

# **FLEXIBLE FORMS OF WORK**

## **POSITION PAPER OF THE INTERNATIONAL ORGANISATION OF EMPLOYERS**



**The Global Voice of Business**

*January 2014*

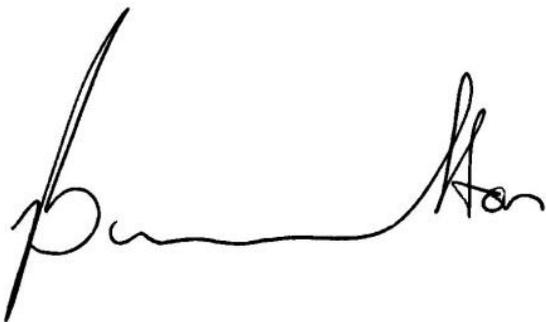
*Dear Members,*

*In response to increasingly strong opposition, especially by trade unions, to all forms of employment that are not eight hours a day / five days a week, the IOE has elaborated this position paper on flexible forms of work.*

*The paper aims to highlight the benefits of these flexible forms of work, not only for businesses - by enabling them to retain and create jobs whilst staying adaptable and competitive - but also for workers, especially the young, the unemployed, low-skilled workers, and workers with family responsibilities which make full-time work impractical, by giving them the chance to acquire work experience and new skills and by facilitating a better work-life balance*

*This position paper reflects the views of enterprises in current contexts and is certainly not definitive. We hope it will be of practical use to you in addressing these issues at national level.*

*We also invite feedback on your experiences and developments in your respective countries so that we can continue to strengthen our advice and information.*

A handwritten signature in black ink, appearing to read 'Brent H. Wilton', with a stylized flourish at the end.

**Brent H. Wilton**  
*Secretary-General*

# IOE POSITION PAPER ON FLEXIBLE FORMS OF WORK

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## *Executive Summary*

Flexible forms of employment such as fixed-term contract work, part-time work and temporary agency work are components of inclusive and dynamic labour markets, which are necessary and useful to complement open-ended full-time employment. They are important not only as elements of flexibility for employers, but also because they contribute to the improvement of the quality of working life and to the employability of people by facilitating a better work-life balance, by reinforcing the ability of workers to find new employment when existing jobs disappear and by increasing their opportunities to acquire professional experience. In particular, flexible forms of employment can help the most vulnerable groups, namely young people at the start of their careers, the long-term unemployed and low-skilled workers, to regain a foothold in the labour market by giving them the chance to acquire work experience and new skills. Flexible forms of employment are also key enablers for businesses to retain and create jobs whilst staying adaptable and competitive.

It is therefore misleading and counterproductive if trade unions and certain political groups misrepresent flexible forms of work as 'precarious'. According to ITUC, precarious work is characterised by atypical employment contracts, with limited or no social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages and high risks of occupational injury and disease<sup>1</sup>. Employers are concerned by the lack of clarity and usefulness of the definition of 'precarious work' and particularly by suggestions that flexible forms of employment are systematically precarious.

Precariousness, as defined by ITUC, prevails in the informal economy. Employers are strongly committed to fundamental principles and rights at work. They therefore believe that illegal employment and jobs which clearly do not respect these principles must be unreservedly discouraged.

The IOE has prepared this paper to express the position of employers on flexible forms of work. It highlights the distinction between flexible forms of work and 'precarious work' and draws attention to the importance of flexible forms of employment to workers, employers and the economy in general.

## ***Flexible forms of work are necessary components of dynamic and inclusive labour markets***

As indicated above, ITUC defines precarious work as atypical employment contracts, with limited or no social benefits and statutory entitlements, high degrees of job insecurity, low job tenure, low wages and high risks of occupational injury and disease.

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1 ITUC - World Day for Decent Work 2011 (<http://www.ituc-csi.org/unions-worldwide-mobilise-for>)

This definition is vague as terms such as ‘atypical’ are no longer useful in the context of modern labour markets and can be misleading<sup>2</sup>. It is worth recalling that Guy Ryder, ILO Director General, in his report to the 2012 International Labour Conference (ILC), properly stated that “the supposedly ‘atypical’ [employment] has become typical; the ‘standard’ has become the exception. Views are strongly divided as to whether and how this matters for the attainment of decent work for all and, if so, what if anything should be done about it”.

Furthermore, flexible forms of employment do not automatically imply this so-called precariousness, nor the absence of social benefits and statutory entitlements, low wages, high risks of occupational injury and disease.

