



Dagmar Schiek
Paul Mair
Mary Naughton

COUNTRY FICHE – Ireland

Document Information

Project Acronym	INNOVAWORKING
Grant Agreement	101126491 — INNOVAWORKING
Deliverable number and title	D6 Country Fiche – Ireland
Dissemination level	Public — fully open.
Organisation Name	UCD
Submission date	31/10/2024



**Funded by
the European Union**

A. Overview, sociological framework of working time

Patterns of working time in Ireland have shifted due to campaigns within the labour movement as well as changes in economic and labour market composition. During the 1960s, trade unions in certain sectors began to demand a 5-day, 40 hour working week, the norm having previously been 48 hours.¹ In 1964, builders in Dublin went on strike for a 40-hour week (a two and half hour reduction). The strike was one of the largest ever to take place in Ireland and sparked a round of hours reductions in other sectors.² By 1980, the ‘normal’ working week of 40 hours, with an 8-hour working day, had become the norm in manufacturing and services, in line with other states within Western Europe.³ In the late 20th century, the convergence towards a 40-hour week was accelerated by decreases in the proportion of the population engaged in agriculture. Men’s average working week decreased from 46 hours in 1983 to 43 hours in 2000, while women’s average working hours declined from 38 to 34 over the same period, bringing the overall average from 44 hours to 39.⁴

The fall in average working hours was also driven by the concentration of employment growth in services, where employees tended to have shorter working weeks. The ‘normal’ working week within service sectors based around office work conforms to the norm of 40 hours and runs from Monday to Friday, 9 to 5. In service sectors such as retail and hospitality, the working week extends from Monday to Sunday, though workers are entitled to a benefit, such as extra pay or paid leave, for Sunday working.⁵ In practice, it is common for restaurants and pubs to close on Mondays and/or Tuesdays and independently owned shops are more likely to close on Sunday compared with chain retailers. Working hours in these sectors are also more likely to be variable and unpredictable.

The decline in average working hours has also been linked to changing occupational structure as the growth of part-time work outpaced growth in full time employment during the 1990s.⁶ The growing share of part time work during this period is associated with women’s increasing participation in the workforce, with women more likely to choose part time work in order to accommodate care responsibilities. While recent Eurostat data indicate that the gender employment gap in Ireland is 9.9% in 2023,⁷ the gender employment gap broadens to 19.1% when considering part time work.⁸ Women are also more likely to be in roles that involved either employer-led flexibility e.g. temporary contracts, and to avail of reduced working time or flexible working arrangements such as job-sharing and flexitime. Research by Fine-Davis,

¹ Geoghegan, M. 1985. An Analysis of Working Time in Ireland during the Twentieth Century, unpublished thesis (MBS), University College Dublin.

² Ibid

³ Ibid, see also Nicolaisen, H., 2014. The end of the normal working day? A study of change in Irish, Norwegian and Swedish banking. *Economic and Industrial Democracy*, 35(2), pp.245-266 and Gilmore, O., 2019. A 4-day week for Ireland. *A Report on the Feasibility of a Four-Day Working Week in Ireland. Forsa*.

⁴ 1983 figure from the 1983 Labour Force Survey, special extraction from Central Statistics Office; 2007 figure from the Central Statistics Office Quarterly National Household Survey. See also J. Wickham, Employment Options of the Future, National Report: Ireland, Dublin: European Foundation for the Improvement of Living and Working Conditions, 2000

⁵ Geary, J. and Wilson, L., 2023. Job quality in Ireland. First findings from the UCD Working in Ireland Survey, 2021, University College Dublin.

⁶ Wickham, J. 2000. Changing Times. Working Time in Ireland 1983-2000. Report for ERC Labour Market Observatory.

⁷ Eurostat. 2024. Gender pay gap in unadjusted form (sdg_05_20), 2024. . Online. Available from: https://ec.europa.eu/eurostat/cache/metadata/en/sdg_05_20_esmsip2.htm [Accessed 31 May 2024].

