perhaps give a local member of staff

because when they go home they want to go home for 6 weeks, 2 months, and you cannot fault that. I think as the industry has changed it has become much more of a mono-cropping industry now with just Royals. Of course what that does is it pushes the nature of our employment requirements to a much more seasonal situation. So the farms have got a higher requirement in the spring for planting. It does dip a little bit, but most farms I think would probably carry their staff through before the lifting. Of course when the seed lifting is then finished in July instead of going to cut courgettes or plant caulis there is nothing to do. There is nothing to do. That is just a reflection on the industry really. So I think both employers and employees have agreed to work with different terms which suits both parties ultimately.

President, Jersey Farmers Union:

I think that is the essence of it, it is mutually acceptable to both parties and no one is coerced into having a zero or variable hours contract.

Member, Jersey Farmers Union:

The other important issue with the nature of our work is that the Island, if you sort of take potatoes as the main crop within the Island, that can vary hugely depending on whether it planting, whether it lifting, whether in between. Are we going to be lifting an average of 2 tonnes a vergée or 4 tonnes a vergée. So nobody really knows how much we are going to be able to lift, how long it is going to take. If it is glorious sunshine everybody ... all the sort of U.K. customers are out barbecuing all through the next April and May we are going to be finished in June. So there are so many variables in what we do that it becomes very difficult. We are working with increasingly tight margins and to guarantee the staff ... I think what a lot of farmers can do is say: "Look, we will guarantee you X amount of hours for the year or for the season but we do not know whether it is going to be in the first 2 weeks, the last 3 weeks." In January it is not unheard of not to be able to plant potatoes for 3 weeks.

The Deputy of St. Ouen:

The guarantee you just mentioned, is that in the contract?

Member, Jersey Farmers Union:

I cannot speak for other businesses. I am aware that other businesses have agreements with their staff that they will guarantee them ... as an example, instead of 40 hours per week, 160 hours over a 4-week period. Now that might be nothing for 2 weeks but then when it is really busy it is busy. That is due to the weather, the soil conditions, and anybody who knows about farming understands that sort of degree of variability.

The Deputy of St. Ouen:

Yes, have you got any data on how many contracts might be true zero hours contracts in that the employee would just be on call without any guarantee of hours?

Member, Jersey Farmers Union:

It is not in our ...

The Deputy of St. Ouen:

Or how many are, as you have been speaking, your variable, which I presume means that there is some solid block that is guaranteed?

Vice-President, Jersey Farmers Union:

I did not know that there was any distinction between the 2. My correspondence with J.A.C.S. it was a zero variable hours contract.

Member, Jersey Farmers Union:

I also do not think it is the remit of the Farmers Union to legislate what the members of the Union do with their staff. It is down to each individual employer to agree the best terms that they can for both themselves and their employees.

President, Jersey Farmers Union:

The Union's job is to negotiate with J.A.C.S. and be up to date or go along with the legislation and advise as members.

Member, Jersey Farmers Union:

We can facilitate where required but it is not our remit to check every member and ... that being said, we believe on the whole that most Jersey Farmers and agriculture employers have good relationships with their staff. We are not aware of any farm that is unable to attract new staff when it needs them. So that would imply that everybody is very happy with the situation and their individual relationships with their employers.

President, Jersey Farmers Union:

All the people that come to Jersey, whether it is long-term or short-term employed, know very well that they can go to the Farmers Union if they have a grievance. I am going to also say that I have been president for 4 years now and we have never had a grievance.

The Deputy of St. Ouen:

How do they know they can go to the Farmers Union?

President, Jersey Farmers Union:

Because basically when they come to Jersey they are given a note from the Farmers Union - everyone is employed through the Farmers Union, the majority of them are - what they expect in Jersey from the point of view of accommodation, the whole lot basically because we have an agent in Portugal and Poland who recruit staff for us and they have a copy of all those details and they know very well they can come to us if they have a problem.

The Deputy of St. Ouen:

Do the persons you are recruiting see the contract they are going to be offered before they take the position?

President, Jersey Farmers Union:

The Union does have a generic contract for long-term contracts basically but it is up to each individual farmer to take that contract, but there are guidelines in there as to what it can and cannot do and obviously zero hour contracts are said to come under the auspices of J.A.C.S. We also advise our growers, and I know all the big growers do, they go over their contracts with J.A.C.S. and check they are legal, if you like, and any updates in those contracts as well are passed before J.A.C.S.