For these reasons the IOE does not consider this concept of ‘precarious work’ as useful to properly channel further discussions on working conditions. In fact, this reference is not adapted to dynamic and inclusive labour markets, and is misleading.

For employers, the foundation for decent jobs includes:

- a. Compliance with national labour law and the effective enforcement of legal rights. This includes domestic laws which give effect to international treaty commitments.
- b. Respect for internationally recognised rights, including those reflected in the ILO’s 1998 Declaration on Fundamental Principles and Rights at Work.
- c. A legal framework that is conducive to the integration into the labour market of people with different needs and allows for companies’ flexibility requirements

Besides, in an increasingly dynamic labour market, being employable and advancing in career paths are much more important than focusing on the current employment situation. It is therefore essential to shift emphasis from the “job security” concept to the broader one of employment security, whereby everyone can smoothly and securely transition from one job to another, rather than drop out of the labour force.

To classify flexible forms of work as precarious risks hindering progress in identifying the root causes of poor working conditions. It is important to identify the issues linked to poor working conditions, such as those associated with the informal economy where measures must be taken to promote formalisation.

Employers are concerned with ensuring respect for fundamental principles and right at work and note that the lack of minimum working conditions largely prevail in undeclared and illegal work. However, debates on alleged ‘precarious work’ are too frequently linked to the types of labour contract, even though no direct correlation can be established. Flexible contracts do not automatically imply a lack of decent employment and working conditions.

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<sup>2</sup> See the report “Towards the ILO centenary: Realities, renewal and tripartite commitment” presented at the 102nd Session of the International Labour Conference, (paragraph 71)

## ***What are flexible forms of work?***

Flexible forms of work are not new; they are forms of employment that are in sync with the evolutions in society and workplaces and enable employers to continue hiring whilst remaining competitive in a changing environment, with changing employment preferences and needs. In general, they include temporary work, part-time work, agency work, and any other forms of employment that complement work practice that is systematically eight hours a day and five days a week.

According to the OECD, many workers choose flexible forms of employment such as part-time work, as they respond best to their needs. Therefore, policy and regulatory frameworks should support new working options as specific avenues to facilitate more employment for more people.

Flexible work approaches are important in retaining jobs during a crisis. The OECD has identified part-time work as a way to mobilise groups with traditionally low labour market participation, such as those caring for young children, individuals with health problems, persons with a disability and older workers. It can also be a stepping stone to other positions. There should not be further limitations to employment for these groups so as to prevent their long-term unemployment.

Persons who are unemployed need as wide and flexible a range of options to re-enter the labour market as soon as possible, including for example, Part-time, temporary and contract engagement and agency work. Employers need better options to offer employment without taking on significant legal and financial risk. They need active support to get back into the business of hiring.

Working time and task flexibility as well as cross-functions have also an important role to play. The introduction of such flexible forms of work is also important to help employees to improve balance between professional and private life.

The IOE acknowledges that in many countries flexible forms of employment involve trade-offs and challenges, mainly due to the interaction with the social protection system. This is an area that requires attention. Social protection systems that support both individuals in need and jobs growth should be built.

## ***Debunking the myths surrounding flexible forms of work***

### **Myth 1: Flexible forms of employment substitute traditional forms of employment**

Permanent staff members have not been systematically squeezed out and substituted by temporary workers. In Germany, between 2006 and 2012, an additional 2.1 million mainstream employment relationships (liable for social insurance contributions) were created which is nearly seven times more than the increase of flexible forms of work (317,000). The share of employees in a flexible work relationship decreased in the same timeframe from 25.5% to 24.6%. From June 2010 to June 2012 alone, the number of employment contracts subject to social insurance contributions increased by 1.2 million. As far as permanent staff is concerned, they have an important role to play in training and transferring knowledge to other employees.

In fact, flexible forms of employment complement rather than substitute the traditional form of employment. They offer job opportunities to those who would otherwise be unemployed and offer

employers the room to manoeuvre to ensure businesses continuity and resilience, especially at times of crisis.

In the first semester of 2009, 62% of newly employed temporary agency workers had either been out of work before taking on their job, or had never been employed before. In the USA, 80% of the jobs given to agency workers are to fill in for absent employees or temporary vacancies<sup>3</sup>.

