

# Zero hours contracts in social care

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## Summary

**This briefing draws on research undertaken for the Department of Health into problems in the recruitment and retention of the social care workforce for older adults in the period 2008–10 in England (Rubery et al., 2011).**

**Our findings revealed significant problems in recruiting and retaining sufficient care workers, particularly in domiciliary care where:**

- more than three in ten staff left every year, on average;
- nearly eight in ten providers had shortages of labour, seven out of every ten for weekend work.

**Our investigation involved talking to:**

- local authorities who commission care services;
- domiciliary care providers – now mainly private or voluntary sector companies – who employ the care workers;
- care workers who provide the services, most of whom are on zero hours contracts.

**The investigation covered 14 local authorities, 52 domiciliary care providers in these local authorities\* and 41 domiciliary care workers in eight domiciliary care providers from four local authority areas, chosen to represent diversity in labour market conditions and commissioning policy.**

*\* associated surveys of residential homes and local authority domiciliary care departments are not reported on here – see Rubery et al. (2011)*

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## Introduction

### The zero hours debate and social care

Zero hours contracts are being much debated in the press and by politicians, employers and trade unions. New figures put the number of people on zero hours contracts at around 1.4 million (ONS, 2014), the government is consulting on possible reforms (BIS, 2013) and zero hours regulation is set to be an issue in the 2015 election (BBC, 25.4.2014).

However, zero hours contracts are not a precise legal term and can be used for a multitude of different reasons and in different contexts. They are frequently used to:

- provide cover for holidays or absences;
- provide a labour pool – similar to a temporary work agency – for service activities that are intermittent or seasonal.

#### What is a zero hours contract?

Zero hours contracts can be said to occur when 'people agree to be available for work as and when required, but have no guaranteed hours or times of work' (ACAS 2012).

In contrast, in social care, zero hours contracts are being used as the normal or regular contract for care workers who provide domiciliary care for elderly people in their own home.

Why is this the case? It is certainly not because the need for homecare is expected to dry up at short notice. The main reason, we argue, is to enable paid work in home care to be organised into short and fragmented visits.

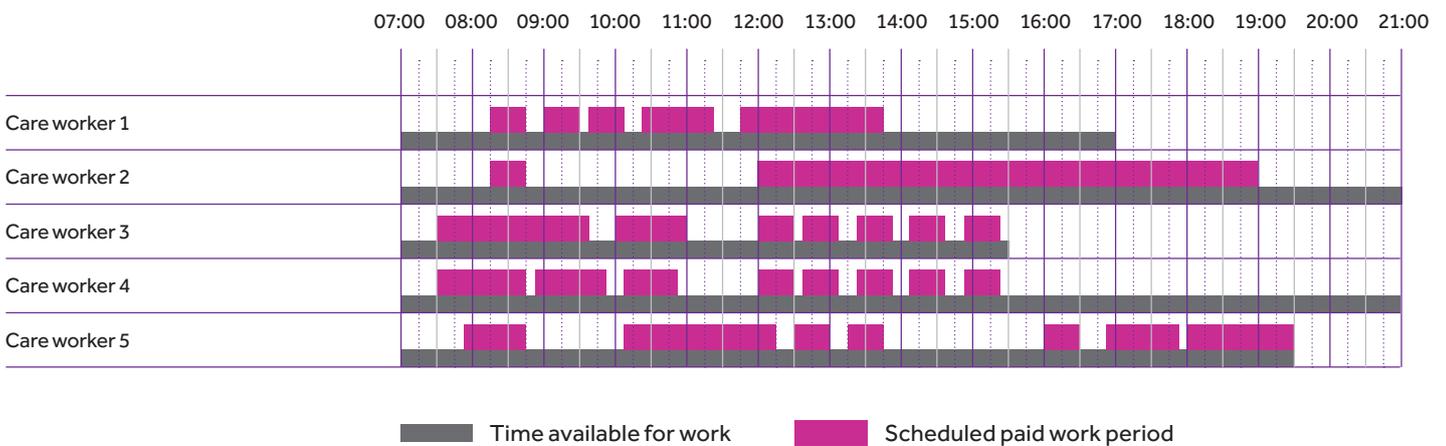
Instead of the normal organisation of jobs into continuous shifts of paid work hours, except for short unpaid rest periods, domiciliary care workers are only paid for their face-to-face care time.