The Deputy of St. Ouen:

It is just to understand the workings of it.

President, Jersey Farmers Union:

It is very difficult for a ... sorry to interject, but it is very difficult for a farmer who is busy in his fields and especially the smaller farmers. They are always wary that they are falling foul of the law so we always say to them: "Look, go to J.A.C.S., leave the contracts and then you know you are right." This is exactly what I would say the majority of our members do.

The Deputy of St. Ouen:

That is a good idea and we are pleased to hear that. Just to understand how the mechanics of this work.

[11:15]

Do your agents in Poland and Portugal just recruit a pool which is then allocated between Mr. Richardson, Mr. Gallichan or are they in those countries saying: "We want 20 people to come and work for Mr. Gallichan"? Is that the case?

President, Jersey Farmers Union:

Yes, they are recruited for individual growers.

The Deputy of St. Ouen:

So are they then shown Mr. Gallichan's contract before they leave Poland, for example?

President, Jersey Farmers Union:

They are given a contract from the Farmers Union and basically they have to negotiate a contract with Mr. Gallichan.

The Deputy of St. Ouen:

I see. So then it is over to the individual farmer to communicate with those workers he is bringing in.

President, Jersey Farmers Union:

And if they are not happy with the contract they are being offered they have got a recourse through the Farmers Union or indeed through the agent that they have been brought to Jersey through.

Member, Jersey Farmers Union:

Not all seasonal staff are recruited through the Union.

President, Jersey Farmers Union:

No.

Member, Jersey Farmers Union:

There is a sort of friends and relatives network, so not all staff come through the Union and of course if staff are recruited through friends and relatives that would imply and suggest that the friends and relatives that are recruiting are quite happy with where they are. So we have not had any ... in our own case, I can only speak for our own business, we have not recruited through the Union, not for any reason, but we have not had to recruit through the Union for quite a number of years.

President, Jersey Farmers Union:

That is quite right and at one time nearly all the staff were recruited through the Union because they had to go through the Alien's Office but now with the situation they have got free movement, so they can come to Jersey without us having to go through the Alien's Office for them. So most growers, you are rightly saying, recruit their own staff and it is all done through recommendation

basically. We get people coming to the Union saying: "I have got friends working in Jersey, can you get them a job on the farm somewhere."

The Deputy of St. Ouen:

Do the workers see Portuguese or Polish translations of the contracts?

President, Jersey Farmers Union:

Yes, our contracts are ...

Member, Jersey Farmers Union:

All the documents are written in 3 languages.

The Deputy of St. Ouen:

Right, that is good.

Member, Jersey Farmers Union:

That includes all the grievance procedures, disciplinary procedures, every ... all formal documentation with all staff is written in the relevant 3 languages.

The Deputy of St. Ouen:

That is encouraging to know. I suppose one question we are trying to be assured about is that if it is known that the people you are bringing in are going to be with you from January through to July, is that the usual period? But anyway, a fixed number of months, is it not possible to say to those people: "Well, I want to employ you on a fixed term contract for that number of months?"

Vice-President, Jersey Farmers Union:

Yes, it is. It is, and as I said, we did that but as a result of Government we moved on to the new offering that came about around about the same time. We knew nothing of these types of contracts, it was the Government that informed us of them. So we chose that as the new model and saw benefits in it for both parties. When you employ on fixed term contracts you have an awful lot of paperwork because you have to issue a new contract every time they come in, you have to try and work out the fixed term and the whole thing. So this was a much simpler way of doing it. I have just had a number of staff return and only one of them needs a new contract, he is a new young lad, but the rest of them they are working on their zero hours contracts that they signed back in April or February or whatever. As we said, everything is agreed with J.A.C.S. and it is a very simple system so ...

Member, Jersey Farmers Union:

The other question I would ask is we have got a system that is working for both ourselves and our employees. It has been regularly checked and approved. All parties are happy. Why would we seek to change that?

The Deputy of St. Ouen:

But is it not the case that the employees could be ... you just need not offer the work. They do not have a certainty of employment in their fixed term.

Member, Jersey Farmers Union:

We need our staff more than they need us. If I did not turn up to work tomorrow morning I am pretty sure the farm could run for a few weeks without me. If none of the staff turn up tomorrow I am in trouble day one.

