



**Irish Nurses and Midwives Organisation**  
Working Together

**INMO Submission to the  
Department of Enterprise Trade  
and Employment**

**Public Consultation on Section 4  
of the Adequate Minimum  
Wages Directive Regarding the  
Promotion of Collective  
Bargaining**

**Monday 12 May 2025**

## 1. Introduction

- 1.1 The INMO advocates for the full implementation of the EU Adequate Minimum Wage Directive, emphasising its commitment to strengthening collective bargaining across all sectors. In the healthcare sector, full transposition is crucial to ensuring fair and equitable working conditions for all workers, including those in private acute hospitals and nursing homes. Many of these workers, predominantly migrant nurses and midwives from non-EU countries, remain vulnerable to exploitative practices and are often denied the same rights to trade union representation as their public-sector counterparts. Collective bargaining would ensure they have a voice in addressing workplace concerns, promoting fair wages, better conditions and stronger protections.
- 1.2 The increasing privatisation of long-term residential care in Ireland, which the INMO strongly opposes, has resulted in 74% of beds being operated by private providers,<sup>1</sup> contributing to significant disparities in employment terms. According to the PWC report, *Challenges for Nursing Homes in the Provision of Older Person Care*, commissioned by Nursing Homes Ireland and published in May 2023, the nurse turnover rate in the private and voluntary nursing home sector was 38% in 2022, compared to just 11% in the HSE. The turnover rate for Healthcare Assistants (HCAs) was even more striking, 54% in private settings versus 10% in the HSE.<sup>2</sup>
- 1.3 The report highlights how high turnover rates and increased competition for staff have driven many nursing homes to rely heavily on costly agency workers to avoid staffing shortages. Agency costs accounted for 12% of total staff costs in 2022, up from just 3% in 2017. Furthermore, the competitive labour market has made overseas recruitment from countries like India and the Philippines a necessary annual expense, with recruitment costs per bed increasing by 59% between 2017 and 2022. Despite this heavy investment, the report notes a trend of overseas recruits moving to HSE roles after completing their initial one-

---

<sup>1</sup> ESRI Changes and challenges facing the Irish long-term residential care sector since COVID-19 9 January 2024

<sup>2</sup> PWC Challenges for Nursing Homes in the Provision of Older person Care May 2023.

year work visa,<sup>3</sup> drawn by better terms and conditions. The report explicitly states that disparities in “wages, benefits and pensions” between private and voluntary nursing homes and the publicly funded HSE is a “contributing factor to the high turnover rates”.<sup>4</sup>

- 1.4 Collective bargaining would be instrumental in addressing these imbalances by standardising employment terms, improving job security and reducing reliance on temporary staffing solutions. It would not only stabilise the workforce but also enhance the quality of care for Ireland's ageing population. To protect these gains, the legal safeguards for trade union representatives must be strengthened, mirroring the protections afforded to health and safety representatives. Crucially, collective bargaining should not be a privilege, but a fundamental right enshrined in all State contracts with private providers within the EU, ensuring dignity, fairness and sustainable working conditions for all healthcare workers.

**2. Do you have views in relation to training or other capacity building activities which would assist the social partners to engage in collective bargaining?**

- 2.1 The INMO has reviewed ICTU's submission “Promoting Collective Bargaining under the Adequate Minimum Wages Directive” and acknowledges the suggestions put forward in relation to capacity-building activities. The INMO supports these suggestions, particularly the following:

**Training**

- 2.2 To strengthen collective bargaining and social partner capacity in Ireland, the INMO supports targeted training as recommended by the LEEF High-Level Working Group.<sup>5</sup> The Group's Final Report emphasises the need for effective training to enhance negotiation skills and expand bargaining coverage, suggesting the use of the National Training Fund Act 2000 for financing.

---

<sup>3</sup> From 2 September 2024, permit holders can now change to another employer after 9 months have passed (previously 12 months) since they started their first employment.

<sup>4</sup> PWC Challenges for Nursing Homes in the Provision of Older person Care May 2023, page 34.

<sup>5</sup> Final Report of the LEEF High Level Working Group (October 2022), page 24.

### **Introduce a Statutory Right for Trade Unions to Access Workplaces**

- 2.3 The European Commission recognises that trade union access to workplaces supports collective bargaining, yet Ireland lacks a statutory right for unions to engage directly with workers. This limitation undermines recruitment and representation efforts, creating an imbalance that favours employers. In contrast, many EU countries guarantee workplace access for unions through law or agreement. To address this gap, Ireland should introduce legislation granting trade unions the right to access workplaces, including during employee induction, ensuring fair opportunities for engagement and strengthening collective bargaining.
- 2.4 In addition to securing access to workers, legislation should also guarantee appropriate workplace facilities. This includes providing union members and representatives with paid time off for training and meetings, along with adjusted workload targets to support their union activities effectively.

