



Business, Energy and Industrial Strategy Committee – The future world of work and rights of workers inquiry – December 2016

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 20,000 members in train operating companies and freight companies as well as London Underground and light rail systems.
2. ASLEF is greatly concerned by the increased use of zero-hours contracts and casualised forms of work across both in the wider economy and on the rail network. The Office for National Statistics believes that the number of zero-hours contracts have increased by 20% from 2015 to 2016 to 903,000 and now constitute 2.9% of all working people's contracts. The Chartered Institute of Personnel and Development estimates that the genuine number is more than one million with one in five employers having at least one employee on a zero-hours contract.
3. ASLEF's concerns fall broadly into two categories. Firstly we believe that the casualisation of employment has been used by unscrupulous employers to exploit workers. Secondly believe that it creates genuine health and safety concerns which are potentially hazardous in safety critical industries such as the railway.
4. Zero-hours contracts are often used to give employers maximum flexibility. Unfortunately, it is this flexibility that can be hugely detrimental for workers. For example, workers can often be left in a position where they are not given enough hours of work in order to make ends meet and, invariably,

find that their financial commitments are far less flexible than their working arrangements.

5. We acknowledge that there are situations where flexibility is beneficial for both worker and employer but in the majority of cases zero-hours contracts are the only employment option offered to people who are out of work. Such workers are compelled to accept an arrangement where they have no guarantee of work or have a definite guarantee of no work. Employers such as Sports Direct and JD Wetherspoon employ the majority of their staff under these arrangements. Such outlets are one of the main sectors of work for young people which is the very demographic where unemployment rates remain highest. It also makes it extremely difficult for these workers to claim the in-work benefits to which they are entitled as their incomes can vary dramatically on a weekly basis.
6. ASLEF believes that a key problem across many casualised industries has been determining whether a person is just a “worker” or is, in fact, an “employee” with the additional rights that come with that. The term “worker” is simply not definitive enough and this lack of clarity causes considerable uncertainty over what rights someone has. In addition bogus self-employment, which is forced upon people who are genuine employees is another means of exploiting workers particularly in industries like construction.
7. ASLEF takes the view that zero-hours contracts only add to the ambiguities surrounding this area of employment law and lead to employers telling staff that they are in fact simply workers. The result of this is that such employees have no rights to maternity, paternity or adoption leave, no right to redundancy pay, no protection against unfair dismissal and no sick pay. We recognises that while there are circumstances where someone who has a zero-hours contract may actually be considered an employee, many employers will use the fact that there is no obligation to offer work to claim they just have worker status.

The government must do all it can to ensure that zero-hours contracts are not used as a way to deprive working people of employment rights to which they are entitled.

8. Within the railway industry, for example, there are many concerns over the use of zero hour contracts. They tend to be used by small freight operators and open access train operators. A number of the train operators in the UK do not have contracts that forbid drivers taking on second jobs. A consequence of this is that drivers will undertake the shift work in their primary job following which second jobs are undertaken on zero-hours contracts. ASLEF has been told by one employer that prohibits its train drivers having a second job that the reason for this contractual provision is because it would be nearly impossible to monitor rest periods and fatigue.
9. This is clearly an enormous problem which can result in an employee working excessive hours without their main employer knowing. In addition should they there be an incident such as a Signal Passed At Danger (SPAD) that information may not be shared. The fact that these contracts are zero-hours means that even the employee may not be able to completely organise his or her own working patterns as they may be required to work on days off at the last minute.
10. We acknowledge that the firms offering such contracts in the rail industry are usually less established and have less thorough health and safety practises than other operators. The union has also discovered that these companies are employing retired drivers. ASLEF has concerns over the potential consequences of using retired train drivers, particularly within a framework where there are less health and safety checks. We also recognise that long shifts and shorter rest periods tend to be prominent in such operators too, all of which factors can create the perfect storm for the unsafe operation of a train.

11. ASLEF believes that an increase in the casualisation of work in the rail industry will lead to industrial relations problems in the future. If small operators continue to operate and offer zero hours contracts with inferior terms and conditions and less regard for health and safety it will enable them to undercut many of the existing operators and could affect conditions across the industry. Any reductions in health and safety and working conditions for drivers would inevitably lead to a deterioration of industrial relations, something that neither ASLEF nor the operators in our industry would want.

12. It would therefore be greatly beneficial to the workforce, the economy and certainly the railway if the inappropriate use of casualised working and zero hours contracts is addressed as a matter of urgency. Those who are on zero-hours contracts must have the right to make those contracts permanent after a period of time. The government must also ensure it investigates cases of bogus self-employment and that employers who impose it on their workforce are given adequate penalties. We note that there are people for whom casualised employment is preferable but this is far outweighed by those who are exploited by such contracts. We must be vigilant in guarding against the creep of such practices into the rail industry given the importance of safety to the sector.

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