The Deputy of St. Ouen:

You are good employer but if there ... we have to think about the procedures that Government puts in place are there for the protection of the employees. If a farmer was to take umbrage and just not wish to employ a person he brought over anymore or to treat him differently in terms of hours, that is possible under a zero hours variable contract, is it not?

Member, Jersey Farmers Union:

It is also possible to abuse staff with a fixed term contract, I imagine.

The Deputy of St. Ouen:

I imagine it would but with a fixed term contract they would know there is an agreement that they are employed for a certain number of hours until the summer is over or something like that. Is that not possible to do?

Member, Jersey Farmers Union:

What happens if the employee decides he wants to go and work on a building site? He has also then got more issues, does he not? So it does not always suit the employee more than the variable rate.

The Deputy of St. Ouen:

No, I agree. It is commitment.

Member, Jersey Farmers Union:

Yes, so it has a similar effect for both parties. But I would go back to the point that if there was an issue the farmers in the Island would be doing something different because we would be struggling to attract the right quality and calibre of staff and we are not. So the only inference you can draw from that is that we are looking after our people very well.

The Deputy of St. Ouen:

Yes, I do not wish to ...

Vice-President, Jersey Farmers Union:

The other thing that is not ... it is kind of overlooked, is that a lot of the staff live on the property so if there is, dare I say, a bad egg, they try not to ... they watch out for bad eggs because the last thing you want, we have had a standing on the farm years ago and fights on farms and things, all those kind of things happen or have done in the past, you know, a Friday night situation with the drink, and so they recruit among themselves the right types of people that they can work with because it can be quite stressful when there are several of you in a minibus and you have all been working hard all day and you only need one bad egg. So that is the reality of it. That you need harmony within your environment because you are all living together. The staff live on the farm with us as a family. They have got children, et cetera. So you have got to be careful. So the staff make sure that they recruit like-minded people that they can get on with.

The Deputy of St. Ouen:

When they are recommending family or friends to you?

Vice-President, Jersey Farmers Union:

I do not recruit my staff. I mean I do not speak Polish, I rely on my staff to recruit the staff. That is how it works.

Deputy G.P. Southern:

And the staff that you rely on would be full-time, would they? Would they be long-term employees?

Vice-President, Jersey Farmers Union:

The staff that I rely on, no, they are the same situation but it is just that the zero variable hours contract is the same thing. They know when the hours are slack and we operate the 2 companies, because we have another business. So there are not enough hours with any one particular business but there are a reasonable amount of hours with the 2 and so if there is a

recommendation from one particular employee to bring over his brother and he is of good character with one of the other chaps, no one objects and that is how it is done.

Deputy G.P. Southern:

How is that tightknit network affected by zero hours contracts or a fixed term contract?

Vice-President, Jersey Farmers Union:

It is not. It is just that ... I am trying to get across the point that the farms are slightly different environments to other businesses. You do not have people living down at Rue Des Pres or another site. It is a different environment.

Deputy G.P. Southern:

The zero hours variable contract then you say gives the employer certain advantages in that if there are flat times you can let people go and take them back.

Vice-President, Jersey Farmers Union:

One of the advantages, if they choose to go literally go, great, I have not got to start calculating holiday pay and running around. It is just a quick formula, bang, paid up to date, done. Then if they come back in 3 weeks' time I can rewrite another contract and pump out another 14 pages. So that is where ... and we can get on more with running our work and they have got the flexibility.

Deputy G.P. Southern:

Could you elucidate on what you see is the advantages for the employee?

Vice-President, Jersey Farmers Union:

The advantage for the employee is that they get to be employed. They come from a part of the world where they ... by working in Jersey they can earn 3 times what they can earn back home and some of my staff will not be coming back from next year on because they will have built their houses. So that tells you something. For the amount of hours I put into my business, if I could be building houses as they are I would be very happy.

Member, Jersey Farmers Union:

I also think it offers the staff, the employees, a greater deal of flexibility. In the unfortunate situation where we may have to let somebody go we always give an appropriate amount of notice. I can tell you we get let down a huge amount more by employees telling us: "I am leaving." "Oh right, when you are going?" "Oh no, this afternoon." In that situation there is no notice, but again they are more able to do that. With a fixed term contract it becomes more onerous on them as well. So I think there is a greater degree of flexibility. The other benefit they get, the nature of our

work is seasonal, as we have discussed. So very often there is a lot more than 40 hours a week, so if we gave somebody a fixed term contract we would then give them holidays based on 40 hours a week, which would be the same as their contract. If, for example, we work an average of 60 hours a week on a variable contract they get paid 4 per cent of that, so they are getting 60 hours of their holiday pay instead of the 40 that they would do under a fixed term contract. So I think they are better off in that way round as well. The holiday remuneration is much more directly related to the hours they are working rather than the hours that may be written in the contract. Realistically, I mean I cannot speak for other businesses, we do do a lot more than 40 hours per week every week.