⁸ Eurostat. 2024. Gender employment gap, by type of employment (sdg_05_30), 2024. . Online. Available from: https://ec.europa.eu/eurostat/cache/metadata/en/sdg_05_30_esmsip2.htm [Accessed 31 May 2024].

Bacik and Drew, and Humphrey, Fleming and O'Donnell indicate that there is a perception among the Irish workforce that employees that avail of reduced or flexible working time are less committed to their job and that such arrangements are incompatible with higher employment grades.

The average working week for both men and women continued to decline until 2012, though O'Farrell notes that working time for professionals remained relatively stable. Declines in working time from 2008-2012 were greatest in low paid sectors including waste management, retail and cleaning and lower paid administrative and support services.⁹ By contrast there was slight growth in working hours over the period 2008-2012 (ranging from 0.2 to 0.4 hours) in financial and insurance activities, public administration education and ICT. This aligns with findings from Murphy and Doherty that a culture of long hours and presenteeism form "part of the job" for senior managers within Irish workplaces and Bacik and Drew's study of the legal profession which identifies a long hours culture and reluctance to take up flexible work arrangements among lawyers. In addition, White's study of annual hours working suggests that while the standard working week is much lower than the average working week in Ireland was in the early 1980s, in many industries this is supplemented by paid and unpaid overtime. Indeed, in many occupations where basic pay is quite low, workers rely on the premium they are paid for overtime to earn an adequate wage. But there is also evidence of workers 'going that extra mile' and working beyond their hours to clear tasks, without this being recorded or compensated.

Moreover, despite the fall in standard working hours over this period, studies suggest that workers are experiencing time squeeze. This sensation has been attributed to increased commuting times, intensification of work, as well as a growth in the proportion of 'work-rich' households in which all adults are employed. With women's participation in the workforce consistently rising, as well as growth in lone parent families, and an ageing population, an increasing proportion of the population are combining paid work with unpaid caring responsibilities. We may expect that this sensation of time squeeze increased from 2012 to 2020, as the trend towards reductions in the average working week reversed over this period, with the latter increasing from 34.1 hours to 35.6 hours.¹⁰ Since 2020, working hours have begun to decline once more, but at 35.1 hours, the average working week is still an hour longer in 2023 than it was in 2012.¹¹ In addition, over this period, the outbreak of the Covid-19 pandemic brought about a significant shift to remote working, with 48% of employees working exclusively from home or all or some of the period from March 2020 to May 2021 (compared with around 6% in 2019).¹² Geary and Belizón's survey of Irish workers found that while employee productivity tended to increase through working from home, this was associated with an intensification of work, higher stress levels and difficulty disconnecting from work.¹³ These effects were also more pronounced among women. Around one third of men reported impairment in their mental health and wellbeing when working from home, compared with 43% of women.¹⁴ However, the majority of workers surveyed favoured maintaining some form of hybrid work.¹⁵

⁹ O'Farrell, R. 2013. The polarisation of working hours in Ireland. Nevin Economic Research Institute

¹⁰ Ibid.

¹¹ Ibid.

¹² Geary, J. and Belizón Cebada, M.J. 2022. Working at home and employee well-being during the Covid-19 pandemic First findings from the UCD Working in Ireland Survey, 2021, University College Dublin.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

B. Legal regulation of working time flexibility (for the employer, for the employee)

The organisation of working time is mainly governed by the [Organisation of Working Time Act 1997](https://revisedacts.lawreform.ie/eli/1997/act/20/revised/en/html), taken in transposition of Directive 2003/88/EC, which was last amended in June 2023 with the incomplete implementation of the Work Life Balance Directive (consolidated version: <https://revisedacts.lawreform.ie/eli/1997/act/20/revised/en/html>). In line with Directive 2003/88/EC as amended, the Act imposes minimum standards in the employment relationship relating to daily rest periods (s11), rests and interval break at work (s12), weekly rest periods (s13), compensation for working on Sundays (s14), maximum 48 hours working week (s15), regulation of night working (s16), zero-hour contract protection (s18) and entitlement to annual leave (s19).

