

**WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY
BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT
ANSWER TO BE TABLED ON TUESDAY 14th MAY 2013**

Question

Has the Minister or his Department carried out research into the effect of zero hour contracts on the working population together with the effects they have, if any, on Income Support and other benefits they administer?

Answer

This subject was dealt with at some length in a series of written and oral questions in May 2012. Relevant extracts from the answers given at that time are set out below:

“Zero hours contracts are used to meet requirements for casual or irregular work where no particular number of hours or times of work are specified and there is no guarantee of work. They are useful when an employer needs a bank of ‘casual workers’ including recruitment agencies, bank nurses and supply teachers. In a zero hours contract, there should be no obligation on the part of the employer to offer work and no obligation on the worker to accept. Zero hours contracts may be used, for example, to cover ad hoc shifts, holidays, sickness and seasonal upturns in certain industries (particularly fulfilment, agriculture, hospitality and retail).

If an Income Support claimant is working sporadically under a zero hours contract, their Income Support claim will be reviewed frequently to ensure that the benefit amount is adjusted in line with actual earnings.

Depending on the number of hours actually worked, an Income Support claimant may also be required to undertake job-seeking activities in order to find more regular employment.

There are no specific problems identified with the administration of an Income Support claimant with a zero hours contracts per se. If an individual has earnings that fluctuate considerably from day to day or week to week, this will result in extra administration but this could be due to short-term temporary contracts, overtime, commission income and casual work or zero hours contracts.

Genuine zero hours contracts are necessary and appropriate, for both employers and employees.”

“The Employment Tribunal has indicated that the presence of a zero hours contract does not diminish an employee’s rights under the employment law if an employer-employee relationship has been established. ... (and) I believe that the current framework of employment legislation in Jersey provides a reasonable balance between the protection of the employee and the legitimate interests of the employer.

The States funds the Jersey Advisory and Conciliation Service, JACS, which provides independent advice and support to employees and employers. The Director of JACS has ... drawn attention both in the local media and as part of the 2011 annual report to the inappropriate use of zero hours and JACS warning that such use does not enable employers to avoid their legal obligations.”

“Since March 2011, the Jersey Advisory and Conciliation Service (JACS) has included the following advice on its website discouraging employers from inappropriately using zero hours contracts:

“We are concerned that some employers are using zero or variable hour contracts in circumstances that may not be appropriate and they may, therefore, be susceptible to successful Tribunal claims. Where we think problems do arise is when an employer uses zero hour contracts for work that is regular because the employer believes it protects them from claims of unfair dismissal, the need to give notice or, in future, from the obligation to make redundancy payments. The question arises as to whether an employer/employee relationship is created but, in our view, it is probable that a relationship does exist where a mutuality of obligation arises i.e. there is an expectation by the employer that the individual will be available for work and by the individual that work will be offered. In such circumstances we believe that such employees would be entitled to the same employment rights as 'permanent contract' employees. While it is for the Employment Tribunal to determine the facts in any such case, we caution employers to be careful that they use zero or variable hour contracts appropriately.””

In May 2012 I gave a commitment to keep this topic under review. I have not been made aware of any particular trends in the use of zero hours contracts in the local employment market during the last 12 months which would justify any additional work being undertaken in this area. I will however continue to keep the subject under review.