Figure 1 shows some examples of a typical care worker's working day.

Blocks of paid time, that is the time spent inside people's houses delivering care, are interspersed by unpaid breaks. Some are used just to travel between clients; others may be longer but too short to be useful to the care workers – for example for shopping or domestic work at home.

Added together, these unpaid breaks often account for a substantial share of the time spent by the care worker from starting work to finishing work.

**Figure 1: Typical daily work schedules for care workers**



We call this kind of working arrangement a 'fragmented time contract'. This term captures the use of zero hours to divide the working day into paid and unpaid periods. This contrasts with the normal arrangements of continuous shifts of paid work.

## The research findings

Our research investigated three key questions.

### First, why are zero hours the normal contract used in social care?

Guaranteed hours contracts are the exception rather than the rule in domiciliary social care.

- Out of 52 private or voluntary sector providers, fewer than one in eight offered guaranteed hours as the normal contract.
- In contrast, nearly seven in ten providers only offered zero hours contracts and a further 17 per cent used a mixture of zero hours and guaranteed hours.

These zero hour workers were working significant numbers of hours on a regular basis often for many years. Average weekly working hours for domiciliary social care workers on zero hours contracts are 24 (Bessa et al., 2013).

The use of zero hours contracts to fragment the working day relate to three specific features of domiciliary care work:

- demand for care varies over the day, peaking in early morning, lunchtime and at night;
- local authorities only pay fees for actual face-to-face care time, not for travel time or when clients are temporarily hospitalised;
- social care is under great budgetary pressure and zero hours facilitates commissioning short visits, often no more than 15 minutes, and the removal of additional fees to cover travel time.

The outcome is that domiciliary care workers are only paid for the peaks of demand and bear the loss if their clients are temporarily hospitalised.

Zero hours contracts enable both providers and the local authorities to avoid paying for downtime between clients and often even the time taken to travel between clients.

Under National Minimum Wage Regulations, travel to and from the place of work does not count as working time, but time spent travelling between clients should be paid working time (HMRC, 2013).

Domiciliary care providers often did not pay for travel between clients. There is also ambiguity over whether care workers should be paid for travel time when they are starting work for the second or the third time in the day.

Current commissioning arrangements are the most important barrier to improving employment condition for care workers. Initiatives such as the ethical charter for social care commissioning promoted by the trade union UNISON (2013) are aimed at improving local authority practices.

However, our research also found that where local authorities improve fee levels or provide more security for providers, these benefits are not always passed on to the care workers.

- For £1 per hour extra in fees paid by local authorities, we found that care worker wages only increased on average by 19 pence per hour.
- The more generous fees were not used to provide any guarantees of hours or wages.

**Table 1. Indicators of non-payment for work-related activities**

| Percentage of private and voluntary sector domiciliary care providers who: |     |
|--|-----|
| Only offer zero hours contracts to all staff                               | 69% |
| Do not pay for time spent travelling                                       | 81% |
| Do not pay for breaks between clients                                      | 88% |
| Do not have a minimum work period  | 71% |
| Use electronic monitoring to pay only for face-to-face care time           | 29% |

Source:  
Rubery et al. 2011 (percentages relate to shares of 52 domiciliary care providers).

**Second, what are the implications of zero hours for how work is organised and rewarded in domiciliary social care?**

Zero hours contracts are part of what we have labelled a 'fragmented time system' of pay and work organisation. Table 1 uses our survey findings to demonstrate the tendency under fragmented time systems for time spent in work-related activities not to be remunerated.

Zero hours contracts, in contrast to expectations, often require care workers to be involved in work over a very high share of the week.

- Three out of five providers required all staff to regularly work weekends.
- Over a quarter of providers had some staff working seven days a week and an additional 52% had some staff working six days.

Care has to be delivered over all seven days but instead of shift arrangements, an individual employee might provide cover over a large share of the week. This was because an individual who needed a wage income close to that of a full-time employee of, for example, 35 hours a week would need to be involved in work for many more than 35 hours.