Deputy G.P. Southern:

Are the zero hours variable contracts exclusive? Are you going to expect an employee to work just for you and not, when times were slack, to go elsewhere or is that not the case?

Vice-President, Jersey Farmers Union:

Not the case. In our case they have done in the past. One of my key guys said: "Boss, I am going off for 3 weeks. I will pay some rent on the room." I said: "Fine, carry on." They are free to do that and then they come back. It is a sort of open door policy. It does work very well because it is kind of ... you know, you make it work. It is developed and we fine-tuned it and then we have got it ... as I say, it is all agreed, everything is agreed with J.A.C.S. We have gone through line by line.

The Deputy of St. Ouen:

But the flip side of flexibility for the employee is uncertainty, so in slack periods farmers have the ability to say: "I have got no work for you for the next couple of weeks ..."

Member, Jersey Farmers Union:

And that is because we have not.

The Deputy of St. Ouen:

How does an employee manage that if he is not bringing in any money for a few weeks?

Member, Jersey Farmers Union:

Well, as I say, they ... everybody knows there is an amount of work to do, so it may be just compressed into a shorter timeframe or ... I understand the point you are getting at but how does the employer pay for work that is not there and maintain a viable business in a difficult industry?

President, Jersey Farmers Union:

It is up to the employee to manage his affairs because, as Charlie said, on a monthly basis they earn very good money.

Member, Jersey Farmers Union:

The other thing is, as Mr. Richardson said, if there is a period of rain for 3 weeks and they say: "I can go off and work on a building site for 3 weeks, I will come back when it is dry" that is okay.

Deputy T.A. McDonald:

Yes, because they obviously have not signed that they will solely work for you as ...

Member, Jersey Farmers Union:

Yes, it gives them more flexibility.

Deputy G.P. Southern:

Playing Devil's Advocate, to put it to you right, okay, so the employee has to manage their income which may have a 3-week rainy period in the middle of it, and you are saying: "He should have managed it, he has been earning before that and he should be able to get himself over that period until the rain stops." It could be a bit awkward if that 3-week rain period is at the beginning of the season and there is no work to start with.

President, Jersey Farmers Union:

And indeed that does happen sometimes when people come over to work in the potato crop and they arrive on the ... we want them to start on 20th April and it rains for 2 or 3 weeks. I mean I am sure that all the employers would forward money to their staff.

Member, Jersey Farmers Union:

We have done in the past, and one of them is yet to pay me back. Has not worked for us for some time and I think it has just been ...

Deputy G.P. Southern:

You have lost that one.

Member, Jersey Farmers Union:

Yes. I think most ...

Vice-President, Jersey Farmers Union:

It is very rare it gets that brutal.

[11:30]

Member, Jersey Farmers Union:

The other thing I would remind you of is the fact that we need staff. We cannot operate our businesses without a large number of staff. If we are bad employers and do not look after people they are not going to be there for us when we need them and I would also remind you that we are not aware of any farms that are unable to attract the staff they need when they need them. The inference we can draw from that is that the staff are being looked after well.

Deputy G.P. Southern:

Are you in competition with other areas in Europe directly that you know of? Are you competing with workers that might go to Lincolnshire or somewhere?

Member, Jersey Farmers Union:

Competing for staff or for competing ...?

Deputy G.P. Southern:

Competing for staff, yes.

Member, Jersey Farmers Union:

Yes, there are a lot of Polish people working in the U.K., various new factories and production units. So I think there are a large number of places that they can find work. Certainly I am sure they would not be here if they did not want to be.

Deputy T.A. McDonald:

So a lot are here by choice?

Vice-President, Jersey Farmers Union:

Jersey is an attractive place to come to.

Member, Jersey Farmers Union:

There are no press gangs out there.

The Deputy of St. Ouen:

What sort of percentage across the board - it is not an easy question - would it be 70 per cent the same people that come back here year after year or higher than that?

Member, Jersey Farmers Union:

It is very difficult to say and I guess individual farmers have individual cases. We have got everything from people who are here for a couple of weeks to people who have been with us 20, 25 years.