As in the Working Time Directive itself, the general rules are subject to a number of exemptions. Since the Directive was last amended, the general exemptions from the act (section 3) only comprise the police (An Garda Siochana) and Defence forces, persons engaged in sea fishing and work at sea, doctors in training and those working in the household or on a farm of a family member, as well as those determining their working time for themselves. The Minister is further empowered to create specific rules for transport workers and civil protection services.¹⁶ Under Section 4, shift workers are generally not entitled to a rest period after changing shifts, and neither are workers whose working time is spread over the day (split shifts). Further, Section 4 paragraph 3 empowers the Minister to issue further exemptions in line with Article 17 of the Working time directive after consulting representatives of workers and employers (paragraph 4), while section 4 paragraph 5 allows for collective agreements registered with the Labour Court under section 24 or Registered Employment Agreements to deviate from sections 11-13 (breaks, daily and weekly rest periods). Section 5 grants a general exception for emergencies.

In 2023, legal protection against employer-led flexibility in the form of zero-hour contracts was enhanced through amendments to the OMTA. Section 18 now provides that hours worked always need to be more than zero (paragraph 2), except for contracts issued in emergency situations (paragraph 3). In addition, Section 18a introduced banded hours, giving employees a claim to continuously being offered work to the extent averaged over a reference period of 12 months.

In terms of flexible working arrangements benefitting employees, Ireland has implemented the EU Social Partner Agreement on Parental Leave through the Parental Leave Act 1998. In line with the Agreement, the Act also provides for the right to request flexible work in the form of various part time arrangements. The Work Life Balance and Miscellaneous Provisions Act 2023, implementing Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019, amends the Parental Leave Act, with the allowance increasing from seven to nine weeks in 2024. The Act also introduces paid leave for victims of domestic abuse (five days) and five days of unpaid leave for carers and parents of children under 12.

¹⁶ Organisation of Working Time (Non-Application of Certain Provisions to Persons Performing Mobile Road Transport Activities) Regulations 2015 (S.I. No. 342 of 2015). The Organisation of Working Time (Inclusion of Transport Activities) Regulations 2004 (SI 817/2004) and the Organisation of Working Time (Inclusion of Offshore Work) Regulations 2004 (SI 819/2004) have been revoked.

Remote and hybrid working have, until recently, been primarily provided for through various non-binding recommendations and government circulars, (Eurofound, 2020, p. 11) which are assembled at a [government web page](#), with the code of practice on the right to disconnect the most recent example. However, the [Employment Equality Act of 1998](#) has constituted a longstanding exception in providing employees with a disability with the right to reasonable accommodation, which may include adjustments to attendance and allowing partial remote work. This is an individual right, with no reference to consultation of works councils. More recently, the Work Life Balance and Miscellaneous Provisions Act 2023 has established the first steps towards a legislative framework for accessing remote and hybrid working that applies to all workers. The Act creates a right for any employee to request remote or hybrid work, where they have completed six months of continuous employment with that employer, and their employer is obliged to consider this request.

The Act also grants a right to request flexible working, though this entitlement is only afforded to employees with specified care responsibilities,¹⁷ and again is subject to the requirement to have completed six months of continuous employment. Flexible working arrangements which may be requested include part-time work, term-time work, job-sharing, flexitime, compressed working hours and/or remote working. These arrangements are envisioned as being time limited, in accordance with the period in which the employee is required to provide care. The government has committed to conduct a review of the legislation after it has been in force for two years, to consider whether the right to request flexible working arrangements should be extended to all employees. Aside from the outcome of this review, the content of the Work Life Balance and Miscellaneous Provisions Act 2023 may be subject to change as the EU Commission has challenged Ireland's implementation of the Work Life Balance Directive, due to the government's failure to notify national measures fully transposing EU rights on Work-Life Balance for parents and carers.

