



Health and Social Security Scrutiny Panel

Zero Hours Contract

MONDAY, 12th 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 Chamber of Commerce

Chief Executive, Jersey Chamber of Commerce

[15:00]

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

Thank you very much for coming to assist us with our review into zero hours contracts. As I think you have been told, we are recording this session for part of our evidence in our review and therefore we have a few formalities. So we announce ourselves first of all and then I will pass over to you and if you could say who you are and who you are representing and then we will go into the session. Please relax and tell us as you think you should. I am Deputy Richard Renouf, and I am Chairman of the Health and Social Security Scrutiny Panel.

The Deputy of St. Ouen:

If I could pass over to you.

President, Jersey Chamber of Commerce:

I am Kristina Le Feuvre, President of the Jersey Chamber of Commerce.

Chief Executive, Jersey Chamber of Commerce:

I am James Morris, Chief Executive of the Jersey Chamber of Commerce.

The Deputy of St. Ouen:

Again, thank you for coming. We are conducting a review into zero hours contracts following a report from the Minister for Social Security into the use of zero hours contracts. Have you got a general view, as the Chamber of Commerce, on the use of those contracts?

President, Jersey Chamber of Commerce:

I think they are used obviously. They are used predominantly by the hospitality, retail, construction industry, from the information we have gathered from our members. If they are used responsibly they work very well. They allow people to pick up time or people who want to work on a part-time basis. There can be irresponsible use but there is recourse for that, via J.A.C.S. (Jersey Advisory Conciliation Service), and for certain businesses they can work well if they are used properly.

Chief Executive, Jersey Chamber of Commerce:

I think that is exactly the point. That we have, in preparation for today, spoken to a number of members and are you familiar the Chamber has various committees? We run committees. Our H.R. (Human Resources) Committee has emphasised to all members in the past the importance of using them appropriately where they are mutually beneficial rather than stacked in the favour of one side of the equation rather than the other.

The Deputy of St. Ouen:

Have you come across instances where they have not been used properly?

Chief Executive, Jersey Chamber of Commerce:

Personally, no, I haven't. But I am aware obviously some of the negative comments out in the U.K. (United Kingdom) as much as anywhere but, no, personally across our members I have not seen or witnessed them being abused.

President, Jersey Chamber of Commerce:

The Chamber has a monthly newsletter. Just to give you a bit of background because the entire committees, the 100-plus people who form the committees of the Jersey Chamber of Commerce, are all volunteers so we do try and give out as much information as possible, pertinent information, and when the whole zero hours contract issue blew up a couple of years ago we did ... in our monthly newsletter, we were giving H.R. advice to our members to make sure that they operated

them correctly. So that is, in effect, the only anecdotal conversations we have had with our H.R. Committee. We have never had an issue brought to our attention.

Deputy T.A. McDonald:

Could I just ask, it is not an easy question to answer, but to what extent do you think that zero hours contracts are being used among your members? Any idea?

President, Jersey Chamber of Commerce:

As I said before, it is hospitality, retail and construction. Some of the evidence we are having is that members of the hospitality sector are moving away from zero hours contracts because if they are operated in the correct manner they are struggling to fill slots or fill shifts if they cannot get the people, to get hold of them, so I think some people are moving away from that. In the construction industry, obviously it can be beneficial. If you are a roofer and you are working outside, again that can cause issues as well because it depends on what would your type of contract be? If you were offered 35 hours a week or 50 hours a week on a dry week what would the qualification of your contract be? It does not matter what is written on it. It is what it would actually be viewed as. All we can use are the same figures, as I am sure you have got, is the report that was released, I think ... I am not quite sure when it was released. It was released December 2014, I think. That is the same thing we have been using.

Chief Executive, Jersey Chamber of Commerce:

I think, as Kristina has said, those are the primary industries but I think there are other industries where in a former life I have seen them used well and that is not within construction or tourism. I used to work in banking and we had a bank of on-call staff who would come in on ad hoc hours, as and when it suited both parties. So it was definitely a mutual arrangement to cover peak periods, such as cashiering duties at lunchtimes when the staff were away, or something of those orders or tax return times when there was a huge amount of filing or administrative work to be done. But the issue comes in, as Kristina has touched on there, when they are used almost quasi-contractually, as opposed to being there for peak periods, peak seasons, peak hours. That is how they should properly be used to benefit both sides.