Deputy T.A. McDonald:

They are still coming back.

Member, Jersey Farmers Union:

Yes, there are people ...

President, Jersey Farmers Union:

When I was in business we employed ... we were in some cases employing third generation. Parents come over to work and the children stayed in the area and they went back then and the children came to take their place. We know some of the grandchildren.

Member, Jersey Farmers Union:

We are also not just competing for the staff from outside the Island, we are obviously competing for staff within the Island as well with building getting busier again and we have just noticed in the last few weeks more staff heading towards building and gardening, that sort of thing, so there is competition within the Island for staff as well.

The Deputy of St. Ouen:

Would farmers ever convert a zero hours contract into a permanent contract and what would be the reasons if they did so?

Member, Jersey Farmers Union:

Again, I can only speak directly for our own business and we got people that started working for us on variable hours and are now on monthly salaries. As their roles change within the business and their commitment changes and our commitment to them changes, then so our arrangements with them change. I assume that other businesses do the same.

The Deputy of St. Ouen:

So they are with you throughout the years essentially?

Member, Jersey Farmers Union:

Some of them are, yes. We have got probably one of the most diverse farming businesses in the Island and we are busy quite a lot of the time as the nature of our business has changed. In our

case that has helped us attract and look after good quality staff because if you want good quality staff you have got to give them work all year round because the right type of people who want to work are going to find work, and if you have not got it for them they will go elsewhere. Having 2 businesses has been good for us.

The Deputy of St. Ouen:

But that may be an issue if you are in a position to be able to offer them work the whole year through ...

Vice-President, Jersey Farmers Union:

To some.

The Deputy of St. Ouen:

I am not saying to all because there will be those peaks and troughs.

Member, Jersey Farmers Union:

Well you have got seasonal peaks, and we have also got people that want to disappear for 3 months of the year. You have got to allow for that as well.

Vice-President, Jersey Farmers Union:

On a whim, when you have got people working for you that are building houses back home, they very often have to go back because they are pouring the foundations, the roof is going on, there are key things they have to go back for. So they will just jump on a plan and go for 2 weeks and then come back again. That happens a lot with us so that is where the contract works so well because it is done, it is signed, it is put away, and then we just get on with it.

The Deputy of St. Ouen:

But that must be an annoyance to you because suddenly you are one man down.

Vice-President, Jersey Farmers Union:

Not really because we manage the situation ... it is managed. The whole thing is managed. He is going back but he will have somebody covering for him or we will just be a man down, we will just work a bit longer. You do not do 9.00 a.m. to 5.00 p.m. so when we start ...

The Deputy of St. Ouen:

But there is, Mr. Gallichan, those you talked about who are able to be employed on a whole year basis. Are they still being employed on a zero hours contract, do you believe?

Member, Jersey Farmers Union:

No, as I say, we have got various different contracts for different employees for different jobs within our business. I cannot speak for other businesses.

The Deputy of St. Ouen:

It might be the case ... does the Union know?

Member, Jersey Farmers Union:

As I say the Union is not involved or tasked with looking at that.

President, Jersey Farmers Union:

Our job is purely to advise growers and make sure they are within their ...

The Deputy of St. Ouen:

What would your advice be to a grower who is keeping somebody on for a full year and a continuous employment?

President, Jersey Farmers Union:

He would have to give him a permanent contract. That is what the law dictates.

The Deputy of St. Ouen:

Yes, indeed. But do you think that has happened?

Member, Jersey Farmers Union:

Do you think that the employee, if he was coming back year after year, would continue to do so if he was unhappy?

The Deputy of St. Ouen:

No, I do not but ...

Member, Jersey Farmers Union:

So why would anything need to be changed?

The Deputy of St. Ouen:

It seems to me the protection must be there in case things go wrong. Everyone is happy when things are going right.

Member, Jersey Farmers Union:

Absolutely.

The Deputy of St. Ouen:

But if anything goes wrong then the structure should be fair to both employer and employee.

Member, Jersey Farmers Union:

There is a structure there, which is things have gone wrong, you know, not every employee has a harmonious relationship with their employer, we are still in a situation where the majority of the people are happy and want to come back.

The Deputy of St. Ouen:

Yes, and I am sure that is right.

Member, Jersey Farmers Union:

If it is not broken do not fix it.

