

SUBJECT:	ZERO HOUR CONTRACTS
MEETING:	FULL COUNCIL
DATE:	20th OCTOBER, 2016
DIVISION/WARDS AFFECTED:	ALL

1. PURPOSE:

To provide full council with an analysis of the current use of zero hour/ non guaranteed hour(NGH)/ casual contracts across the organisation, requested by full council on 22nd September

2. RECOMMENDATIONS:

Council consider the information provided

3. KEY ISSUES:

In September 2016, The Public Services Commission has provided principles and guidance to public bodies in Wales on the appropriate use of non-guaranteed hours arrangements in devolved public services in Wales. This guidance enables public service organisations and their recognised trade unions to work together to actively review and consider the arrangements they have in place now and those that will need to be developed for the future.

The guidance aims to support greater consistency and cohesion in the way flexible workforce arrangements are developed and considered within public services. The Commission, in accordance with its remit from Welsh Government, has worked with its primary reference point, the Workforce Partnership Council (WPC) and its four sector groups (Local Government, Health, Education and Devolved services) to respond to Welsh Ministers' request to develop this advice and guidance on the use of zero hours contracts.

The guidance outlines five key principles which are outlined in Appendix 1 and our adherence with those principles is also identified. Whilst we already comply with much of the guidance we are looking to address areas where we need further work specifically with regard to Principle 2 and the requirement to develop a Policy statement outlining which areas of the organisation's business will utilise such arrangements and for what purpose.

Services across the organisation look to minimise the use of non guaranteed/casual hour contracts to those areas where individuals are employed

on a casual basis. Individuals who are employed on a casual basis have no obligation to accept hours of work offered and generally this flexibility suits both the employer and the individual.

These posts are set up on the 'just in case' scenario e.g. bank workers, relief workers, midday supervisors - so that service areas and schools then have a 'pool' of people they can call on at short notice with the knowledge that the post and person are already on the system, so saving time for the business area/school with the 'start-up' processes (which can often take some time) and ensuring quick payment for the individual for what maybe a couple of hours work. Individuals who enter these arrangements, do so in the knowledge that the work offered is on this basis.

The council is committed to equality of opportunity and where issues are highlighted the council takes action to identify workable solutions to ensure fair contracts of employment for example work has been undertaken to review contractual arrangements in business areas such as leisure and homecare.

Leisure has the largest number of casual contracts, at 62, however the majority of these are Casual Leisure Assistants, who are often students and only want work, or are only able to provide work on this basis and the Play-schemes workers, which is a task and finish based offer of work.

In SCH In house there are very few non guaranteed hours contracts and these are only where there is a positive choice made by the person. Externally we contract with the care sector but we do not at present stipulate non use around zero contract hours. We are currently carrying out a change programme with the sector which will look at the terms and conditions for the future and we are keen to see improved terms and conditions including guaranteed hours as a standard feature

The list in appendix 2 shows that we currently have 318 employees with no contracted hours.

318 employees equates to 8.94% of the workforce but if you look at the figure this includes 67 Exam Invigilators and 35 Supply Teachers, so if these were removed the figures would be 216 or 6.07%. The list also includes a number of casual workers for whom it is mutually beneficial to the individual and the organisation to operate in this way.

Information provided by Newport City Council reflects a very similar position to our own and reflects the use of casual employees to meet the business needs of the organisation whilst also offering flexibility of employment to individuals.

4. REASONS:

To respond to council on the issue of zero hours contracts. To reassure council that the picture within the organisation is a hugely different picture to the scenarios we have seen reported on in the media recently. As a council we offer posts on a casual

basis with no mutuality of obligation. This flexibility enables the organisation to meet its business needs now and in the future.

5. RESOURCE IMPLICATIONS: N/A

6. Future Generations and Well –being Assessment.

Attached as appendix 3

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Principle

- 1. Where organisations need to introduce new non-guaranteed hours arrangements or consider changes to their current arrangements they will engage at the earliest opportunity with their recognised trade unions.**

In accordance with the 'Welsh Way' of social partnership, organisations will include their recognised trade unions in the planning of and implementation of any changes to the mechanisms for flexing their workforces. Even where no changes are planned, organisations will regularly review the appropriateness of their non-guaranteed hours arrangements with their trade unions, particularly as part of their joint working on workforce planning.

Guidance

Regular review of the appropriateness of the arrangements for organisations and staff

Organisations will build in regular reviews, both individually and collectively through the recognised trade unions on the appropriateness of the non-guaranteed hours arrangements in use in the organisation. This will include consideration of the service requirements, the organisation's needs, the needs of staff and the impact on the workforce as whole.