### Myth 2: Flexible forms of employment reduce employment security and welfare of workers

Flexibility and security are not opposites; they are mutually supportive. This explains why flexicurity could be adopted in countries where budgets permit. Flexicurity is about “moving away from a job-preservation mind-set to a job-creation mind-set, helping workers to maximise their chances on the labour market and helping companies to face the challenge of global competition and the need to change.”<sup>4</sup>

Research shows that employment stability, measured by the duration of the tenure of a job with the same employer, does not necessarily equate to a perceived sense of security<sup>5</sup>. For example, the Netherlands and Denmark have low average job tenure, but the perception of employment security remains among the highest.

Flexible work improves the welfare of workers by reducing undeclared illegal work<sup>6</sup>. For example, following the introduction of legislation on agency work in Italy, a drop of 2% in the undeclared work market was registered between 2001 and 2004<sup>7</sup>.

In terms of quality, these so-called non-standard forms of work are not necessarily linked to fewer training opportunities. For example, private employment agencies invest in training workers to ensure that the right skills are created to better match workers with labour market requirements and improve their chances of employability.

Incomes of those employed under flexible contracts are not necessarily lower. In fact, the correlation between non-traditional forms of employment and lower rates of pay can be attributed to the fact that many workers employed under flexible contracts have low skills' levels. These workers would have been unemployed otherwise. It is therefore important to understand the nature of the causality. In addition, it should not be ignored that workers often ask for flexibility as it allows for better work-life balance.

### ***Why flexible forms of employment are important for all***

Having an enabling environment for employment, enterprise creation and entrepreneurship are fundamental to sustainable development, economic prosperity and social stability. Many factors contribute to developing an enabling environment for employment creation, and flexibility is one of the crucial underlying elements, especially in a macro environment transformed by crisis and demographic transition. It is important not to narrow avenues into work that are lawful, regulated and used successfully by employers and workers to create and find jobs in adverse labour market and operating circumstances.

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<sup>3</sup> Ciett Economic Report 2011

<sup>4</sup> De Buck, 2008

<sup>5</sup> ILO 2005, Protected mobility for employment and decent work

<sup>6</sup> Eurofound

<sup>7</sup> Ciett Economic Report 2011

## 1. Flexible forms of employment as stepping stones into the labour market, especially for groups vulnerable to unemployment

Flexible forms of employment act as stepping stones into full-time and/or permanent employment contracts especially for the most vulnerable groups on the labour market: the long-term unemployed, the low-qualified and those without any work experience. For these people, flexible forms of work are a means of overcoming precarious living conditions.

For example, in Germany, 22 % of all part-time workers employed in 2012 were either long-term unemployed or not active on the labour market (hidden labour force) at all before<sup>8</sup>.

In the UK, 92% of workers believed that agency work is an effective way to find a first job, and 90% agreed that it is effective in helping to find a full-time job<sup>9</sup>.

Flexible forms of work enable employment for groups with lower productivity and higher risks of unemployment, thus integrating unskilled people into the labour market and reducing the risk of hardening long-term unemployment.

Agency work gives “outsiders” a viable access to the labour market. Ethnic minorities, older people, the incapacitated and the long-term unemployed accounted for 31% of agency workers in the Netherlands in 2008<sup>10</sup>.

According to the OECD 2008 Employment Outlook, temporary work serves as a major entry mode into permanent jobs for many young people. In 2006 in the Czech Republic, over 70% of young people (aged 15 – 24) found temporary work, as they did not have the right qualifications for a permanent job.

According to research by the OECD with some European countries<sup>11</sup>, the probability of youth getting a permanent job one year after working at a temporary job is found to be higher than after being unemployed. This highlights the notion that it is employability and skills that make individuals more secure, not necessarily that jobs are more secure or insecure.

## 2. Flexibility as a necessity for business to remain competitive and sustain operations

To create and retain employment in the competitive economy today, enterprises need to be able to be dynamic in order to innovate and adapt in a responsible manner to constantly changing market needs. This means that enterprises need to be able to access flexible forms of employment.

Flexible forms of employment allow employers the flexibility to deal with fluctuations in product demand, prices and costs, enabling them to respond quickly and efficiently to adjust to demand fluctuations/spikes. It should be noted that usually all forms of flexibility related to working hours are exploited before agency work is called upon<sup>12</sup>.

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<sup>8</sup> IAB-Kurzbericht, 19/2013

<sup>9</sup> Joint study by BCG and Ciett, 2011.