President, Jersey Chamber of Commerce:

We did find in Chamber there was a confusion about exactly what a zero hours contract is for. So we have made a point of trying to educate our members, and I think we have done it fairly successfully. There certainly seems to have been a greater understanding.

The Deputy of St. Ouen:

What were the common misconceptions?

President, Jersey Chamber of Commerce:

The common misconceptions were around holiday pay, whether there is a notice period. I mean, I did not realise until recently that the zero hours contracts there is no holiday pay, there is no notice period. When we operated them we always gave holiday pay and a notice period. I was not aware of that and I have used them in the past. So I think there is a confusion about ... I do not think there is a confusion so much. I think the information that has been available in the press makes it very clear that it should be a mutually advantageous contract. So an employer can offer a shift and the employee can either accept or decline it. Again, and I am sure it is something you have come across, the issue arises when there is a misunderstanding between either party, and it can be either party.

Deputy T.A. McDonald:

This is obviously when J.A.C.S. would get involved and so on. I know what you are saying because prior to zero hours contracts we used to talk about bank staff, not just ... when I say bank ...

Chief Executive, Jersey Chamber of Commerce:

Indeed.

Deputy T.A. McDonald:

That was it, they had a pool of people who were there. They were happy to be there and when they were needed you would phone the person or 2 or 3, or whatever, and they would come in. Do you think obviously there has been sufficient publicity now and circulation of information about the whole thing?

President, Jersey Chamber of Commerce:

I think there has been a lot of publicity in the U.K. I think Geoff, himself, has highlighted the matter of zero hours contracts quite a lot. I think there have been a couple of rulings recently in the Royal Court, which has again highlighted the way the zero hours contracts should be run. I think if there is not sufficient knowledge and they are being operated incorrectly there are guidelines from J.A.C.S. and there is a recourse. I do not quite understand the perception ... obviously we are looking at it from an employer point of view, and there is a perception that it is all about the employer and not about the employee. But personal experience (AAP, Amazing Adventure Park) in the past, as I said it is not something we use now, when you have got young mums, students who want a few shifts in between university and things, I think they can work really well. It is again ... I keep coming back to it, but it is the perception of the contract and making sure that that

perception is ... what the actual contract contains is very clear. I think exclusivity of contracts as well was an issue for a while but I do not think that is happening anymore either.

Chief Executive, Jersey Chamber of Commerce:

Although, as we touched on, we discovered that those have now been made illegal in the U.K.

President, Jersey Chamber of Commerce:

They have been made illegal in the U.K. I would 100 per cent agree with that. That goes right against the fair concept of the zero hours contract and if you have a zero hours contract there should be no exclusivity contract in it. Absolutely.

The Deputy of St. Ouen:

But of course our legislation over here does not refer to zero hours contracts. It does not have that sort of protection built in. Do you think there are any legislative changes we need to make?

President, Jersey Chamber of Commerce:

Looking at the 2 recent rulings by the Royal Court, I think they have certainly cleared up some of the key issues that have arisen around zero hours contracts and I do think the clarity is ... there is a greater understanding of the clarity of the contract. The mutuality of obligation has been made very clear by the Royal Court. I think that was perhaps the only grey area that we had seen in the past.

Chief Executive, Jersey Chamber of Commerce:

I think in answer to your question, Deputy, we find it very difficult to justify or even support an exclusive zero hours contract. I cannot think of a reason why one would think that would be acceptable. So in answer to your question: should we replicate U.K. legislation? I cannot think of a reason why we would not at the moment. They seem to be the ones that cause most public and moral outrage and I understand why.

President, Jersey Chamber of Commerce:

Yes, rightly so.

The Deputy of St. Ouen:

Yes, one can see. It seems they have existed ...