There will be active consideration as to whether the non-guaranteed hours arrangements remain appropriate. For example, when regular hours have been worked over the preceding three months and there is a continuing need and requirement for the hours to be worked on an ongoing basis, consideration will be given to whether it would be appropriate for the organisation to change the arrangements to something more permanent.

Organisations will establish a process where staff engaged on a non-guaranteed hours contractual arrangement can request a review of their working arrangements with a view to changing their contractual arrangement if they have been undertaking regular hours for example, 4 hours per week over a continuous period of 3 months. Details of the arrangements for requesting a contract review will be included in the recruitment arrangements and terms and conditions of engagement.

Changes to contractual arrangements following review

When the review above leads to a change in the contractual relationship a revised contract setting out the new arrangements will need to be issued. This will set out in a clear accessible language the revised relationship between the organisation and the individual.

Council Position:-

The council meets with TUs on a regular basis, at JAG and at our informal meetings, and this is a regular item for discussion.

Review – we monitor use of our NGH contracts and respond to any challenges. We would encourage our employees to do this either themselves or via their TU – and we have examples where this has taken place – with effective outcomes.

Process to enable an employee to request a review – needs to be established.

Contract changes – this requirement is met..

Principle

- 2. Organisations will make clear which non-guaranteed hours arrangements they use and for what purposes.**

Where organisations use non-guaranteed hours arrangements they will explain the purpose for their use and define the scope for when such arrangements will be used. It will not be appropriate for organisations to seek to deliver their core services solely through these types of arrangements. The organisations will have a clear understanding of the services that they are required to deliver and a broadly predictable workforce requirement. Good workforce planning can ensure that the balance between the use of the permanent and the use of the casual workforce is appropriate and reviewed regularly.

Guidance

Statement on the use of non-guaranteed hours arrangements

An organisation will in conjunction with their recognised trade unions develop a policy statement outlining which areas of the organisation's business will utilise such arrangements and for what purpose. The statement will make clear the procedure for reviewing those arrangements periodically.

Recruitment of new staff

Organisations will ensure that appointments to non-guaranteed hours arrangements will be based on merit through fair and open recruitment processes.

Arranging and planning work

It is expected that organisations will provide as much notice as possible when asking staff on non-guaranteed hours arrangements to undertake work. This may however on occasions reasonably be the day when the staff member is needed to attend work for example to cover a sickness absence. Where work is arranged at short notice, organisations will commit to letting people know as soon as practicable that work is on offer.

In other cases, the arrangements for arranging forward work rotas will be clearly defined and shared with all staff. There will be clear criteria on issues such as allocating work fairly and consistently between staff, and these arrangements will be reviewed periodically by senior staff to ensure fairness and equality for all staff engaged through these processes.

Staff will not be under any obligation to accept work offered to them and organisations will give appropriate consideration to their other responsibilities such as studies, child care or other caring responsibilities. Staff who do not accept work for whatever reason will not suffer a detriment as regards being offered work in the future.

Council Position

Core Services - Our core services are not solely delivered on this basis.

Policy Statement – we haven't got this as yet – but will look to do so

We already have a process whereby we advertise our vacancies – for NGH posts

Arranging & planning work – majority of our business areas use rotas and provide notice to staff in their planning arrangements.

Principle

- 3. Staff engaged through non-guaranteed hours arrangements will have access to appropriate induction, training and development support to enable them to undertake their roles effectively.**

Staff engaged in delivering public services require appropriate training and development to enable them to carry out their work effectively. This applies equally to staff engaged on non-guaranteed hours arrangements. Organisations will consider what induction and training arrangements are required for staff engaged on non-guaranteed hours arrangements.

Appropriate induction and training will be provided as soon as the staff are engaged, and reviewed and updated as and when required. Staff will be paid for undertaking any required induction and training relevant to the role being undertaken.

Guidance

Induction and ongoing training and development

Induction training will be provided to enable individuals to undertake their roles effectively. Where training and development opportunities are available for equivalent roles, organisations will provide similar opportunities to staff engaged on non-guaranteed hours arrangements if these are relevant to the roles being undertaken.

Any induction and training identified as being necessary for undertaking non-guaranteed hours roles will be paid.

Staff on non-guaranteed hours arrangements will be allocated a named “line manager”¹. There will be the opportunity to meet, discuss and record at least annually the key achievements and challenges experienced by the individual in fulfilling the duties allocated and set out any career aspirations they may have for the future.

Council Position

Our Induction Programme is for all.

CICO – whole purpose is so that no matter how many hours an employee works – they can have a meaningful conversation/discussion about what they do / how they perform and how we can support an individual in the workplace including training.