### **Reinstate Tax Relief for Trade Union Subscriptions**

- 2.5 To strengthen collective bargaining in line with the EU Adequate Minimum Wage Directive, tax relief for trade union subscriptions should be reinstated, restoring the support that existed from 2001 to 2011. Despite the vital role that unions like the INMO play in advocating for fair working conditions, this relief was removed in 2011, while business organisations such as IBEC and ISME continue to benefit from similar provisions. Reintroducing tax relief for union subscriptions would acknowledge the vital role of unions in protecting workers' rights and eliminate the discriminatory tax treatment between employer and employee representative organisations.

Additionally, to further promote collective bargaining under the Directive, tax relief for employer groups should be made conditional on their active support for collective bargaining, ensuring fair and balanced representation in the workplace.

### **Make Work Permits Conditional on Collective Agreements**

- 2.6 The 2018 Inter-Departmental Review of Economic Migration Policy highlighted the heightened vulnerability of migrant workers to exploitation.<sup>6</sup> To address this, work permits should be made conditional on collective agreements. This would be similar to the approach taken in the early years sector where the allocation of additional funding was conditional on employers agreeing an Employment Regulation Order (ERO) with trade unions.
- 2.7 This approach would be especially impactful in healthcare, where many non-EU migrant nurses come to Ireland under Critical Skills Employment Permits to work in private hospitals and nursing homes. However, mobility restrictions tied to these permits often leave migrant nurses vulnerable to exploitation. The INMO has dealt with numerous cases of mistreatment in private nursing homes linked to these constraints.
- 2.8 Making work permits contingent on collective agreements would ensure fair wages, improved working conditions and union representation for migrant healthcare workers. This measure would extend Ireland's tradition of supporting nurses and midwives to include vulnerable migrant workers in private nursing homes and hospitals, ensuring consistent standards across all healthcare settings.

### **Extend Conditionality for State Supports to Employers**

- 2.9 The principle of conditionality is acknowledged in the LEEF High-Level Working Group's Final Report, which suggests offering incentives to businesses participating in JLC mechanisms and withholding benefits from those outside regulated sectors. There is precedent in this regard, for example, the allocation of an additional €15 million in Budget 2025, specifically aimed at supporting employers with the costs of further increases to minimum wage rates, was made conditional on EROs being negotiated by the independent Early Years Services JLC. The European Commission highlights the strong performance of Irish businesses, supported extensively by state agencies like Enterprise

---

<sup>6</sup> Inter-Departmental Group (2018), Review of Economic Migration Policy, Principle 6.

Ireland. To encourage collective bargaining, it is proposed that firms engaging in such practices receive targeted state supports, like tax credits. Given the state's role in promoting collective bargaining under EU law, these incentives would make it more attractive for businesses to participate, enhancing sectoral compliance.

### **Include Public Procurement Measures in the Action Plan to Promote Collective Bargaining**

- 2.10 The European Commission recommends that Member States with less than 80% collective bargaining coverage, such as Ireland, should link public procurement contracts to collective bargaining practices as part of their national action plans. This would require companies bidding for public contracts to demonstrate compliance with collective agreements or commit to engaging in collective bargaining. It aims to ensure that “public money goes only to companies that respect workers’ and trade union rights, that negotiate with trade unions and whose workers are covered by collective agreements”.<sup>7</sup>

### **3. Do you have views in relation to the operation of Joint Labour Committees and how social partners can be incentivised to participate in them?**

- 3.1 Joint Labour Committees (JLCs), which lead to Employment Regulation Orders (EROs), primarily operate in low-paid, labour-intensive sectors, with low trade union density and little to no collective bargaining.<sup>8</sup> They have demonstrated effectiveness in sectors like Contract Cleaning and Security. To broaden their impact, the State should consider establishing additional JLCs in suitable sectors to protect vulnerable workers, as recommended in the LEEF High-Level Working Group's Final Report.<sup>9</sup>
- 3.2 To encourage employer participation, the proposed removal of the employer veto, as recommended in the Final Report, should be enacted without delay. Additionally, periodic training for participants and chairpersons would enhance

---

<sup>7</sup> ETUI, Promoting collective bargaining through public procurement

<https://www.etui.org/events/promoting-collective-bargaining-through-public-procurement>

<sup>8</sup> Michael Doherty, ‘New Morning? Irish Labour Law Post-Austerity’ (2016) 39(1) Dublin University Law Journal 51.

