

# Consultation Process on University of Limerick Study on the Prevalence of Zero Hours Contracts among Irish Employers and their impact on Employees

## Submission of Institutes of Technology Ireland

January 2016

### 1. Introduction

Institutes of Technology Ireland generally supports the views set out in the Department of Education's submission of December 2015.

Institutes of Technology Ireland notes that the key objectives of the study were to address the issue of the prevalence of zero hours contracts in the Irish economy and the manner of their use. It was not specifically requested to examine the issue of "If and When" contracts. Institutes of Technology Ireland believes that in respect of the higher education sector further study and consultation is needed to assess the regulatory impact on the sector of the recommendations in respect of "If and When" contracts contained in the University of Limerick study.

### 2. Findings

We note that the report found that "of the four sectors in the report, the education sector has the lowest level of constantly variable hours." It also found that "it also has the lowest proportion of employees regularly working 1-8 and 9-18 hours per week with the majority working 19-35 hours (52%)."

We would query the finding on page 82 of the Report where it is stated that there are a "growing number of people employed as HPALS in the IoT sector". We are not aware of any empirical evidence that supports this finding.

The reference on page 83 to "the move away from traditional full-time permanent posts towards fixed-term contracts (full-time and part-time) and contracts of indefinite duration" is confusing. Contracts of Indefinite Duration and traditional permanent posts in the IoT sector have the same legal entitlements. The difference is only in the method of acquiring one. A permanent post is awarded from the commencement of a contract, a contract of indefinite duration is achieved through the effluxion of time and a renewal of a fixed-term contract. Prior to the enactment of the Protection of Employees (Fixed-Term) Act, a fixed-term employees could not achieve permanency other than through a competition for a permanent post. Thanks to the legislation, the situation of fixed-term employees was improved. However, the study gives the impression that the opposite is the case.

The above points are meant to be illustrative and demonstrate that the focus of the study was on zero hours contracts with the references to “If and When” contracts being incidental to the original aims of the study. The study itself notes contradictions between various parties as to the exact situation on the ground in the education sector leading one to the conclusion that further examination is required before any recommendations are implemented.

### 3. Recommendations

IoTI’s concerns in relation to the recommendations relate to any consequences on the ability of Institutes to deliver on the Government’s priorities in respect of life-long learning and other higher education priorities as well as any effect on quality in higher education.

We believe that the recommendations as set out could have unintended consequences that would push up the cost of delivering higher education and/or reduce the quality of education provided to students. An illustrative example of the effects of Recommendations 4-8 are set out below:

Example: A part-time lecturer is employed to deliver an hour of lecturing in the evening to students in an expert field for which there is no specialist expertise available within the academic department or where the relevant expertise is not as specialised as the outside expert.

Under the current arrangements, that lecturer would be paid €63 for the hour of lecturing.

However, under the proposed recommendations, the Institute would have to pay for 3 continuous working hours (Recommendation 7) and where the notice is less than 72 hours at a premium rate of 150% (Recommendation 5). Consequently, the rate for that one hour of lecturing could rise from €63 to €283.50 upon implementation of the recommendations. A rate of €283.50 per hour of lecturing implies an annual salary of €178,605 based on the 630 maximum hours in an Assistant Lecturer’s contract. The Institute is then left in the position of choosing between much higher costs or lower quality of education.

There are a number of ways in which the recommendations could be amended which would ensure that the key objectives of protecting the lower-paid and reducing reliance on part-time working could be achieved without impacting in an unintended manner. These include:

- (1) Sectoral opt-out: The education sector could be excluded from the application of the legislation. In several other European countries, it is normal for employment legislation to be tailored to suit the needs of particular sectors
- (2) Low-paid only: The legislation could specify that the arrangements only apply to those employees on a low multiple of the minimum wage e.g. twice the minimum wage. This would ensure that the issue of low-paid variable hours employees is

adequately addressed while also ensuring that the unintended consequences set out above are avoided.

(3) Secondary employment: A significant proportion of those employed on “If and When” contracts in the IoT sector are employed on secondary or subsidiary employment i.e. their work for the Institute is not their main source of remuneration. Institutes use these lecturers because they are experts in their field or they are up-to-date with the latest innovations and changes in the workplace. As a result they make a very valuable contribution to technological education. Any implementation of the recommendations should therefore exclude those in secondary or subsidiary employment.

Obviously, any such amendments would require further consultation with interested parties.

In relation to Recommendation 8, where it is suggested that employer organisations and trade unions conclude sectoral collective agreements to develop regulations customised to their sector, it should be noted that such agreements are already in place in the sector, whether in circulars dating back to 2001 for the Part-Time Act, 2007 for the Fixed-Term Act or more recently the Haddington Road Agreement which provided for an expert group to examine part-time and fixed-term working in the sector. This exercise, which is still ongoing pre-dates the work of the University of Limerick study and includes representatives from both trade unions and employer organisations. The existence of these arrangements would support the arguments for a sectoral opt-out as set out above.

#### 4. Conclusions

For the reasons set out above, and as already outlined in the Department of Education Submission, IoTI cannot support the implementation of the recommendations in their current form as set out in the report. We believe that further work (in the form of a study directly of “if and When” contracts or more detailed consultation) is required to examine the implications of the recommendations in the higher education sector both in terms of the quality of education offered, the cost to the Exchequer in terms of increased pay costs and the risks to the Government’s higher education and lifelong learning policy objectives. Following that examination, recommendations appropriate to the sector or modified versions of the original recommendations may emerge.

IoTI is available to assist in any further work on this issue.