Vice-President, Jersey Farmers Union:

On the sort of structure you are talking about, Mr. Chairman, we all know people that work and they have to say when they are going to be taking their holidays. We do not have those situations. They come and go as they please. So if they want to disappear for 3 months they do so. What can I say? It works extremely well.

Member, Jersey Farmers Union:

They work very hard when they are here, we are lucky to have them, but we also offer them greater levels of flexibility than other employers or other employees in other industries could expect.

The Deputy of St. Ouen:

Of course we have been talking largely about people coming into the Island from abroad. Are there any local people employed on a seasonal basis in the industry?

President, Jersey Farmers Union:

On a seasonal basis?

The Deputy of St. Ouen:

Yes.

President, Jersey Farmers Union:

I do not think so, no. No, I mean for every farm if they employ 10 or 12 seasonal people then they will certainly have at least one if not 2 permanently employed staff.

The Deputy of St. Ouen:

The permanently employed staff, I am interested in the figures released by this recent report that talk about 1,300 people employed full-time. Would they be locally based people?

President, Jersey Farmers Union:

In our industry?

The Deputy of St. Ouen:

Yes.

President, Jersey Farmers Union:

Yes, they would be. Yes, particularly in the cattle industry, for instance, which is a 12-month season, if you like.

The Deputy of St. Ouen:

Of course, yes.

President, Jersey Farmers Union:

I am sure that all the people employed by them are generally on long-term -- fully employed and on full-term contracts, conventional contracts.

Deputy T.A. McDonald:

Can I just talk about the accommodation because we all know that years ago obviously the accommodation for foreign nationals coming into the Island left a bit to be desired. But things have appeared to have come on in leaps and bounds and obviously some of them are accommodated on the farms themselves, so obviously you need those sort of happy family units, which obviously appears to have been achieved. Then other parts of the industry, for example, the Hotel Lemrode(?) is now used as staff quarters for the Jersey Royal Company and that seems to work exceptionally well, but obviously that is a totally different ballgame to what we had years ago. They are now living in waterproof, wind and everything else tight premises. Do you think accommodation is playing a large part in this?

President, Jersey Farmers Union:

I think so, yes. Going back probably 15 years ago, you are quite correct in your comments about the accommodation left a lot to be desired, put it that way.

The Deputy of St. Ouen:

In some cases.

President, Jersey Farmers Union:

In some cases. But progressive farmers even 15 years ago had good accommodation but I would say now that all farmers have. There has been a real seachange really in the way that farmers look after their staff, particularly in the point of accommodation. Many farmers have spent ... big farms like these 2 gentlemen I am sure spend hundreds of thousands of pounds and maybe even going into half a million more than that to build accommodation for their staff. Indeed the Jersey Royal Company bought a hotel.

The Deputy of St. Ouen:

Indeed and that works to be working exceptionally well. But how much of that sort of accommodation ... what is the real set up concerning how much they pay towards their accommodation, for example.

President, Jersey Farmers Union:

That is set by the Employment Tribunal.

Member, Jersey Farmers Union:

It is all driven by ...

President, Jersey Farmers Union:

Sorry, the Employment Forum set us the amount that farmers are allowed to deduct per week.

Member, Jersey Farmers Union:

We work with the States recommendations that are linked to the minimum wage.

The Deputy of St. Ouen:

And you do not sort of ... yes, it is all part of the minimum wage and everything else is zero hours, whatever you work into it.

Member, Jersey Farmers Union:

The level of accommodation is all linked to ... the standard of accommodation rather is linked again to staff retention, and if we can ... if we spend money training staff we want to retain them and we have tried renting hotels and then when we have been able to build accommodation our staff retention goes up. That is great. It is good for everybody, is it not?

Deputy T.A. McDonald:

Staff recruitment and retention.

Member, Jersey Farmers Union:

Retention is better than recruitment.

Deputy T.A. McDonald:

It was just to clarify that, thank you.

The Deputy of St. Ouen:

Do you foresee any difficulties in the future in recruiting or maintaining sufficient members to come and work in the industry?

Member, Jersey Farmers Union:

I see no difficulties recruiting numbers of staff should we need them. The difficulty will be with the continuing rise of the minimum wage it is going to be difficult to remain viable.

The Deputy of St. Ouen:

Right, that is a whole other discussion, is it not? But I note what you say.

