



Promoting Collective Bargaining

Submission to Department of Enterprise, Trade and
Employment Public Consultation

12 May 2025

General Secretary: Lorraine O'Brien
O'Lehane House, 7 Cavendish Row,
Dublin 1, Ireland

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1. Background to Mandate Trade Union

Mandate Trade Union represents 20,000 workers in the retail and bar trades in Ireland and was formed in 1994 out of the merger of IDATU and INUVGATA.

Mandate and its predecessor unions have a proud record of campaigning for improved terms and conditions for its members as well as for progressive change in wider society including:

- Dunnes Stores' Strike 1984-1985 which led to the then Government banning the importing of goods from Apartheid South Africa;
- Introduction of Smoke-Free Workplaces in 2004 in which Mandate played a leading role;
- 2018 Employment (Miscellaneous Provisions) Act which provided improved contracts and more certainty over working hours for workers in Ireland.

This ethos of bringing about progressive change for our members and wider society is what informs this submission to the Department Enterprise, Trade and Employment on the issue of promoting collective bargaining.

2. Submission Context

2.1 Adequate Minimum Wages Directive

In 2022, the European Union (EU) adopted the Adequate Minimum Wages Directive which sets out a framework to ensure that minimum wages are adequate and to promote collective bargaining across the EU. The rationale for the focus on collective bargaining is that having an effective bargaining process in place is critical to raising income levels for lower paid workers which will help to:

- Tackle the wealth inequality that has become so apparent in the EU and Ireland;
- Stimulate domestic demand and reduce Europe and Ireland's strong dependence on exports – a key issue in this era of huge uncertainty over world trade.

It is the Directive's requirement on Member States where collective bargaining coverage is below 80% – in Ireland it is 34% – to develop a national action plan on collective bargaining that provides the backdrop to the Department's consultation exercise.

2.2 Societal Benefits

While the Directive's focus is on collective bargaining as an instrument for socio-economic redistribution and economic stimulus, there are other important societal benefits that the Department and wider Government need to be cognisant of in their deliberations about next steps on this issue.

The recent TASC report

<https://www.tasc.ie/assets/files/pdf/17460079031614298611.pdf> – *The EU Minimum Wage Directive and the Battle for Social Europe* – shows that unionisation not only improves wages and working conditions but also fosters political engagement and democratic participation – especially amongst younger union members.

The report also refers to research which shows that the corollary to this point is that:

'The decline in union density and the dilution of the collective bargaining effect is likely to increase the drift towards populist and authoritarian forms of government'.

At a time of rising far-right activity in Ireland – focusing especially on young male workers – the role of unions in deepening commitment to democracy should not be overlooked.

2.3 Changing Nature of Employment

One of the big trends over the last 30 years has been the increasingly casualised nature of the workforce in the retail and hospitality trades in which Mandate organises workers.

This change really took hold not long after union's foundation in 1994 with the introduction of widescale Sunday trading and much longer opening hours in pubs and in retail. To manage these new conditions, employers sought to do away with premiums for Sunday and bank holiday working as well as for late night or early morning opening. In addition, they sought to put more and more staff on short-term contracts with part-time hours.

Much of this experience was captured by Dr Conor McCabe in his 2023 report for Mandate, *Smoke and Mirrors: The Facts about Retail Workers' Incomes in Ireland* (https://mandate.ie/app/uploads/2023/02/15952_smokemirrors_report_interior.pdf). Some of the key points relevant to the discussion on collective bargaining are as follows:

- The average gross weekly wage in retail is €484 across all grades including management;
- In terms of working hours, the average working week is 27 hours – the fifth lowest across all employment sectors.

Low wages and low working hours clearly predominate these sectors.

More in depth research amongst Mandate members set out in Dr McCabe's report shows that:

- Just one fifth (21%) of Mandate members were earning more than the weekly Living Wage;
- Nearly two-thirds were earning below €451 per week and this is due mainly to the relatively low number of working hours available to retail workers (with the CSO showing that such staff work 72% of the average national working week).

2.4 Impact of Changing Work Patterns

These trends in the nature of retail and hospitality sector work have not been welcomed by older full-time staff many of whom have family and caring responsibilities. As a result, many of this cohort have drifted away from the retail and bar trades or have retired leaving us with a largely transient population of workers most of whom are young students.

