

Collective bargaining consultation opened as part of 'High-Level' review

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The Department of Enterprise has opened a public consultation on collective bargaining as part of the ongoing 'High Level' review of industrial relations in Ireland.

The High-Level Group on Collective Bargaining, formed last year under the auspices of the Labour Employer Economic Forum (LEEF), is soon expected to deliver to the Tánaiste its first report on collective bargaining and the industrial relations landscape in Ireland.

As the group's work nears completion, the Department has opened a public consultation, on the three key aspects identified for reform by the Group last year: the operation of Joint Labour Committees; the use of technical assessors to assist dispute resolution pursuant to Part 3 of the Industrial Relations (Amendment) Act 2015; and how 'good faith engagement' could be increased at enterprise level.

While the three areas of reform have been known for some time, the questions DETE are asking in the consultation provide further insight into what is being considered, such as whether there should or should not be a legal underpinning for 'good faith engagement' at enterprise level.

The Group, independently chaired by Professor Michael Doherty, will consider public submissions in the context of finalising its recommendations on any policy or legislative reform in these areas.

The consultation is open until June 16. Submission forms can be found on the consultations sections on gov.ie. The email address to send submissions to is: irsection@enterprise.gov.ie

The Department will publish the outcome of the reviews and the submissions received under this consultation on its website, but organisations can identify their submissions as containing commercially sensitive information, supported with reasons for considering it commercially sensitive.

JLCS AND 'RIGHT TO BARGAIN'

The first reform principle of the High-Level Review is on Joint Labour Committees. The consultation states the High Level Group "acknowledges that the JLC system is not now functioning optimally in this capacity. In light of this, the Group will explore options to

incentivise employer engagement with a modern evidence based JLC system, responsive to the economic environment, which can ensure this important sectoral bargaining mechanism operates effectively.”

The question on JLCs asks: “How could the operation of Joint Labour Committees be improved?”

The second principle is on comparator ‘right to bargain’ disputes referred to the Labour Court, under Part 3 of the Industrial Relations (Amendment) Act 2015. The consultation states the Group “will examine the provision of expert means to assist the Labour Court in independently assessing and verifying economic and comparator data for the parties.”

The questions asked are:

1. How could this statutory dispute resolution process, before the Labour Court, be improved for both employee and employer representatives?
2. Do you agree that the assessment of economic and comparator data by an independent assessor, in certain circumstances, might improve the statutory process for both employer and employee representatives? Please elaborate.

‘GOOD FAITH ENGAGEMENT’

On the ‘good faith engagement’ principle, the consultation points to the draft EU Directive on Adequate Minimum Wages, which includes a requirement for Member States, where collective bargaining coverage is lower than 80%, to provide for a framework of enabling conditions for collective bargaining and the establishment of an action plan to promote collective bargaining (*see [news in this issue](#)*).

The directive “sits alongside growing European and International legal and policy momentum towards re-examining how employers and trade unions engage on matters of mutual interest”, the consultation also notes.

The High-Level Group “is also cognizant of a global trend towards incorporating strong environmental, social and corporate governance into business models.”

“Taking account of these developments, whilst at all times remaining conscious of the voluntarist tradition of industrial relations in Ireland”, the consultation notes, “the Group is exploring a means to promote good faith engagement between employers and workers at the level of the enterprise, where a substantial proportion of employees are represented by a trade union and without prejudice to any outcome of such engagement.”

The consultation asks three questions on this ‘good faith engagement’:

1. What are the main factors impeding the voluntary engagement between employers and worker representatives on matters of mutual interest?

2. Are there any practical measures that might assist in encouraging better good faith engagement between employers and worker representatives at enterprise level?
3. Do you agree that a statutory provision encouraging good faith engagement at enterprise level would be beneficial? Please explain.