Deputy G.P. Southern:

Can I just come in for that? Just a query still on my mind, I do not think it is answered yet. We have got figures here which talk about full-time, part-time, zero hours contracts. I think the key question is not full-time or part-time but permanent contracts. Who in the industry gets a permanent contract? Do you use those and what is the criteria which you transform from a zero hours variable contract into a permanent contract?

Member, Jersey Farmers Union:

We can only talk generally. Obviously we have got no knowledge of other local businesses but I suspect what happens is, and this is what has happened in our case, some ladies and gents have arrived. They work on a farm, the first season they will be picking potatoes or picking flowers. They will go home for 3 months and then they will come back and as they get more settled in the

Island, the longer they work for you the more responsibility you give them and eventually that transfers to ... we have got people who are now living here, they would consider Jersey as their permanent home. They are performing middle management functions for us and senior management functions for us, and at that point they become permanent employees. They are working for us sort of 11 or 12 months of the year. We are not seeing them disappear for 3 months at a time. So I guess it is linked to the level of responsibility they would have within the business and if they are seeking to progress within the business they have got to commit to more time so, in turn, you can commit back to them more ...

Deputy G.P. Southern:

It is a 2-way process.

Member, Jersey Farmers Union:

Yes, it is that 2-way street of commitment really, and we would like ... we are training staff, encouraging them, trying to develop them. The flip side of that is that we need ... because they are here performing important roles for us we need them here. I do not know if that goes ...

Deputy G.P. Southern:

That has clarified it to a certain extent, yes.

Vice-President, Jersey Farmers Union:

I am just wondering who was asking the question. I was not aware anyone had ever been asked in the industry.

Deputy G.P. Southern:

It is the labour survey that it done biannually, June and December, one of the new questions is ... there used to be full-time and part-time. The question is now full-time, part-time, zero hours in order to see ... we are trying to pick up what the trend is in not just your industry but all industry.

Vice-President, Jersey Farmers Union:

I remember it now. **[Laughter]** You get bombarded with that much stuff you cannot remember.

The Deputy of St. Ouen:

It was the last year I understand that we asked. An important detail that has just occurred to me in relation to the rent that new employees pay, so if it is a time when work is slack and they have got very few hours and you are paying them very few hours, but do they still have to pay you the rent for the week? What if the rent exceeds the income coming in?

Member, Jersey Farmers Union:

In accordance with the direction from the States the rental income and their earning income are 2 different things.

[11:45]

President, Jersey Farmers Union:

If they are doing ... if the farm is really busy and they are doing 85 hours a week, they still only pay the same rent.

The Deputy of St. Ouen:

I accept that and, as I said before, they should perhaps provide for the slack periods ...

Member, Jersey Farmers Union:

Again I think you will find that most employers, should that situation arise, I am sure they would say: "Look, you do not need to pay me the rent this week, carry it over." As I say, there is a gentleman somewhere over here that owes me quite a lot of money.

Vice-President, Jersey Farmers Union:

Mr. Chairman, what I do, as a way of goodwill, should we ... we base it on 41 hours so if they work 40 they will pay 40 parts of the rent on our particular holding and if we do 30 ... we might do 38 hours one week and 75 the next. But they will only get deducted 39 and 41. It is all done on a spreadsheet, which is nice and easy, and then it is transferred to a proper payroll system, which we never used to have to do but we do now. That is how we do it.

Member, Jersey Farmers Union:

I am sure the individual businesses have individual ways of working it with their staff. But that sort of rent and accommodation thing is separate to what I believe you were asking us about today.

President, Jersey Farmers Union:

It is a separate issue.

The Deputy of St. Ouen:

Yes, it is just trying to understand how it all works.

Vice-President, Jersey Farmers Union:

There is an awful lot of goodwill that is not picked up.

Member, Jersey Farmers Union:

I think the summary of the position is that there are a lot of farmers out there desperately trying to find staff because they cannot find any, which would suggest that we are doing a good job.

The Deputy of St. Ouen:

Yes, I have no reason to doubt it and indeed that is your submission today, is it not, it works well and it has benefits for both sides and we can see that. But to what extent do you think that government ought to be trying to protect or regulate to cover a position that might arise if somebody was not treating their employees in the way you have described with goodwill.

Member, Jersey Farmers Union:

I believe there is very good provision for that situation currently, is there not? Should Government be buying ...

Vice-President, Jersey Farmers Union:

You can over-regulate and that is ...

The Deputy of St. Ouen:

That is why we like to receive your views on ...