<sup>9</sup> Final Report of the LEEF High Level Working Group (October 2022).

their understanding and contribution to the process, strengthening JLC effectiveness.

**4. Do you have views on the proposal to have a Good Faith Engagement process at enterprise level which would involve a single mandatory meeting between an employer and a trade union?**

4.1 From the INMO's perspective, the proposal for a Good Faith Engagement process at the enterprise level, involving a single mandatory meeting between an employer and a trade union, is seen as a positive but limited step. While it represents a move towards employer-union dialogue, a single meeting is largely symbolic without a clear follow-up mechanism or legal obligation to act on the issues raised.

4.2 Without further negotiation rights, it risks becoming a mere box-ticking exercise, with employers potentially complying with the requirement without genuinely engaging with union concerns, especially if there are no consequences for inaction.

4.3 To truly reflect the Directive's objectives, what is needed is a mandatory process of structured engagement that provides both time and space for meaningful dialogue. This would create a realistic pathway towards collective bargaining and agreement, aligning with the Directive's clear intention to promote genuine worker representation and employer accountability.

**5. Do you have views in relation to how negotiations between social partners on wages could be promoted and facilitated?**

See answer to question 2 above.

**6. Do you have views on how the social partners could better access the information required to engage in negotiations**

6.1 For collective bargaining to be effective and balanced, trade unions must have equal access to economic and financial information as employers. Article 4(1)(b) of the EU Adequate Minimum Wage Directive requires Member States to support informed wage negotiations by providing relevant data to both

parties, aligning with ILO Convention 98 on the Right to Organise and Collective Bargaining.

- 6.2 The European Commission emphasises that social partners should have access to macroeconomic data, including sector-level productivity, to facilitate meaningful wage discussions.
- 6.3 In Ireland, trade unions currently face barriers when accessing company accounts through the Companies Registration Office (CRO), which is often delayed and fee-based. To promote transparency and fair negotiation, company filings should be made freely accessible to trade unions.
- 6.4 International best practices, as highlighted by the ILO, demonstrate that legislating mandatory information sharing can enhance bargaining power and equity. Ireland should consider adopting similar measures to strengthen collective bargaining outcomes.

## **7. Are Ireland's Protections Adequate to Prevent Unfair Dismissal of Trade Union Members and Representatives?**

- 7.1 Ireland's legislative protections for trade union activity are currently inadequate. Under the Unfair Dismissals Acts 1977–2015, protection against dismissal for union involvement is largely restricted to activities outside of working hours. Engaging in union activities during work hours requires employer consent, leaving workers exposed to dismissal if permission is not granted.
- 7.2 Compensation for unfair dismissal related to union activity is also insufficient, capped at two years' pay, or as little as four weeks' pay if no financial loss is demonstrated. These penalties fail to act as meaningful deterrents.
- 7.3 To effectively safeguard the right to collective bargaining, legislative reform is needed to guarantee the right to participate in union activities during working hours and introduce stronger penalties for anti-union dismissals, ensuring compensation is substantial enough to deter employer misconduct.
- 7.4 Furthermore, legislative measures to protect workers and trade union representatives from discrimination for participating in collective bargaining should consider key decisions from the ILO's Committee on Freedom of

Association, as outlined in its latest Compilation of Decisions. Notably, paragraph 1106 emphasises that legislation fails to provide adequate protection against anti-union discrimination where employers can in practice dismiss workers for union membership or activities simply by paying the compensation prescribed by law for cases of unjustified dismissal.<sup>10</sup>

7.5 Ultimately, workers should be protected from discrimination arising from their participation in collective bargaining at any stage of employment, not merely in connection with decisions related to dismissal. Please refer to Section 8.1 below.

## **8. Are Ireland's Protections Adequate to Prevent Discrimination Against Trade Union Members and Representatives?**

8.1 Ireland currently lacks legislative protection against discrimination for participating in or seeking to participate in collective bargaining. To address this gap, the Employment Equality Acts 1998–2015 should be amended to include trade union membership and activities as protected grounds. This would make any adverse treatment, including dismissal, linked to union involvement discriminatory and therefore unlawful.