Chief Executive, Jersey Chamber of Commerce:

But I suppose the acid test comes back to we have a forum here through J.A.C.S. and through the Employment Tribunal, where people can seek redress or at least seek advice. Whether people do

when they feel they have been hard done by I do not know. I always feel slightly concerned for perhaps students who may be hard done by and maybe do not feel they have the redress or do not have the knowledge of the redress available to them. But what was interesting in the statistics of the social survey was that the overwhelming majority who felt content with what they had got because it suited their needs and that is when they should be ... that is how they should be used and should be used properly for the benefit of the individual and the businesses because we do have in this Island a lot of sectors which are seasonal or, in terms of the tourism sector, we have that sort of transient workforce in a lot of our sectors.

President, Jersey Chamber of Commerce:

I do think the knowledge of J.A.C.S. is there. I think every employee knows they can go and ask J.A.C.S. a question. I have never met anybody who I have said: "Go and ask or email or ask J.A.C.S. that question" they have gone: "What is or who is J.A.C.S.?" I think the youngsters of today, and I am talking about the youngsters because I feel they are less inclined to push it. They may feel aggrieved but they are less inclined to push it. That is maybe experience you get as you get older, the way you feel. You would be more confident doing it when you are older, and I do not know how you would address that. That is something they would have to take up themselves.

Deputy T.A. McDonald:

Do you think that is possibly to do with a fear of the formality of all this and to see an environment like this, with a panel sitting on one side and you are kept waiting outside and then brought in?

President, Jersey Chamber of Commerce:

This is the first time I have been to a Scrutiny Panel so I was a bit nervous, I was not quite sure what it entailed, who was supposed to sit where, but I doubt very much ... you have got some amazing youngsters in the Island here which have come ... but I am just talking about going to J.A.C.S. rather than going to the Scrutiny Panel. I think most people would be prepared to pop into J.A.C.S. and ask a question or at least email them or ring them.

Chief Executive, Jersey Chamber of Commerce:

I think so. I think also the other bodies, such as the Citizens Advice Bureau are accessible and therefore would direct people to the right avenue. Also having witnessed some tribunal cases, they are much less formal than a court case, deliberately and rightly so. So I think they are accessible.

President, Jersey Chamber of Commerce:

In these days of social media by any chance they are the 1 per cent that do not know where to go there is 99 per cent of people who would be willing to tell them.

Chief Executive, Jersey Chamber of Commerce:

I come back to this survey, which surprisingly, because it was not even a sort of balanced contents versus ... it was very much in favour of the contents, which was pleasing to see. So perhaps something is being done correctly and maybe if there are those few, because I think the only number that was completely dissatisfied was, I think, 2 per cent, which effectively refers to the matters we just discussed about exclusivity, not being allowed to work for another employer while on a zero hours contract. Two per cent were strongly ...

The Deputy of St. Ouen:

We did wonder. It was a very professionally conducted survey and regulated and the like, but it was conducted among householders, I think, and we wondered if it would have reached those in the hospitality industry, for example, who might be living in staff accommodation and the like.

President, Jersey Chamber of Commerce:

But it is still done on the electoral register, are they not? That this would go down as a household in staff accommodation. Is that not correct?

The Deputy of St. Ouen:

I do not know. We did have a slight concern about that survey, that it would not have been able to get to those people; seasonal jobs, that sort of thing.

[15:15]

Chief Executive, Jersey Chamber of Commerce:

That is a question for Duncan Gibaut and the statistics team.

Deputy G.P. Southern:

That is the problem with that particular survey, I think. It tends to be filled in by ... clearly it is quite extensive. It has to be filled in by those with time, which is usually the older section of society.

Chief Executive, Jersey Chamber of Commerce:

Okay, understood.

Deputy G.P. Southern:

Younger people tend not to respond to it. So it has got to be ... therefore it needs plating in that respect.

President, Jersey Chamber of Commerce:

I asked my son to respond to it when it came through but then I probably am more politically minded. I said to him: "You respond to that" and whether he did or not I do not know. But somebody very famous, who I cannot remember, said: "Statistics, damn statistics." I mean you can use them to bolster your opinion or dismiss an opinion, can you not? I mean they are what they are, I mean the people who have replied, and generally with surveys where you are ... there is a slightly negative connotation, you would expect a more negative response, and I think the fact that it was such a positive response, even if you take out 25 per cent of those replies it still seems to be a very balanced view. Some happy, some not happy.

