

# Finance and Resources Committee

10.00am, Thursday, 28 November 2013

## Zero Hours Contracts – Use by Council: Update Report

Item number 7.1  
Report number  
Wards

### Links

Coalition pledges  
Council outcomes [CO25, CO27](#)  
Single Outcome Agreement

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# Executive summary

## Zero Hours Contracts – Use by Council: Update Report

### Summary

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In response to a motion moved by Councillor Chapman and passed by Council on 26 September 2013, an investigation into the extent of the use of zero hours contracts by the Council and contractors used by the Council has commenced.

Two different types of zero hours contracts are described. One, not used by the Council, is designed to prevent workers acquiring employment rights and is the type widely criticised by the press, Government and other political parties. The other, typically used to provide short term supply staffing cover in schools and staffing cover in other Council services, is used by the Council, but is not of the type that seeks to restrict access to employment rights.

It has not yet been possible to undertake further investigation work into the use of zero hours contracts by contractors used by the Council, though the scale of the task is likely to be significant. It has also been determined that it would not be legally possible to compel such contractors to provide contractual information about their employees.

### Recommendations

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The Committee is recommended to note the content of the report.

### Measures of success

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Identification of the use and service area(s) of zero hours contracts by the Council and their contractors.

### Financial impact

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No impact.

### Equalities impact

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No impact.

### Sustainability impact

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No impact.

### Consultation and engagement

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- Employment Law and HR Policy Team
- Procurement Team.

**Background reading / external references**

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None.

## Zero Hours Contracts – Use by Council: Update Report

### 1. Background

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1.1 At the Council meeting of 26 September 2013 a motion moved by Councillor Chapman and passed by the Council instructed an investigation into the use of zero hours contracts by the Council and by Contractors used by the Council.

1.2 The motion is reproduced in full below:

9.3 By Councillor Chapman – Zero Hours Contracts  
“Council

- 1) Notes that zero-hours contracts, where people are employed with no guarantee of work, are used in all sectors in the city;
- 2) Believes these contracts are problematic as they offer employees no certainty of work, poor financial stability and security, and often have poorer conditions in relation to employee benefits such as sick and holiday pay;
- 3) Calls for a report for the next Finance and Budget committee detailing:
  - the use of zero-hours contracts in the Council
  - numbers and costs of such contracts
  - what services are delivered by staff on such contracts
  - implications and possibilities of ending the use of such contracts and replacing them with contracts that provide sustainable financial security and improved conditions for staff.”

### 2. Main report

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#### 2.1 General

2.1.1 A “zero hours contract” is a title for a range of contracts that are not defined in law. In practice they are defined by the way they operate i.e. they have zero hours.

2.1.2 There are two types of zero hours contract. These are set out in 2.2 and 2.3 below.

#### 2.2 Type 1

2.2.1 In one form of zero hours contract, the principal purpose of their use is primarily to prevent individuals from being designated as employees and therefore gaining employment benefits. In this case they are designated as “workers”. This means that the costs associated with employment are much lower. Their

relationship with their employer is one where there is no guarantee of work but the worker is expected to be available for work at any time, if offered. As workers they receive few, if any, employment benefits such as annual leave and sick pay.

2.2.2 Such contracts operate by retaining the workers on a continuous contract with zero hours and then contacting them on an ad hoc basis anticipating that they will be available to work at the times offered. As there is no need for additional documentation or administration for workers to commence work this is also a cost saving.

2.2.3 The form of zero hours contract described above has been widely criticised in the press and by the Government and other political parties.

2.2.4 The Council does not operate any such contracts.

### 2.3 Type 2

2.3.1 In another form, they operate where “supply” or “casual” contracts are needed. These are typically used by the Council to provide a wide range of cover for absence e.g. teachers, learning assistants, home carers and social workers or short term peaks of activity e.g. front of house staff in theatres, museum assistants.

2.3.2 Such contracts operate by retaining individuals on a list or register and then requesting them to work. When they do attend work they receive an employment contract for the period of work containing prescribed hours of work and an indication of the duration of the contractual period, become employees who receive contractual benefits e.g. service related annual leave, special leave and sickness allowances (if the employee is under contract long enough to meet the eligibility criterion of 26 weeks continuous service). Between the contractual work periods there are no hours of work therefore they could be termed “zero hours contracts”.

2.3.3 Without the use of such contracts for supply work, to cover unpredictable staff absences or to allow services to cope with seasonal fluctuations in staffing requirements or other short term peaks of activity, services would be faced with a choice of only offering permanent or fixed term contracts or being unable to provide appropriate cover for these largely unpredictable requirements.

2.3.4 The Council operates around 2,500 such contracts, however, the Committee is reminded that these contracts are not of the type that are widely criticised in the press and by the Government and other political parties.

### 2.4 Contractors

2.4.1 In order to establish the use of zero hours contracts by contractors to the Council, relevant contractors would require to be identified and contacted for this information.

2.4.2 The Council’s Contract Register would be the appropriate initial source for this information however the Register has not been comprehensively maintained by

Directorates over a period of time. Considerable work has been undertaken recently through the Commercial Excellence programme to establish complete, up to date and verified contract information and a refreshed register covering all service areas will be available shortly.

- 2.4.3 There are however a considerable number of contractors of various types and sizes used by the Council so the scale of the task would be significant. This would also include differentiating between the use of such contracts by contractors who provide services (staff) to, or on behalf of, the Council and their general use by contractors who provide goods, supplies etc.
- 2.4.4 In addition it may also be difficult to obtain the information sought as we cannot compel contractors to release it.
- 2.4.5 As a result it may not be possible to complete all of the actions required by the motion at item 3.

### 3. Recommendations

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- 3.1 The Committee is recommended to note the content of the report.

#### **Alastair Maclean**

Director of Corporate Governance

#### Links

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##### **Coalition pledges**

**Council outcomes** CO25 - The Council has efficient and effective services that deliver on objectives  
CO27 - The Council supports, invests in and develops our people

##### **Single Outcome Agreement**

##### **Appendices**