



**The Licensed Vintners Association**

**Submission**

**to the**

**Department of Jobs, Enterprise and Innovation**

**on the University of Limerick Study on the**

**Prevalence of Zero Hour Contracts**

**and**

**Low Hour Contracts in the Irish Economy**

**4<sup>th</sup> January 2016**

# Licensed Vintners Association (LVA)

## Introduction

The Licensed Vintners Association (LVA) is the representative organisation for the publicans of Dublin. We have some 600 members which account for 80% of the publicans in our Capital city. Collectively our members sell around 30% of the alcohol in the on-trade in Ireland and employ over 12,000 people. See [www.lva.ie](http://www.lva.ie) for more information.

## Background

The LVA does not believe zero hours contracts are in use in the Dublin licensed trade and indeed, have not heard the term in use. Equally we have not heard the term “low hours contracts” in the trade either. Staff contracts are generally characterised as full-time, part-time or casual.

Our industry requires the flexibility provided by part-time and casual staff, given the normal patterns of demand, characterised by peaks on Friday nights, Saturday nights and Sunday lunch / afternoon trade. Demand can also spike seasonally (summer & tourism, Christmas, public holiday weekends) and could be driven by local festivals, sporting events as well as major National events, especially sports, conferences and concerts. Food-led pub businesses also tend to be more labour-intensive and have different staffing requirements to traditional public houses.

It is also our view that the part-time and casual jobs available in the licensed trade are particularly valued by students, working mothers and some older staff who, for a variety of study, work, family and lifestyle commitments are not interested or available for full-time roles. In these circumstance there is a good match between the needs of the business and the needs of employees. Equally, such staff are vital to ensuring the competitiveness of the business when it could not justify full-time roles.

In addition it should be noted that there is considerable administration time and costs involved in managing such part-time and casual roles. There is also additional recruitment and training involved, especially where staff turn-over rates are higher.

It should also be noted that pubs are generally small, family-run businesses and do not have a dedicated HR manager within the business. Administration and bureaucracy around labour law is a significant burden to such businesses.

# LVA Perspective on the Report's Recommendations

1. **We recommend that the Terms of Employment Information Acts 1994 to 2012 be amended to require employers to provide the written statement on the terms and conditions of the employment on or by the first day of employees commencing their employment. This requirement should also apply to people working non-guaranteed hours on the date of first hire.**

We note that an employer currently has two months to provide a contract. Our view is that this period to provide a contract be reduced to four weeks from the date of commencing employment, thereby providing the employer some flexibility and ensuring the employee receives the contract in a timely fashion.

2. **We recommend that the Terms of Employment Information Acts 1994 to 2012 be amended to require employers to provide a statement of working hours which are a true reflection of the hours required of an employee. This requirement should also apply to people working non-guaranteed hours.**

We accept the view that employers should be required to provide a statement of working hours that is a true reflection of the hours required of an employee, once account is taken of the fact that unexpected and unforeseen events could have a direct impact, either positively or negatively, on the hours required of an employee.

3. **We recommend repealing Section 18 of the Organisation of Working Time Act 1997 and introducing either a new piece of legislation or a new section into the Organisation of Working Time Act 1997 to include the provisions in recommendations 4-8 below.**

4. **We recommend that legislation be enacted to provide that:**

Taking these two recommendations together, our views are as follows:

4. (i) **For employees with no guaranteed hours of work, the mean number of hours worked in the previous 6 months (from the date of first hire or from the date of enacting legislation) will be taken to be the minimum number of hours stipulated in the contract of employment.**

We oppose this recommendation as it takes no account of seasonality, of spikes or drops in demand because of local events and local conditions, and because of the potential cost and bureaucracy imposed on small businesses.

4. (ii) **For employees with a combination of minimum guaranteed hours and If and When hours, the mean number of hours worked in the previous 6 months (from the date of first hire or from the date of enacting legislation) will be taken to be the minimum number of hours stipulated in the contract of employment.**

We oppose this recommendation as it takes no account of seasonality, of spikes or drops in demand because of local events and local conditions, and because of the potential cost and bureaucracy imposed on small businesses.

- 4. (iii) A mechanism will be put in place whereby, after the minimum number of hours is established, employers and employees can periodically review the pattern of working hours so that the contract accurately reflects the reality of working hours.**

We agree with the principle that employers and employees should periodically review the pattern of working hours and this happens as a matter of routine in business. We oppose the proposal of enshrining this in legislation because of the additional formal bureaucracy required.