The Deputy of St. Ouen:

Yes, I think I must acknowledge that in many case zero hours contracts do work well for people; employers and employees.

President, Jersey Chamber of Commerce:

If operated correctly.

The Deputy of St. Ouen:

If operated correctly.

Chief Executive, Jersey Chamber of Commerce:

That is the crux of it.

The Deputy of St. Ouen:

I am just anxious to ensure that there is not ... even a minority of cases that they are being misused and, if they are, whether we can do something about it.

Deputy G.P. Southern:

The key issue I think is: is that particular job under whatever contract, is that your main sort of income? If you are looking at, for example, the area of retail, if that is your main source of income then that should be whatever contract it is; part-time or full-time. But it should be consistent. The key thing that people find difficult about zero hours contracts is knowing from one week to the next how much money is coming in. The income support system says: "Come in every 5 weeks and we will adjust ..."

President, Jersey Chamber of Commerce:

We discussed that.

Chief Executive, Jersey Chamber of Commerce:

We did indeed. That is exactly ... yes, it is and that is not fair on people.

Deputy G.P. Southern:

That would be a difficult thing to make ...

Chief Executive, Jersey Chamber of Commerce:

That is unfair on people and I think to me where zero hours contracts work for both parties is where the nature of the work is erratic. Once there is a pattern to it, and there is legal redress once there is a pattern to it, but once there is a pattern to it and a reliance from either side, the worker or the employer, if either is relying on the other then you should be discussing a different type of contract, not a zero hours contract.

President, Jersey Chamber of Commerce:

But the employee has got to take some responsibility for that as well. If they have got ... if you look at the 2 Royal Court judgments, they both agreed with the employee because it looked like it was set out as ... so there is legal recourse and I think the employee has to take some responsibility and say: "I am on a zero hours contract. I am actually working 35 hours a week, so therefore it is contractual and I would like my contract to reflect that." It is hard. It is hard asking for a pay rise. But I do think there has to be ... the responsibility cannot all be on the employer. The employer has got to take some responsibility for their own financial standards and issues.

The Deputy of St. Ouen:

Can you understand how vulnerable they might feel though to be in a position if they have got family in schools or rent to pay ...

President, Jersey Chamber of Commerce:

If they are on a 35 hour a week contract ... if they are on a zero hours contract but they are actually working 35 hours a week then effectively they are on a permanent contract. That is what the law says. If an employer says: "No, you cannot have that ... I want to keep you on a zero hours contract and we will not give you a permanent one, in fact we are going to sack you because you have asked" there is legal recourse. There is legal recourse. Everything is set up to assist and help the employee. I have never heard of that being operated. Perhaps we are not talking to the right people. I mean sure, the very fact that you 3 are sitting there, there have been issues.

Deputy G.P. Southern:

Certainly having, as far as I know, people like Sports Direct are using zero hours contracts ...

Chief Executive, Jersey Chamber of Commerce:

To a vast extent.

Deputy G.P. Southern:

To a vast extent and nobody gets a proper contract.

President, Jersey Chamber of Commerce:

We raised that particular company this morning. I know very little about them but I have seen information on social media about the use of that and I understand that they have the same issue in the U.K. as well. Then, yes, but again any of their employees, if that is the case, if they are offering permanent hours on zero hours contracts their employees effectively should get together and ask for a permanent contract. They cannot sack ... if they sack them they have got legal recourse.

Deputy G.P. Southern:

I realise that argument is often used but that first of all requires that the employee challenges his employer and, if necessary, insists and when push comes to shove the employee might end up sacked and while he can go to J.A.C.S. or the tribunal and say: "I might get whatever, a lump sum, but I have still lost my job."