The other key trend has been the impact of technology on retail and the move away from traditional 'bricks and mortar' retail – a trend which has been accelerated since the COVID pandemic. We now have online shopping as well as click and collect options

for customers. In store, we have self-scanning, self-checkouts and now robots are doing stock counts and ordering and soon they'll be stacking shelves. Automation will clearly lead to a significant reduction in retail head count.

So, over the 31 years of Mandate's existence we've seen employment in retail and hospitality go from being largely full-time with many workers staying with the same employer for their whole working lives to one that is now overwhelmingly part-time and short-term.

2.5 Shifting Employer Behaviour

Alongside the changing nature of employment in the retail and bar trades has been a significant shift in behaviour by employers in the retail and bar trades – some of whom would have previously had a record of engaging with the union – towards utilising union-busting tactics.

The tactics used range from the subtle to not-so-subtle:

- Refusing to allow union representatives into a workplace to talk to workers for organising or representational purposes even to the extent of evicting them from premises;
- Not allowing union literature or notices to be placed in canteens or distributed in workplaces;
- Forcing grievance or disciplinary hearings to be held online so that there is no direct contact with union representatives;
- Refusing to engage with union claims for improved pay and conditions on behalf of workers and unilaterally making decisions on these matters;
- Insisting that union members must forfeit their democratic right to vote on issues – which is at the heart of trade unionism – by refusing to engage with unions unless they agree to putting in place binding arbitration procedures;
- Harassing and intimidating workplace representatives forcing them to leave the employment or cease union activity.

These increasingly common patterns of behaviour by employers in the retail and bar trades have had a significant negative impact on the number of workers in these sectors covered by collective agreements.

2.6 Collective Bargaining Coverage

The most recent estimate for employment in Irish retail and hospitality trades is contained in the CSO's 2022 report Ireland's Retail Economy (<https://www.cso.ie/en/releasesandpublications/ep/p-ire/irelandsretailleconomy2022/keyfindings/>). That report states that total employment in these sectors stood at 485,300 in 2022 – 373,200 in retail and 112,100 in hospitality.

While Mandate is the dominant union in the retail and the bar trades, SIPTU also organises in retail and the hotel sector. The combined union memberships in these sectors would be less than 30,000 workers so that would mean that collective bargaining coverage here would be around 6.2% – well short of the 80% threshold contained in the Average Minimum Wage Directive.

Under the terms of the Directive, Ireland needs to prepare an Action Plan to address this state of affairs.

3. Recommendations for Action

The Irish Congress of Trade Unions has issued a detailed submission on behalf of the whole trade union movement to the Department setting out its analysis of the challenges facing collective bargaining in Ireland recommendations for action. As a member of Congress, we share their views on what needs to be done in Ireland for the 80% threshold of coverage for collective bargaining to be achieved with a particular emphasis on:

- Putting in place a system of adequate State support for collective bargaining;
- Sectoral collective bargaining as the predominant level of collective bargaining.

In more detail Mandate recommends that the following steps be taken to tackle the issues that have led to falling collective bargaining coverage and help Ireland move towards the 80% collective bargaining threshold:

- Implement the recommendation from the Final Report of the LEEF High Level Working Group to de facto abolish the employers' veto on unions organising without any further delay.
- Introduce a right for trade unions to access workplaces and workers and the provision of appropriate facilities for trade union activity at work.
- Consider introducing a solidarity contribution from non-members benefiting from a collective agreement, designed in such a way as to incentivise membership, and a union-default pilot.
- Uphold the right of trade union members to take collective action to defend their interests, including strike action.
- Extend conditionality for state supports to employers to incentive and promote collective bargaining by employers and employers' organisations.
- Include measures on public procurement in the action plan to promote collective bargaining.
- Make work permits conditional on sectoral collective agreements.
- Provide appropriate resources for the WRC's conciliation service.
- Adopt appropriate legislation to protect the exercise of the right to collective bargaining and to protect workers and trade union representatives from discrimination in respect of their employment for taking part or wishing to take part in collective bargaining.
- Adopt appropriate legislation to protect trade unions from interference by employers.
- Adopt legislation to protect trade union representatives from victimisation in accordance with Article 12 and that enables unions to take class and collective actions on behalf of workers in cases of infringements of minimum wage rights.

- Adopt legislation that provides for effective, proportionate and dissuasive penalties for breaches of minimum wage protection.