Principle

- 4. Organisations will ensure that they comply with employment law and collective bargaining agreements and provide their staff with the required rights, terms and benefits.**

Organisations have a duty to comply with legislation and collective bargaining agreements covering their staff. All staff engaged on non-guaranteed hours arrangements will have clear and accessible contracts which set out the terms for their engagement and what the relationship is between the organisation and its staff. Staff with a contract of employment (including non-guaranteed hours contracts) must be explicitly part of the collective bargaining arrangements. All staff will be encouraged to join the appropriate trade union in accordance with Workforce Partnership Council agreement – ‘Partnership and Managing Change’².

Guidance

Cancelling work at short notice

Organisations will agree with their recognised trade unions appropriate arrangements for compensating staff when work is cancelled by the organisation at short notice. This will include covering costs incurred by staff, for example caring costs and travel costs.

Pensions

Organisations are required to auto enrol all eligible staff into a qualifying pension arrangement. Organisations will agree with their recognised trade unions appropriate pension arrangements which will apply to staff on non-guaranteed hours arrangements and set these out clearly and transparently in recruitment information and terms of appointment.

Opportunities to seek permanent employment

Organisations will have clear procedures in place to enable staff engaged on non-guaranteed hours arrangements to be able to transition into permanent roles and/or apply for relevant permanent vacancies where such opportunities exist.

Council Position

Cancelling work at short notice – need to clarify with business areas to clarify this issue and ensure arrangements put in place

Pension – auto enrolment is in place

Permanent vacancies – we are an equal opportunities employer – and as such all our vacancies are advertised and open for all to apply.

Principle

5. Staff engaged through non-guaranteed hours arrangements will have terms and conditions of service broadly similar to those of their permanent staff.

Appropriate non-guaranteed hours arrangements will provide broadly similar terms and conditions of service to those afforded to permanent staff. Differences may be appropriate in respect of some issues i.e. a payment to recognise statutory annual leave entitlement where it is not expected that staff engaged on short-term work will be able to take leave during the period of work.

Guidance

Pay progression

Organisations are required by law to ensure their pay arrangements comply with equal pay legislation.

Leave and statutory holiday pay

Organisations will have clear policies enabling staff engaged on these types of arrangements to be able to take annual leave. Where it is not possible to arrange such entitlement to leave during the period of work, a payment will be made to reflect the individuals entitlement to statutory holiday pay at the end of the period of work or at the end of the individual's annual leave period.

Council Position

Terms & Conditions – applies to all employees. Holiday & sickness entitlements are calculated based on service in accordance with Green Book Terms and Conditions of Employment.

APPENDIX 2

Post Description	Count of Employee Number
Administrative Assistant	1
Assistant Sports Coach	2
Bar/Catering Assistant	1
Before School Club Assistant	1
Care Assistant	6
Casual Bar / Catering Staff	1
Casual Cashier/Receptionist/Bar Person	2
Casual Driver	1
Casual event assistant	1
Casual Leisure Assistant	24
Casual Seasonal P/T Assistant Warden	3
Casual Sport & Phys Activity Coordinator	1
Casual Sport & Physical Activity Leader	11
Catering and Visitor Assistant 600 hours	2
Catering Assistant	1
Cleaner - Casual - as and when required	4
Community Lettings Officer	1
Community Meals Provider	1
Cook	1
Cook / Supervisor	1
Curriculum/Resource Support Officer	1
Custodian	3
Design + Technology Art Technician	2
Disability Sports Mentor	1
Domestic	5
Exam Invigilator	67
Facilities Assistant	1
Fitness Instructor	3

HGV Driver (Caldicot)	1
Home Care Assistant	3
Individual Support Service Assistant	6
Kerbcraft Assistant	1
Kerbcraft Supervisor	1
Leisure Assistant	5
Leisure Tutor	1
Maintenance Assistant	1
Midday supervisor	16
Midday supervisor – Casual	1
Mini Bus Driver (Term Time only)	1
Mobile Hygeine Cleaning Operative	1
MY DAY ASSISTANT WORKER	3
My Day My Life Support Worker	3
Night Care Assistant	1
Outreach Tutor	1
P/T Custodian	2
PCV Driver	2
Principal Librarian	1
Registration Officer	3
Relief Catering Assistant - SHIRE HALL	1
Relief Chauffeur	2
Relief Community Meals Provider	1
Relief Custodian	2
Relief School Crossing Patroller (0 Hrs)	1
Relief TIC Receptionist 0 Hrs	1
Residential Services Officer	2
Residential Services Officer- Night Bank	1
Respite Opportunities Support Assistant	2
School Administrator	3
Seasonal Assistant Warden	1

Sessional Worker – YOT	8
Social Care Assessor	1
Supply Library and Information Assistant	2
Supply Library Assistant	1
Teaching Assistant	16
Outdoor Instructor	5
Adult Tutor	17
Swimming Instructor	13
SUPPLY TEACHER	35
Grand Total	318