

## **Review of Employment Practices in the Modern Economy**

Kent County Council attended the review meeting held at the Maidstone Studios on the 23 February 2017. We welcomed the opportunity to hear the evidence submitted and to participate in the conversation. The debate covered many of the points that we feel require consideration but we would also like to outline a few issues that we would like the review to take into account. We appreciate that there is a message board for each of the review areas but wanted to be able to present our thoughts to you as a whole rather than dissipated across each of the discussion threads.

Kent County Council appreciates the significant value a suitably engaged, motivated and trained workforce brings in terms of productivity and successful customer outcomes. The points below are intended to be considered within this context.

### **Security, pay and rights**

- **To what extent do emerging business practices put pressure on the trade-off between flexible labour and benefits such as higher pay or greater work availability, so that workers lose out on all dimensions?**
- **To what extent does the growth in non-standard forms of employment undermine the reach of policies like the National Living Wage, maternity and paternity rights, pensions auto-enrolment, sick pay, and holiday pay?**

The cost of employment is a real consideration for employers which can mean, in some sectors that are heavily reliant on people, you see a race to the bottom in terms of salary and terms of employment. This can lead to greater use of different ways of engaging people to work for them.

We have difficulties in recruiting and retaining social workers. A significant number choose to become locums receiving higher rates which offset them receiving other benefits. This can help them manage how much work they wish to do throughout the year but puts a cost burden on the Council as an employer. Given straitened budgets and the need for consistency we would prefer to employ in this market. It will be interesting to see if the changing emphasis on how people are taxed changes this.

Restricted budgets mean we have to be careful about how much we assign to the services we commission. The pressures that this can cause providers in terms of their margins can lead them to look to use a more flexible workforce. We would want their workers to be motivated, engaged and suitably rewarded for the work they do for our service users. Any changes that can support people working in a more fluid way would be most welcome.

We have audited our use of these contracts and while a number of employees chose to take hours that were offered a significant number stayed on the contracts. This was for a number of reasons but included the flexibility the contract afforded them and for some it was secondary employment which they could fit with their other contract and other responsibilities. People on these contracts with the Council are afforded equitable terms and conditions to the rest of the workforce. In relation to zero hours contracts the issue for us is not necessarily about whether people should have minimum hours, instead, the real issue is the use of exclusivity clauses. The Council does not believe that zero hours contracts have to equate with a poor employment relationship.

We believe that financial institutions have a significant role to play in supporting people employed in the gig economy (in the provision of loans, mortgages etc.). People with flexible contracts and fluid employment histories can often find access to the services financial companies provide difficult. We feel any support that can be given to open up these organisations to taking a more pragmatic view of people's employment status and history would be welcome.

Increasingly, the trade-off mentioned in the question, does not apply in terms of higher wages in place of other conditions of service, particularly when looking at how flexible employment practices are applied in lower paid sectors, e.g. retail, social care. Also, Kent County Council does not necessarily accept that the premise of the question has to be the case. The council has certain staff groups that it uses flexibly but they enjoy the same terms and conditions as the rest of the council's staff.

In the post-EU environment there may be supply side issues for certain roles and services/industries so we would encourage the government to consider how they can help make employing people as straightforward and flexible as possible. Also, finding ways to incentivise or encourage organisations to look more obliquely at how they resource their staff would help diversify organisations, be better for the economy and help the country make the most of its potential workforce.

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Currently agency workers have a number of protections under the Agency Worker Regulations. Could these type of principles be extended in some way to casual and flexible workers?

As discussed at the meeting the difference between how self-employed, workers and employees are treated in law and then in terms of taxation needs to be simplified and, not least, coherent.

IR35 rules (although we appreciate it closes loopholes), coupled with the previous point, can have the ability to undermine organisations' ability to resource flexibly. Could there be a change to the rules that if there is a requirement to place someone in a role the requirement to pay tax as an employee (if the test is met) could trigger after a certain length of time (12 weeks, 3 months or 6 months)?

In a gig economy, especially if people work across a number of employers, the ability to acquire employment rights is problematic. We welcome Matthew Taylor's suggestion of a scheme to support self-employed people access sick pay and holiday pay. We wonder if this, or something similar, could be used by or extended to other types of worker who work across organisations or projects who aren't self-employed due to the nature of and approach to the work they do and as such don't acquire certain rights.

### **Progression and training**

- **How can we facilitate and encourage professional development within the modern economy to the benefit of both employers and employees?**

Government could do more from a strategic workforce planning point of view to get sector led coherence in emerging skills and knowledge required for the future.

The role of career pathways and transferability of skills could be enhanced. Support for retraining of people for key roles and areas of skill shortage could also be more emphasised and significant. The difficulty is how employers are engaged in supporting it. Financial incentives for employers to support this agenda may work. However, any initiatives and requirements should be proportionate in terms of the size of organisations and/or their scope to support them.

### **The balance of rights and responsibilities**

- **Do current definitions of employment status need to be updated to reflect new forms of working created by emerging business models, such as on-demand platforms?**

Yes and simplified. The current tests need paring down and further consideration given to the relevance of component elements of the test to ensure they are valid and suitable for modern approaches to engaging people.

## **Representation**

- **Could we learn lessons from alternative forms of representation around the world?**

Yes but it's about the quality of the conversation not so much about the structures

## **Opportunities for under-represented groups**

- **How can we harness modern employment to create opportunities for groups currently underrepresented in the labour market (the elderly, those with disabilities or care responsibilities)?**

Need to look at what people can do rather than can't do.

Employers, including ourselves, still often look at whole jobs rather than tasks that need doing. If the reverse happened this could broaden opportunities for people. However, it may push some into working in situations where there are fewer rights than if they are directly employed and could be exploited.

Needs to work financially for employers and individuals

## **New business models**

- **How can government – nationally or locally – support a diverse ecology of business models enhancing the choices available to investors, consumers and workers?**

Having consistent transparency standards for all sectors could bring benefits in terms of contractors, employees etc. making informed decisions about who they are dealing with.