Sometimes this involved working six or more days a week, sometimes covering early morning, lunchtime, late afternoon and evening visits.

**Third, what is it like to be a zero hours, fragmented time care worker?**

Our research provided opportunities for the care workers themselves to describe their experiences of working under these arrangements.

Most of the care workers we interviewed said they derived high satisfaction from their work. Almost all felt they were underpaid for what they did but their strongest complaints related to aspects of the fragmented time system.

Four types of complaints were made.

**First, there was the tendency not to pay for work-related time including travel time.**

"I'd like to get paid from the time I start to the time I finish, instead of being paid just for the calls I do. For example, I was out for 5½ hours yesterday in the evening. But I only got 3½ hours pay."

Care worker, age 37, two years in post

**Second, there was the ever-present risk of losing pay, particularly if they lost clients due to illness or death.**

"I used to be working 32 hours a week, but it's changed now because we had a lot of clients that have passed away. I do about 20, 22 hours."

Care worker, age 18, eight months in post

**Third, there was the need to work extended hours to earn sufficient income.**

"It's long days. I mean I started at quarter to seven this morning and I won't be finished 'til quarter to eight tonight. I'm off in the afternoon and then I'm back on at three. If you've got kids you just couldn't do it. I work every hour they give me... I'm cream-crackered."

Care worker, age 43, five months in post

**Fourth, there was the constant pressure to take on new work even when they were on breaks as under zero hours no-one is on a continuous shift with responsibility to provide cover.**

"...they're always ringing you up asking you to do extras all the time, 'can you do this, can you do that, 'cos somebody's rang in, you see'."

Care worker, age 48, three years in post

## Conclusions

### What do these findings mean for social care and for the UK labour market?

These findings raise issues both of fairness for care workers and of the sustainability of the social care system in England. The main issues in relation to fairness of current arrangements include:

- the tendency for care workers not to be paid for all work-related time;
- the frequent requirement under zero hours contracts to spend time unproductively, neither paid nor available for their home activities, and thus contrary to any notion of flexible working for work-life balance.

These problems are even more severe when we consider the vital roles care workers play in providing security and care for vulnerable elderly citizens and keeping down health service costs by reducing time spent in hospitals or care homes. Insufficient recognition is also given to the challenging

nature of care work, requiring interpersonal skills, physical effort, responsibility for safety of vulnerable adults as well as intimate work with the body and bodily waste (see also [FairWRC research briefing number 1](#)).

Zero hours contracts are also jeopardising the domiciliary care service by making it difficult to recruit and retain a stable and high quality workforce. Even current staff who are generally satisfied with their work find the fragmented time system problematic.

Yet it is these staff who are likely to have the least difficulties in adjusting to these working time arrangements; many of them live locally and some may also want to be at home for periods during the day. But the local pool of potential care staff is often exhausted and the fragmented time and zero hours arrangements dramatically reduce the opportunity to recruit from a wider area and from people who require regular guaranteed income.

## Implications

### There are two main implications stemming from our research.

First, we need a different model of funding and organising domiciliary social care. So far, consideration of funding of social care has focused on the balance of contributions from the care recipient and the state (Dilnot Commission, 2011), but this debate assumes that there is a sustainable and fair system of work organisation and reward for the social care workforce.

### If that is not the case then the funding model needs to be further rethought.

Second, current debates on zero hours contracts need to be widened to address fragmented time systems. Some proposals currently under discussion would begin to reduce fragmentation, for example the Labour party's proposals to:

- guarantee some minimum hours after one year of regular work;
- provide compensation if shifts are cancelled at short notice (BBC, 25-4-2014).

But this needs to be set in a wider consideration of:

- what constitutes a reasonable minimum work period;
- what proportion of a working day it is reasonable to spend on unpaid breaks;
- how many times a day a worker should travel to and from work in unpaid time.

Yet remedying these problems is not straightforward due the complexities and ambiguities in the UK framework of employment contract regulation (Deakin and Morris, 2012).

**This suggests that comprehensive reform of employment regulation needs to be on the political agenda.**

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