Chief Executive, Jersey Chamber of Commerce:

It would be improper of me to comment on a specific company such as the one you have just touched on, Deputy, but I think we, as Chamber, would support regulation against that sort of malpractice and misuse. Very much so, in fact that is what we encourage our members to make sure there is no misuse and abuse because I too have read the same articles. I have no experience of them but it does seem to me that there is a matter to be looked into there, if all the articles and the comments are so. We would not support ... they are allegedly using something of the order of 95 per cent of their workforce are on zero hours contracts. That cannot be right. It should be the peak work and the fluctuations that the zero hours contracts sort out, not the one ...

Deputy G.P. Southern:

It is one thing to employ a student for some extra hours around what your central workforce is doing, keeping your shop going or whatever ...

President, Jersey Chamber of Commerce:

But there is also the old adage of a sledgehammer to crack a nut. If there is one bad apple or 3 bad apples and there are 5,000 employees on the Island again we need to make sure that we do

not over-legislate for the sake of one, 2 or 3 bad apples. You will have more experience with this. I cannot say how many there are.

Deputy T.A. McDonald:

We need to find out if there are any ...

The Deputy of St. Ouen:

Yes, to try and get some sense of the extent of any misuse. I was interested, you spoke about the hospitality industry possibly changing and moving away from these contracts, so what are they replacing them with, do you know?

President, Jersey Chamber of Commerce:

The hospitality industry is a heavier user of zero hours contracts because of the nature of the shift work and needing people during peak periods, and I think that will continue. I was talking about my own personal experiences (AAP) in that if they are operated correctly, when we needed staff during peak periods and then people would turn down shifts we found ourselves short, especially Jersey Live weekend or at certain times of the year. So we did move away from them and we did a fixed hour contract and we guarantee those hours. Sometimes the staff do not want them and we will have a mutual agreement but we do it by email so we have got it in writing. We just try and make sure that we are fair to our staff. I think most people are the same. If you want to keep your staff, and it is hard to keep good staff, there is a lot of movement going on in the industries at the moment, and if you want to keep your staff you have to be fair and be perceived to be a good employer.

Deputy T.A. McDonald:

And obviously bring your staff along with you. That is the most important thing from a business perspective.

The Deputy of St. Ouen:

So were you offering them a contract for a number of months with a certain number of hours a week or ...?

President, Jersey Chamber of Commerce:

Generally, in my personal experience (AAP), the zero hours contracts that we used to operate were for a fixed term because they were for the height of the summer season. So hopefully we were operating it to the letter of the law. But in my own personal experience (AAP), we employed a H.R. company to help us with it. Because it is very hard for small businesses I think to follow the legislation and to make sure that you are following things to the letter of the law. I think most

employers want to do the right thing. The level of information can sometimes be difficult to assimilate.

The Deputy of St. Ouen:

Yes, it can be if you have got all the other pressures of running a business. But you were speaking about your personal experience but do you think it has been ... the rest of the hospitality industry is coming to that sort of view that you have already accepted?

President, Jersey Chamber of Commerce:

Probably not, to be honest. We were a slightly different case in that I wanted more continuity and we were prepared to pay for that. I think generally hospitality is probably one of the heavier users of zero hours contracts because of the peaks and troughs of their business.

The Deputy of St. Ouen:

Yet will they be in a position to guarantee a certain number of hours each week?

President, Jersey Chamber of Commerce:

I think the fact that ... if we take for example a hotel, bookings used to be done 6 months ahead and now they can be done 6 days ahead, so it can be quite difficult to do that.

The Deputy of St. Ouen:

Yes, that is true.

Chief Executive, Jersey Chamber of Commerce:

I think we come back to the fundamental of run properly the zero hours contracts should be the extra buffer for those people that wish to do it. Once they become regular, consistent and relied upon by either side, that is when the difficulties come in. The law is there to say that is now a different contract from the one you think you got.

The Deputy of St. Ouen:

Yes, but a hotel that would have brought in cleaning staff for the season will be relying on those staff whether the hotel is quarter full or 100 per cent full. They will still need to do something, will they not?

Chief Executive, Jersey Chamber of Commerce:

I am not a hotelier, Deputy, but I would imagine that there must be periods, if you are running a hotel, where you are full and the rooms all require servicing and other periods when perhaps only 70 per cent of them require servicing.