While neither of these rights establish an entitlement to flexible or hybrid/remote work, they create procedural requirements which constrain the employer to give the rest due consideration. An employer must consider and respond to a request as soon as is reasonably practicable after receiving it.¹⁸ In reaching their decision to approve, reject or alter the request, the employer must have regard to not only their business needs, but also the needs of the worker and the requirements of the Code of Practice for Employers and Employees Right to Request Flexible Working and Right to Request Remote Working (the Code of Practice) drawn up by the Workplace Relations Commission (WRC). The WRC is a governmental body with research, advisory and dispute resolution functions (discussed below).

The rights to request flexible working and remote or hybrid working are individual rights, and the legislation does not provide a role for trade unions or collective representative structures in the process for applying for or approving any such request. However, workers have a general right for a union representative to accompany them when attending a meeting with their employer, and as such can have a union representative present when making a request for flexible or remote working. A decision of an employer may be appealed internally, usually by the employer's typical grievance procedures, where an employee feels that their request has not been properly considered in line with the legislation or the Code of Practice. The Code of Practice states that where a collective agreement is in place, the issue should be raised in

¹⁷ Work Life Balance and Miscellaneous Provisions Act 2023, section 13B.

¹⁸ As specified in section 13B in relation to flexible working and section 21 in relation to remote or hybrid working, an employer must respond within four weeks of receiving the request or up to eight weeks later where an employer is having difficulty assessing the viability of the request for a flexible working arrangement.

accordance with its terms for raising grievances. Where an employee wishes to challenge the decision of an internal or local grievance resolution procedure, the dispute can be referred to the WRC as an individual industrial relations dispute, which, if an employer agrees to participate, allows a WRC adjudication officer to investigate the dispute and issue a non-binding recommendation on how the parties should resolve the dispute.

C. Main features of industrial relations in the country

As mentioned above, Ireland has only one trade union confederation, the ICTU, to which the majority of trade unions are affiliated. Ireland has a large number of unions but many of these have small memberships, with the majority of members concentrated in the Services Industrial Professional and Technical Union (SIPTU), Fórsa, Connect and the Irish Nurses and Midwives Organisation. SIPTU is the largest trade union in Ireland, organising workers across all sectors, while the second largest, Fórsa, represents public service workers only. Connect, organises engineering and manufacturing workers, while the INMO represents nurses and midwives in both the public and private healthcare sectors. Trade union density is 28%, compared with around 60% in 1980, with membership primarily concentrated in the public sector.¹⁹ Collective bargaining coverage is estimated at 43% as of 2021, an improvement from the OECD's 2017 estimate of 34%.²⁰

Turning to the main institutions within Ireland's industrial system, the Labour Court, established under section 10 of the Industrial Relations Act, 1946, primarily addresses collective industrial relations disputes. While it issues non-binding recommendations, it also has investigative powers under the Industrial Relations Act 1946 and the Industrial Relations (Miscellaneous Provisions) Act 2004. The WRC, referred to above, was established by the Industrial Relations (Amendment) Act 2015, and amalgamated a series of pre-existing institutions and forums dealing with employment relations and labour rights. The WRC mainly acts as an arbitration and conciliation body, and many collective agreements are achieved through its procedures. It also has a function in enforcing individual employment rights.

The industrial relations system in Ireland is based on voluntarism, meaning employers and trade unions voluntarily engage in bargaining and the role of the state is to provide a supportive framework in which this can take place. This approach is a legacy of Ireland's colonial past; the voluntarist governance of industrial relations was established under British rule and as with other areas of the administrative state and legal apparatus, little attempt was made to alter existing arrangements after independence.²¹ However, the voluntarist tendency has been tempered by corporatist elements introduced by successive Irish governments.

