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Dear George

Thank you for your email of 18 August to the Rt Hon Greg Clark MP, enclosing an example of correspondence you have received from a number of your constituents, about the employment practices at Sports Direct and their use of zero hours contracts. I am replying as this matter falls within my portfolio.

Both Government and independent research have shown that zero hours contracts have a place in today's labour market, allowing business to adapt to changes in their circumstances, supporting flexibility, as well as providing pathways to employment for young people, retired people or those with caring responsibilities. However, everyone deserves to be treated fairly at work and that is why in May 2015 Government banned the use of exclusivity clauses in zero hours contracts. Where an employer does not guarantee any hours, individuals must be able to work elsewhere. To support this, Government published guidance for employers last year on the gov.uk website. In this we have been clear that this type of contract should only be used when appropriate.


In this guidance, we also address the misperception that those on a zero hours contract do not have employment rights or have fewer rights than those on other types of contract. I would like to reassure your constituents that every worker in the UK, regardless of contract type, has employment rights. An employer cannot choose to use a certain type of contract to reduce the protections their staff have. Workers on a zero hours contract have the same day 1 rights (e.g. being paid the National Minimum Wage (NMW) or National Living Wage (NLW), paid annual leave, rest breaks), as any other worker and, where, there is a qualifying period for certain rights (for instance entitlement to maternity pay), they must meet this condition just as any permanent member of staff. In the case of agency workers, they have the rights associated with the 'worker' employment status on day 1, and after 12 weeks in the job will qualify for the same rights as someone employed directly. This is known as 'equal treatment'.

The recent work of the Business, Innovation and Skills Select Committee, on the employment practices at Sports Direct, has highlighted an important point that Government has been clear on for many years - that employers must take their employment law responsibilities seriously and cannot simply opt out of their responsibilities. Specifically, this Government is absolutely clear that anyone entitled to be paid the NMW and the NLW must receive it. The enforcement of the NMW and NLW is therefore essential and we are committed to cracking down on employers who break the law in this area in all sectors across the economy.

HMRC always investigates employers where they believe they are not paying the minimum wage, which includes following up every complaint received from a worker. Similarly, employment businesses that supply temporary workers to hirers have to comply with legislation in relation to workers' rights and conditions. The Employment Agency Standards Inspectorate is responsible for regulating the conduct of employment businesses and employment agencies. Again, I want to be clear that we investigate every relevant complaint made.

Your constituent writes that New Zealand has passed legislation to end the use of zero hours contracts. However, it is our understanding that New Zealand has not banned zero hours contracts. For further information see the New Zealand Government's information services on the internet.

We welcome your interest, and I hope your constituents can be assured we take these matters seriously and will be keeping this under review.

Best wishes


MARGOT JAMES MP

Parliamentary Under Secretary of State for Business, Energy & Industrial Strategy