President, Jersey Chamber of Commerce:

To be fair, I think that slightly counteracts Deputy Southern's argument, because they will generally be people who will come over for the season and the hotels will have a non-local licence for people during peak periods. So they may not be people who are ... in that particular instance, they will not be people who are trying to raise a family 12 months of the year around the zero hours contract. So that is where they are quite useful. Deputy Southern is correct. If somebody is trying to raise a family and need that continuity and they are doing a job for a set amount of hours, the zero hours contract should not be used.

Deputy G.P. Southern:

Do you have any idea how ... what is the accounting for the growth? Years ago we never heard of a zero hours contract, it did not exist. People have part-time contracts, full-time contracts or whatever.

President, Jersey Chamber of Commerce:

No contracts.

Chief Executive, Jersey Chamber of Commerce:

I can only speak from my personal experience and that was in the banking industry. But several years ago they were not called zero hours contracts, they were called on-call contracts. The same thing. Whether they are ... are they more prevalent now? Yes, they probably are and maybe is that a factor of recessionary, tougher times of 5, 6 years ago where ... I come back to your example of a hotelier. Why would you engage staff to clean 100 rooms when 90 rooms are not being used and not the other 10? I think people got a little ... business owners perhaps thinking: "Right, there is some cost that we do not need. We need people for 90 per cent of the rooms and we will call on the 10 per cent of the rooms on those days we are full. That is to use your own example or analogy. Why are they being used more extensively?"

President, Jersey Chamber of Commerce:

I do not think they used to be used in the public sector as much as they are now. I think that is a bit of a difference as well.

Chief Executive, Jersey Chamber of Commerce:

That is a different debate altogether.

Deputy G.P. Southern:

That is a different debate which we are going to have one of these days.

Chief Executive, Jersey Chamber of Commerce:

Because there is quite a number in the public sector even according to the stats from the Statistics Unit. It is a bigger number and I think possibly higher than is even shown in the statistics because my understanding is that within the public sector if, for example, a department requires some filing clerks and they get in touch with the recruitment agency or a temping agency to bring people in, those numbers do not go on the stats.

Deputy G.P. Southern:

That is my understanding as well. The use of agency workers, particularly in the States, is significant, I think.

Chief Executive, Jersey Chamber of Commerce:

Off the head count.

Deputy G.P. Southern:

Yes. Do you think it also applies elsewhere in industry in the private sector? Keeps them off the books for the H.Q., H.Q. do not like those ...

President, Jersey Chamber of Commerce:

I would say not or certainly not by choice. If people can get a licence they would rather have a licensed employee. The only anecdotal evidence we have is where people literally cannot get a licence for somebody who has got a skilled qualification and then they have to go to an agency. But it is not by choice. It is driven by need.

Deputy G.P. Southern:

Do you think some employers think that zero hours contracts is a way of keeping costs down?

Chief Executive, Jersey Chamber of Commerce:

No, I do not. I think it is a way of managing costs, I do not think that is the same thing as necessarily keeping costs down because I do not think there is any evidence ... forgive me, this is my perception, you are doing the research, gentlemen. I do not think there is necessarily the evidence that the zero hours contracts pro rata are significantly under-paid contracted workers.

[15:30]

In fact some evidence that they get slightly more because of the flexibility of the offer. I do not think it is used to keep costs down per se. I think it is more managing the costs and making sure that you are not employing people to do no work.

President, Jersey Chamber of Commerce:

I did ask this question to one of our H.R. Committee exactly almost word for word what you have said, and they said that the majority of businesses do not use zero hours contract to avoid rights, but to avoid paying fixed overheads where the demands of the business are more erratic and that was their perception.

Deputy G.P. Southern:

It is managing costs?

President, Jersey Chamber of Commerce:

Yes.

Deputy G.P. Southern:

Of course the difference or the advantage, I think which was just established there, in the U.K. you have got 2 types of worker: you have got employee with rights and a worker, and a worker does not have that same degree of rights. So it is possible not to give notice to sack those ...

