

## **Zero hours contracts are both illegal and immoral and UK businesses should not use them**

The above statement will be evaluated by considering the context of zero hours contracts in the UK. Zero hours contracts are a type of employment contract which do not offer a guarantee of work and are often used by employers to cover busy periods, sickness or holidays (Chartered Institute of Personnel and Development [CIPD] 2018). These contracts have allowed businesses to continue to operate successfully during these periods and have also been enabling and benefitting individuals, such as students, to seek flexible working options around their other commitments (Gov.UK 2015; Elliott 2013). It is estimated that there are currently 1.8 million workers (6% of employment contracts as at November 2017) in the UK on zero hours contracts (Office of National Statistics [ONS] 2018). Of this population, the demographics of the workers most likely to be on zero hours contracts include women (54.7%) and people aged between 16-24 (36%) (ONS 2018). Zero-hour contracts are also more commonplace in industries such as administration and support services, and accommodation and food: both of which are reliant on cheaper and flexible labour (ONS 2018).

Research has revealed that workers on zero-hour contracts often do not have the same employment rights or benefits as other employees in the business, and this may include issues such as lower wage rates and no sick or holiday pay entitlements (Boxall and Purcell 2016; Elliott 2013). Zero-hours contracts can include these rights, but the ability for businesses to phrase these contracts to avoid these arguably points to the economic focus of these contracts in terms of how businesses are aiming to reduce costs by employing more flexible approaches to the employment of workers (Boxall and Purcell 2016; Elliott 2013). The issue of flexibility associated with zero-hour contracts is strongly related to the opportunity for financial

flexibility for businesses in terms of cyclical trends which may occur in the accommodation and food industry and the need to reduce and increase staff levels accordingly (Rees and Smith 2017; Boxall and Purcell 2016). Whilst a business has a fiduciary duty to fulfil its economic responsibilities, these duties also carry out a moral responsibility in terms of how it meets these (Crane and Matten 2015). This moral responsibility may include the obligation of the business to provide employment, but the provision of this employment may be based upon the current economic conditions and this may cause this provision to be related to decreased rates of pay and working hours (Fryer 2015; Driver 2007). For some businesses with low profit margins and thus needing to undertake tight cost controls, this decision-making may only consider the economic activities, and this may undertake an approach based on actions which are legal but do not go beyond its fiduciary duties (Fryer 2015; Fisher et al 2013).

This narrow focus may therefore fail to consider the impacts of its activities on a broader range of stakeholders and may therefore be perceived as immoral due to the neglect of areas such as employment equality and opportunity (Fryer 2015; Fisher et al 2013). The development of ethical and philanthropic responsibilities beyond those of its economic and legal requirements are underpinned by models such as Carroll's CSR pyramid (Crane and Matten 2015; Carroll and Buchholz 2011). For issues such as zero-hour contracts, whilst the decision to use these may be based upon economic responsibilities, they are also part of the legal responsibilities of the business and ethical responsibilities, such as those related to employment rights (Blowfield and Murray 2011). These employment rights include right to freedom from discrimination (equal opportunities); the right to fair wages (pay) and the right to work (fair treatment) (Rees and Smith 2017; Blowfield and Murray 2011). The focus on the economic perspective may lead to businesses acting both illegally and unethically by failing to address issues such as employment legislation or equality amongst its employees

(Boxall and Purcell 2016; Fisher et al 2013). Whilst these perspectives reveal a trade-off between economic responsibilities and legal and/or moral ones, some businesses may choose to undertake activities which are both moral and legal, even when they are not obliged to do so (Fisher et al 2013).

