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UPDATE

Zero hours contracts – the latest update from the Jersey Employment and Discrimination Tribunal

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The Jersey Employment and Discrimination Tribunal (the JEDT) recently considered the requirements that need to be present in order to form an employment contract and subsequently a zero hours contract. Further detail is set out within this update.

In *Mr J F C De Sousa v States Employment Board*, the JEDT stated that the English Courts had developed and introduced the concept of an 'irreducible minimum' of elements which must be present in a contract in order for a contract of service to exist. These basic principles are control, mutuality of obligation (the obligation to provide and accept work and/or pay) and personal performance. Therefore in order to specifically create a zero hours contract, it must be possible to demonstrate **a lack of** control, mutuality of obligation and personal performance. This represents a different approach to that previously advanced by the JEDT.

Prior to advertising for a role, employers should carefully consider what type of relationship they are intending to commence with the individual. Both parties should be clear at the outset whether it is intended for that person to be treated as an employee or as a zero hours worker to ensure the contractual documentation matches the intention between the parties.

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