President, Jersey Chamber of Commerce:

But that does not exist in Jersey.

Deputy G.P. Southern:

It does not exist in Jersey because there is no intrinsic advantage in a zero hours contract over here because whether you are a worker or an employer that is ... you know, thinks they are a worker, that worker category, you have got your rights there.

President, Jersey Chamber of Commerce:

I think the advantage is the flexibility. That is definitely what is coming across loud and clear.

Chief Executive, Jersey Chamber of Commerce:

I do think that is from the employee perspective as well. I do not talk about how this data was necessarily collected but I do recall my own personal experience, it worked very, very well for past employees who perhaps had gone off to raise a family and were delighted, but it does come back to your point, Deputy Southern, about they were not necessarily and not often principal

breadwinners. They were supplementing and I think it worked very well for them; working and coming in to do a bit of cashiering or whatever it might be.

President, Jersey Chamber of Commerce:

Again, going back to personal basis (AAP), our business models changed quite a lot this year, and we are looking for some part-time ... we have got some part-time positions to fill and people are asking for zero hours contracts because they want to do it around child care, around their children being at school. We have declined that offer because we want more continuity. We do not want to lose people for 6 weeks in the summer holidays. So there is an element of employees out there who do want that level of flexibility. Again it goes back to the statement of if they are used properly.

Chief Executive, Jersey Chamber of Commerce:

It is certainly all about it in my view.

The Deputy of St. Ouen:

Are there any issues around training? Is training falling by the wayside because employees are being engaged under zero hours contracts and the employer is not therefore keen to train them?

President, Jersey Chamber of Commerce:

It is not a question we have asked, is it?

Chief Executive, Jersey Chamber of Commerce:

It is not but just from ... just thinking that through. In fact I think there is a greater obligation on the employer to conduct training and potentially more of it if they are using zero hours contracts and therefore the physical number of workers, employees, is greater, there is more training to be done, and again I do go back to my own experience in the banking industry where training was provided to cashiers or whatever the duty might be and by using zero hours or on-call staff, as we used to call them, we are doing more physical training across a broader spectrum of people. So I am not sure that it does necessarily minimise the training.

President, Jersey Chamber of Commerce:

I would probably concur. I mean you have got 2 issues. You have got training and you have got qualifications so I think the training level has to be the same as permanent employees if you are going to provide the level of customer service for your industry or your services to the customer. Where there probably are not the same options is in qualifications because an employer probably would not pay for the same qualifications for somebody who is zero hours contracted and works less than they would for a permanent employee.

The Deputy of St. Ouen:

Yes, I am sure that is right. Might that harm the interests of a youngster who is just coming into work and all he can find is a zero hours contracts job and he is not in a position to start to learn a trade? I do not know if you have got experience of that.

Chief Executive, Jersey Chamber of Commerce:

I have not, and it is not a matter that Kristina and I have discussed but I understand the point you are making. I would not know whether that really is the case or not. It is a question for the youngsters and perhaps some analysis there. I do not know.

The Deputy of St. Ouen:

Thank you anyway.

Deputy T.A. McDonald:

I was just going to say: do you think that obviously zero hours contracts should be regulated more? The problem is it is all about policing things that are brought in?

Chief Executive, Jersey Chamber of Commerce:

Kristina's point is absolutely valid. There is a moral obligation to use zero hours contracts properly. I think it strikes me that your review and research is looking at the possibility that there are instances where they are not being used properly and appropriately. To bring in regulation for the small businesses who are using them properly one would have to be very, very reliant that you are not constraining people beyond what is appropriate or desirable. It has to be. So we touched on exclusivity of zero hours contract. I personally, as I said, I think earlier, cannot find any ... you would think of somewhere where that would be justifiable or reasonable so ...

President, Jersey Chamber of Commerce:

Again, there is the recourse for that. We, as Chamber, would support good working practices for all employers and care and due diligence with their employees. I think it is in the best interests of employers to treat their employees with respect, whether it is in terms of their contract or in any other terms. But as far as legislation goes, we need to make sure that if legislation is introduced it is relevant to the majority and not the minority.