The perception of whether zero-hour contracts are both immoral and illegal may also be based upon the context. The financial crisis of 2008-2009 led to increased unemployment and the use of zero-hour contracts were a tool used by some businesses to address this challenging economic situation (Boxall and Purcell 2016). However, contexts change, and the acceptability of zero-hour contracts, particularly given the abuse of these by some businesses, has led to these being increasingly regulated to ensure that the previous power held by the employer in terms of what is being offered is being more fairly allocated with the worker (CIPD 2018). The increased influence of neoliberalism in the UK economy has also created higher levels of power and freedom for businesses to undertake activities which may be appropriate for its context, but may impact on other stakeholders, such as employees by affecting rates of pay or the level of job security previously held (Lopes and Dewan 2014). It is suggested that neoliberalism has transferred the economic risk of employment onto workers due to the reduction of workers' rights; the increased level of flexibility of employment contracts, such as zero-hours; and increased financial insecurity (Lopes and Dewan 2014). In this context, the increased depiction of flexibility in the workforce as an essential business requirement enables businesses to reduce its moral obligations and duties to employees due to the changes in the employment contract (Boxall and Purcell 2016; Lopes and Dewan 2014). The workforce is therefore becoming increasingly casual with employees being viewed as a commodity, rather than being treated fairly and with respect, as per Kantian ethics (Crane and Matten 2015; Driver 2007). The use of zero-hour contracts depicts an ethical dilemma due to the different contexts of these contracts between employees, and

the ability of businesses to be able justify the use of these based on the cost-benefit analysis approach of utilitarianism (Crane and Matten 2015; Fisher et al 2013). This justification may include the social benefits of employment but fails to address the details of how these benefits are produced in terms of increased levels of financial and job insecurity (Boxall and Purcell 2016; Lopes and Dewan 2014).

The increased use of zero-hour contracts since the financial crisis has attracted higher levels of scrutiny and criticism especially when firms, such as Sports Direct, have been abusing these contracts by not only having a majority of its staff employed on these contracts, but by also failing to pay the National Minimum Wage to these workers (Sheffield 2015; Neville 2013). These abuses of the zero-hours contract are seen by wider society as being both immoral and illegal, as they create inequalities between staff and fail to meet UK legislation (Gov.UK 2015).

These abuses have also led other businesses to avoid using zero-hours contracts due to concerns relating to damage to its reputation by acting immorally or illegally (Elliott 2013). In this context, the perception of zero-hour contracts by stakeholders may be perceived as being a way to circumvent employment legislation and unethical as it creates inequality within the business (Crane and Matten 2015; Driver 2007). Service industries, such as the finance and professional sector require high levels of training for its staff to not only meet industry standards but to also ensure customer service standards are met (ONS 2018; Elliott 2013). This requires the development of a relationship between the business and its staff where expectations of behaviour are agreed is met through the psychological contract between the two parties through the provision of both extrinsic (such as salary, holiday pay and sickness pay) and intrinsic rewards (such as training and development) (Rees and Smith 2017; Boxall and Purcell 2016). The psychological contract therefore addresses the needs of

both the business and the employee (Rees and Smith 2017; Boxall and Purcell 2016). In contrast, zero-hour contracts provide extrinsic benefits only based on the needs of the business and the required level of work from the individual (Boxall and Purcell 2016).

However, businesses have attempted to force loyalty from zero-hour workers by undertaking exclusivity clauses with these, preventing workers from undertaking employment elsewhere (CIPD 2018; Boxall and Purcell 2016). To address some of these concerns, the UK government banned exclusivity clauses from zero-hour contracts in the Small Business, Enterprise and Employment Act 2015 and reinforced this in January 2016 by protecting zero-hour workers from unfair dismissal or unfair treatment at work, together with the right to claim compensation, if they failed to comply with an exclusivity clause (CIPD 2018).

In conclusion, the statement that zero-hours contracts are both illegal and immoral and UK businesses should not use them has provided a starting point for the examination of these practices. Evidence of the illegal and immoral practices of some businesses, based on the accepted ethical and legal context, can be evidenced by the increased level of regulation to protect affected workers (CIPD 2018). However, there has not been a ban on these contracts and they remain in widespread use in certain industries which require changing levels of labour (ONS 2018; CIPD 2018). In this context, there has been and still is, the potential for zero-hour contracts to be both immoral and illegal if there is a lack of commitment by businesses to address abuses and inequality which may arise from these.

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