<sup>10</sup> Ciett Economic Report, 2011

<sup>11</sup> OECD, 2005-06 data from the European Survey on Income and Living Conditions; the countries where data are available are UK, Ireland, Belgium, Luxembourg, France, Greece, Finland, Italy and Spain.

<sup>12</sup> Bellmann, 2012

As business confidence is still building up post-crisis, it is important for companies to be able to access temporary workers, often as a first experience before they become permanent employees. A flexible workforce is a key enabler in being responsive and successful in this environment<sup>13</sup>.

Besides, part-time and temporary work prevents massive retrenchment and allows employers to retain permanent staff and their skills. Since hiring and dismissal, as well as training costs, can sometimes be significant, it is important for employers to be able to retain their staff to accommodate the ups and downs of the business cycle and avoid the costs associated with the hiring, dismissal and training of new staff.

Flexible contracts may also be used in case of temporary absences of regular employees due to illness, holidays or child care leave. Temporary work is used to replace absence because of (longer and predictable) maternity leave, while agency work is usually replacing absence due to sick leave, which is less long but also less predictable<sup>14</sup>.

### 3. Flexible forms of employment promote employment creation and/or suppress growth of unemployment

Flexible forms of employment promote employment creation by allowing available work to translate into jobs. Hence, flexible forms of employment alleviate the burden of funding a large pool of unemployment benefits, allowing tax rates to remain low and competitive for workers and employers.

A high incidence of flexible employment has a large positive impact on labour market dynamics. For instance, in Spain, a rise of 1% in the share of temporary employment increased flows from unemployment to employment by 0.16%<sup>15</sup>.

A diversity of labour contracts to meet the needs of business enables enterprises to offer jobs that they would not otherwise be able to. A company that is not ready to hire someone on a permanent basis may be inclined not to hire at all due to restrictions, giving rise to a situation where work is there, but jobs are not created.

Furthermore, research results demonstrate that enterprises using a variety of labour contracts (including temporary and agency work) recruited more employees than those which did not use this type of contract. Average recruitment rate at enterprises with fixed-term labour contracts was equal to 8% in 2009 increasing to 19% in 2010, whereas it remained at the level of 13% in 2009-10 at enterprises using only traditional forms of employment. The number for recruiting employees was even higher at enterprises using agency work contracts. It was equal to 21% of the average number of employees in 2009 and increased to 23% in 2010. Enterprises using agency work contracts therefore increased employment by about one-fifth during the recent crisis and period immediately afterwards. It was almost twice as much as the recruiting value of enterprises using only open-ended contracts and 3-5 percentage points higher than at enterprises with fixed-term contracts.

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<sup>13</sup> CEEMET, *Flexible forms of employment*, February 2012

<sup>14</sup> Hagen and Boockmann, 2002

<sup>15</sup> Employment in Europe, 2010

While traditional labour contracts did not promote an employment increase in Russian enterprises, they kept employment at a fixed level due to the increase of employment flexibility for some categories of employees. The increased flexibility on the labour market resulted in the suppression of unemployment growth, which represents a positive contribution of non-traditional labour contracts to the economy.

Indeed, having a variety of contractual arrangements that complement the full-time, open-ended contract allow workers to remain in touch with the working world, and prevent them from losing their technical knowledge and general skills for work, while in turn ensuring their employability and enhancing their employment opportunities.

#### 4. Flexible forms of employment improve the efficiency and effectiveness of job matching

The variety of contractual labour arrangements will increase labour market participation and diversity at workplaces. Furthermore, flexible forms of employment, and agency work, facilitate efficient matching of needs and preferences.

Employment contracts need to evolve to continue meeting changing worker and employer needs and preferences so as to be able to continue tapping into the working population available in a society. People should not be obliged to conform to outdated social norms; instead, workers and employers need to have the space to organise working arrangements that suit the needs and preferences of both parties.

Diversity of contractual labour arrangements is key to addressing the increasingly diverse needs of both companies and individuals. Not all individuals are looking for a permanent, full-time job and an increasing proportion are willing to balance private and professional life through part-time work, such as working parents and older workers. If part-time work is not allowed, these workers will lose opportunities to work and employers will not be able to find a suitable candidate to fill part-time positions.

Temporary work also caters to employees who wish to try different companies and areas of activity, enhancing their professional skills set. This is particularly relevant for the young generation. It is necessary for workers as it offers the opportunities to experience different areas of work and ensures that their final chosen jobs fit their aspirations, preferences and personalities. This cements job matching and reduces turnover risks.

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