The Deputy of St. Ouen:

Yes, I note what you say and having been an employer in the past I understand the burdens that legislation can place.

Deputy T.A. McDonald:

Is there anything else that you think that we should know that we have not asked?

President, Jersey Chamber of Commerce:

You are frowning at me.

Deputy G.P. Southern:

I was frowning when you said "should be applicable to the majority". It seems to me that if any law only applies to the minority it will break that regulation or break that law.

President, Jersey Chamber of Commerce:

It depends on the size of the minority, I think.

Deputy G.P. Southern:

Perhaps. I accept that there is a ... nut cracker, whatever, analogy. Nonetheless the difference between a code of good practice and a regulation is that one can be ignored by those who wish to and the other one cannot.

Chief Executive, Jersey Chamber of Commerce:

But I think, as Kristina said, there is recourse and there is redress, even now where they are abused because the abuse seems to be from not using them in the way that we, around this table, have all discussed as how they are beneficial. But when they are beneficial on both sides when that balance is lost then there is redress.

President, Jersey Chamber of Commerce:

When you have got all your information I think you are going to have a difficult decision to reach because as a Scrutiny Panel you do not want to limit employment possibilities. I do think there is a lot of good with zero hours contracts in that they offer small amounts of hours to back to work mums, to carers. We have got that exact situation with us even though we have put them on a permanent contract, we have got somebody who cares for a disabled child who wants to do a few hours a week, and there is a lot of people like that. I think there has to be a very ... a heavy discussion about whether it would hinder or contribute to an employee situation.

Chief Executive, Jersey Chamber of Commerce:

I think you can argue they could facilitate business growth because the realisation that we could do some more here ... it is exactly what you have done, is switching from the zero hours contract to offering a more fixed contract. Surely that is the way it should be.

Deputy G.P. Southern:

Shows an element of stability, whether it is part-time or full-time at least you know what is coming in next week, and that is the key.

President, Jersey Chamber of Commerce:

As an employer it does give you that opportunity as well to establish whether there is that need within your business. There are a lot of little elements. It is a bit like a spider's web. It is not actually the central point. It is all the little outlying areas that contribute more significantly to the actual point in hand than it first appears.

The Deputy of St. Ouen:

Okay, is there anything else you wanted to raise with us about zero hours contracts?

President, Jersey Chamber of Commerce:

No, I really thank you for giving us the opportunity to contribute and I hope that some of what we have said has been useful for you and if you want to contact us to clarify anything at a future date we would really like to hear from you.

Deputy G.P. Southern:

Do you have details of those 2 Royal Court cases?

President, Jersey Chamber of Commerce:

I can tell you which ones they are. They are on the Jersey Law website and they are *Marchem (Europe) Limited v Carre* and the second one was *Burger v Silvio Alves Motor Repairs Limited*.

Deputy G.P. Southern:

I will have to consider my contract with him, I think. Unless he has mended his ways.

President, Jersey Chamber of Commerce:

It is actually interesting because there is some sympathy for the employers there and it was a misunderstanding, and I do think that is where the majority of the issues ... I mean some of the more personal details have been mentioned, they may have been more deliberate, but I think generally where there is an issue with companies it is a general misunderstanding. So I think education is as important as legislation.

The Deputy of St. Ouen:

And we know the Chamber are great ruling that ...

President, Jersey Chamber of Commerce:

We try.

Chief Executive, Jersey Chamber of Commerce:

We are after all, when you look at our *raison d'être* is the prosperity of the Island of Jersey, so that is what we are trying to achieve, which I think is probably a common aim of us all.

The Deputy of St. Ouen:

Indeed.

Chief Executive, Jersey Chamber of Commerce:

That is from the States website, that is the *Marchem* one, you are very welcome to that.

The Deputy of St. Ouen:

Thank you very much indeed. May I thank you for coming and contributing? It has been very valuable to speak to you.

President, Jersey Chamber of Commerce:

Thank you very much.

Chief Executive, Jersey Chamber of Commerce:

Thank you.

The Deputy of St. Ouen:

That ends this hearing.

[15:41]