Member, Jersey Farmers Union:

Should Government be buying a third boat in case the third Condor ones break down? How much provision can Government make for "what if" situations? There has to be a formal procedure and I believe that is in place. I believe it is working so why look for something different?

President, Jersey Farmers Union:

An employee has a lot of recourse really against his employer. I think the regulation and the law is already in place.

Deputy G.P. Southern:

One of the results that appears to be coming out of our survey which we are also conducting, but this would suggest that while employers understand the guidelines that have been issued by J.A.C.S. recently of zero hours contracts that employees through, I do not know, for whatever reason, seem to be largely ignorant about what is happening. So it is a question of, yes, you could say, and you have said, the fact that we do not have problems attracting people and we do not get complaints says that we are doing things right. It could be that the absence of complaints are because people either feel not secure enough to complain about their employer, there is a balance

between the 2, or that they are ignorant of how they can, so it is not your argument that everybody is happy.

Member, Jersey Farmers Union:

What could we do more than provide all the written procedures in their own language and given that, how could we explain the procedures to them in greater clarity than giving it to them in their own native tongue?

Deputy G.P. Southern:

As you say, you give them their contract before they turn up.

Member, Jersey Farmers Union:

Absolutely. So I would argue against your point there.

Deputy G.P. Southern:

That makes sense.

Member, Jersey Farmers Union:

I do not see how we could make the situation any clearer. These days they can get the internet on their phones, they can ... the phones are working in goodness knows how many different languages. There is plenty of information out there should they choose to go and get it. We provide all relevant documentation, procedures, et cetera, in their own language. I fail to see how we could make that any clearer.

Deputy G.P. Southern:

I accept what you are saying is good practice.

Member, Jersey Farmers Union:

Thank you.

The Deputy of St. Ouen:

Do you think employees are aware of J.A.C.S. and the services?

Member, Jersey Farmers Union:

Very much so.

The Deputy of St. Ouen:

Is that written into a grievance procedure or something?

Member, Jersey Farmers Union:

I do not ...

The Deputy of St. Ouen:

You say "very much so". I mean in your experience, have they referred to J.A.C.S.?

Member, Jersey Farmers Union:

We have had some people who said: "Ooh, I am going to go to J.A.C.S." and we have said: "Oh, that is good news. Let us go." Because we have got nothing to worry about. So most people ... you cannot speak for everybody, I am sure there are people who are not and up until recently we have had people with lower degrees of literacy than you might expect so all you can do is look after them as best you can.

The Deputy of St. Ouen:

Is there anything you want to say to us, gentlemen, before we conclude the meeting?

Member, Jersey Farmers Union:

No.

President, Jersey Farmers Union:

We are trying to be fair to everybody. We have got to look at ...

Member, Jersey Farmers Union:

Absolutely. Certainly speaking personally I was not sure what to expect and we feel we got a good system and it is working and we would be disappointed if we were forced to change again because we do not feel there is any need to from either side. We need the staff as much as they need us.

The Deputy of St. Ouen:

Yes, we understand fully the position and we recognise that you do look after your staff. We are not coming to this with any preconception, just carrying out an evidence-based review.

Member, Jersey Farmers Union:

Similarly, we cannot speak for every business in the Island but we can tell you of any issues that we are aware of, which we are not.

Vice-President, Jersey Farmers Union:

We believe we have done the best with what options have been put before us.

President, Jersey Farmers Union:

In all businesses there are good and bad employers and it is possibly ... there is possibly some bad ones in agriculture. But there are certainly not many of them.

Deputy G.P. Southern:

I clearly heard you saying this is a Government initiative because they are playing catch-up.

The Deputy of St. Ouen:

Sorry, what do you mean by that?

Deputy G.P. Southern:

The fact that they are now using zero variable hours contracts is brought about by the change in the law and the Minister for Social Security catching up with what he is doing and realising that there was something needed done in this particular ...

Vice-President, Jersey Farmers Union:

It is what triggered it.

Member, Jersey Farmers Union:

Along with industry situations.

Vice-President, Jersey Farmers Union:

And then we discovered it is actually very convenient this because it cuts down on an awful lot of paperwork. Back in the days of the terms and conditions, when that first came out, it was one piece of A4. One for you, one for me. Two pieces of paper. But now it is lots, it is a humongous amount of paperwork. We burn out printers ... we were burning out printers like you would not believe.

The Deputy of St. Ouen:

Gentlemen, thank you very much for coming to speak to us and that concludes this hearing.

[11:53]