8.2 The 2024 study *Trade Union Access to Workers* by Dr. Michelle O'Sullivan and Dr. Caroline Murphy<sup>11</sup> reveals widespread employer tactics to suppress union activity, including victimisation, union avoidance strategies and intimidation. They also noted that non-native English speaking migrant workers being particularly vulnerable.<sup>12</sup> These findings highlight the urgent need for stronger legal safeguards to prevent anti-union discrimination and protect the right to collective representation.

8.3 Enhanced legislative measures would not only protect union members but also ensure Ireland's compliance with Article 4(1)(c) of the EU Adequate Minimum

---

<sup>10</sup> ILO Compilation of decisions of the Committee on Freedom of Association  
[https://normlex.ilo.org/dyn/nrmlx\\_en/f?p=NORMLEXPUB:70002:0::NO::P70002\\_HIER\\_ELEMENT\\_ID%2CP70002\\_HIER\\_LEVEL:3947040%2C3](https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:70002:0::NO::P70002_HIER_ELEMENT_ID%2CP70002_HIER_LEVEL:3947040%2C3)

<sup>11</sup> O'Sullivan and Murphy, (July 2024), *Trade Union Access to Workers – Barriers faced by representatives in Ireland within a comparative European context*.

<sup>12</sup> O'Sullivan and Murphy (July 2024), *Trade Union Access to Workers – Barriers faced by representatives in Ireland within a comparative European context* p.14.

Wage Directive, which mandates Member States to uphold the right to collective bargaining and prevent discrimination against trade union members and representatives.

**9. Are Workers in Ireland sufficiently protected from discrimination when organising or joining a trade union?**

9.1 Current legal protections in Ireland are inadequate to fully safeguard workers who wish to organise or join a trade union. Legislative reform is needed to address these gaps, including stronger statutory protections against discrimination for union membership and organising, enforceable under the Employment Equality Acts 1998–2015. Additionally, guaranteed workplace access for union representatives is necessary to enable effective communication and support for union members. Enhanced penalties for employers who engage in union suppression tactics are also crucial to deter anti-union activities and uphold workers' rights.

9.2 These measures are essential to comply with Article 4(1)(c) of the EU Directive on Adequate Minimum Wages. Strengthening these legal protections would create a fairer and more secure environment for workers seeking to exercise their right to organise.

**10. Do you have views as to whether employers are sufficiently protected in Irish legislation against acts of interference where they wish to participate in collective bargaining?**

10.1 From a trade union perspective, the issue of employer protection against acts of interference in collective bargaining is not a significant concern. Employers have well-established rights to form and participate in employer organisations without obstruction, and the INMO is not aware of any evidence of unions interfering with their bargaining activities.

10.2 In practice, the main barrier to collective bargaining is often employer reluctance, with many actively discouraging union membership and obstructing negotiations. The 2024 study *Trade Union Access to Workers* by Dr. Michelle O'Sullivan and Dr. Caroline Murphy highlights widespread employer strategies,

including victimisation, intimidation and the creation of non-union representation bodies to undermine union influence.

- 10.3 The INMO has no objection in principle to legislative protections for employers, provided employer organisations can present evidence of interference and demonstrate the need for such measures. However, the real priority should be on strengthening union access to workplaces and addressing anti-union discrimination, which would more effectively promote collective bargaining.

**11. Should trade unions Have a statutory right of access to workplaces to promote collective bargaining?**

- 11.1 Effective trade union organisation and the promotion of collective bargaining rely on access to the workplace. One of the core objectives of the Directive on Adequate Minimum Wages is to expand collective bargaining coverage, and statutory access for trade unions is essential to achieving this goal.
- 11.2 Currently, trade union representatives in Ireland do not have an automatic right to enter workplaces to meet with members or engage with non-unionised workers. This lack of access severely limits their ability to organise, inform workers of their rights, and advocate for collective bargaining, particularly in sectors with low union membership and strong employer resistance. In contrast, many EU countries grant unions a statutory right of access or at least allow it through formal agreements, ensuring fair representation and the promotion of workers' rights.
- 11.3 To address this imbalance, legislative reform is necessary to guarantee union access to workplaces. This would enable representatives to engage with workers on-site, discuss working conditions, and promote collective bargaining without requiring employer consent. A statutory framework should include safeguards to respect business operations while protecting workers' right to representation.
- 11.4 Such reform would bring Ireland in line with European best practices and ensure compliance with Article 4(1)(c) of the Directive, which mandates protection of the right to collective bargaining. The INMO strongly supports the

introduction of statutory rights for trade union access to workplaces as a critical step toward fair and equitable labour relations.

**12. Do you have views on what measures could be introduced which would promote employer engagement in collective bargaining?**

See answer to question 2 above.