- 4. (iv) Where after 6 months an employee is provided with guaranteed minimum hours of work as per subsection (i) and (ii), but is contractually required to be available for additional hours, the employee should be compensated where they are not required by an employer in a week. The employee should be compensated for 25% of the additional hours for which they have to be available or for 15 hours, whichever is less.**

We oppose this recommendation because of the obvious implication for costs and competitiveness. Another obvious impact of this recommendation is that employers would not take the risk of contractually committing to additional hours, resulting in this legislation negatively impacting on those employees.

- 5. We recommend that an employer shall give notice of at least 72 hours to an employee (and those with non-guaranteed hours) of any request to undertake any hours of work, unless there are exceptional and unforeseeable circumstances. If the individual accepts working hours without the minimum notice, the employer will pay them 150% of the rate they would be paid for the period in question.**

We strongly oppose this recommendation as it takes absolutely no account of the commercial realities of running a licensed premises. One of the advantages of pubs from the consumers' perspective is that they are casual, informal businesses with no need to book well in advance. Accordingly, events, parties, groups can often arrive with no notice and the business must be in a position to respond quickly and effectively. By their very nature, funeral groups are usually not in a position to provide 72 hours' notice.

It simply would not be sustainable for pubs to pay 150% of the employees' normal rates where 72 hours' notice of work is not provided.

All well-run pubs will roster to meet normal and expected demand. The flexibility to deal with unexpected spikes in demand is critical and pubs cannot be expected to pay 150% of normal pay in this scenario where 72 hours' notice simply cannot be provided.

- 6. We recommend that an employer shall give notice of cancellation of working hours already agreed to employees (and those with non-guaranteed hours) of not less than 72 hours. Employees who do not receive the minimum notice shall be entitled to be paid their normal rate of pay for the period of employment scheduled.**

We oppose this recommendation on the grounds of preserving flexibility and minimizing costs for businesses. Pubs cannot afford to pay staff when there is no work available for them. The reality is

that if employee work is cancelled at such short notice, the event / business for which they were rostered to serve was itself cancelled. This would be outside the scope of the employer's control.

- 7. We recommend that there shall be a minimum period of 3 continuous working hours where an employee is required to report for work. Should the period be less than 3 hours, for any reason, the employee shall be entitled to 3 hours' remuneration at the normal rate of pay.**

We oppose this recommendation as there are many work occasions within pubs where staff work less than a minimum three hours e.g. cleaning staff rostered in the mornings for 1-2 hours, waiting staff working 1-2 hours over lunch etc. Customer demand does not come in minimum three hour blocks and accordingly, pubs cannot guarantee minimum three hours continuous work. It should also be noted that this many not suit employees either, usually because of family or child-care commitments.

- 8. We recommend that employer organisations and trade unions which conclude a sectoral collective agreement can opt out of the legislative provisions included in recommendations 4-7 above, and that they can develop regulations customised to their sector. Parties to a sectoral collective agreement should be substantially representative of the employers' and workers' class, type or group to which the agreement applies.**

The LVA does not intend to become party to sectoral agreements in the Dublin licensed trade because of the huge diversity across its membership, ranging from small, traditional bars, to large pubs, to food-led pubs, to late night bars, music venues etc. It is more efficient and productive for both staff and publicans to reach agreement at the individual business level, taking its own needs and characteristics into account.

- 9. When negotiating at sectoral level, we recommend that employer organisations and trade unions examine examples of good practice which can provide flexibility for employers and more stable working conditions for employees, such as annualised hours and banded hours agreements.**

See point 8 above. Agreements between owners and staff are best reached at individual business level in the Dublin licensed trade.

- 10. We recommend that the Government examine further the legal position of people on If and When contracts with a view to providing clarity on their employment status.**

We support this recommendation as it would clarify matters for both employers and employees.

- 11. We recommend that the Department of Social Protection put in place a system that provides for consultation with employer organisations, trade unions and NGOs, with a view to examining social welfare issues as they affect people on If and When contracts and low hours.**

We support this recommendation as so-called "welfare traps" are not in anyone's interest.

- 12. We recommend that the Government develop a policy for an accessible, regulated and high quality childcare system that takes into account the needs of people working If and When contracts and low hours.**

We support this recommendation as it is in the interests of both employers and employees.

- 13. We recommend that the Government establish an interdepartmental working group to allow for greater cooperation between government departments on policies which affect patterns of working hours.**

We support this recommendation as such cooperation should allow for more efficient functioning of the labour market.

- 14. We recommend that the Central Statistics Office have a rolling Quarterly National Household Survey Special Module on Non-Standard Employment which would include questions on non-guaranteed hours.**

We support this recommendation as such information is essential for effective labour market policy development.

- Ends -