The basic principles of the system are set out in the Constitution, article 40.6 of which guarantees freedom of association, as well as the Industrial Relations Acts 1946-2009. A rough sketch on the mix between voluntarism and corporatism relating to collective agreements and trade union recognition is provided below.

¹⁹ Geary, J. and Belizón Cebada, M.J. 2022. Union voice in Ireland First findings from the UCD Working in Ireland Survey, 2021, University College Dublin. 2022.

²⁰ Ibid, and for OECD figure see OECD. 2024. Trade Unions: Collective Bargaining Coverage. *OECD Employment and Labour Market Statistics* (database), <https://doi.org/10.1787/data-00371-en> Acc [https://data-explorer.oecd.org/vis?df\[ds\]=DisseminateFinalDMZ&df\[id\]=DSD_TUD_CBC%40DF_CBC&df\[ag\]=OECD.E.LS.SAE&dq=IRL..&pd=2017%2C2017&to\[TIME_PERIOD\]=false&vw=tb](https://data-explorer.oecd.org/vis?df[ds]=DisseminateFinalDMZ&df[id]=DSD_TUD_CBC%40DF_CBC&df[ag]=OECD.E.LS.SAE&dq=IRL..&pd=2017%2C2017&to[TIME_PERIOD]=false&vw=tb)

²¹ Teague, P., and McCartney, J. 1999. Industrial Relations in the Two Irish Economies, *Proceedings- British Academy*. Vol. 98. Oxford University Press.

As previously stated, the general principle in Irish industrial relations is that collective agreements are based on voluntary negotiations between employers (or employers' associations) and trade unions of workers with the object of reaching agreement regarding working conditions or terms of employment or non-employment of workers. In principle, collective agreements have no legal effect, and to become binding, their terms must be integrated into the contract of employment between worker and employer (Industrial Relations (Amendment) Act 2001, amended 2015). Collective bargaining in Ireland is largely decentralised to the company or workplace level and as a general rule, agreements do not produce *erga omnes* effects- only the parties are bound by their terms.

There have been some important exceptions to this rule- a more corporatist approach is visible through the institutions of Registered Employment Agreements (REAs) and Joint Labour Committees (JLCs), provided for by the Industrial Relations Act, 1946. Under this legislation, collective agreements could be given legal effect if they were registered with Labour Court as REAs. The Labour Court would then supervise their implementation, and infringements were liable to criminal prosecution. In addition, REAs tended to be reached at the sectoral level and would be generally binding within that industry. Joint Labour Committees (JLCs) provide a mechanism for fixing minimum rates on pay in economic sectors where either workers or employers are not sufficiently organised to engage in collective bargaining, and workers were vulnerable to low pay (such as retail, catering and hotels). The Labour Court can establish a JLC for a sector (consisting of workers' and employers' representatives and an independent chair) upon recommendation of the social partners, or only the trade unions or employees' representatives within that sector. That JLC then negotiates an Employment Regulation Order (ERO), or if no agreement is achieved, the Labour Court can recommend an ERO, which can either be accepted by the JLC or adopted by the casting vote of the Chair of the JLC. Once confirmed by the Labour Court, an ERO set legally binding minimum wages and terms and conditions for the sector in question, and as such represented the closest approximation to a collective agreement with *erga omnes* effects within the Irish industrial relations system.

However, in recent years, groups of employers have successfully challenged the constitutionality of both JLCs and REAs, leading to reforms which have limited their cope. In *John Grace Fried Chicken Ltd & Ors v Catering Joint Labour Committee & Ors* [2011] IEHC 277, the High Court ruled that the provisions of the Industrial Relations Act 1946 allowing JLCs and the Labour Court to set binding terms and conditions of employment for a sector were unconstitutional as they represented an impermissible delegation of legislative powers. Applying a similar rationale, the Supreme Court, in *McGowan v. Labour Court* [2013] IESC 21; [2013] 3 I.R. 718, held that REAs were unconstitutional.

The government sought to preserve the JLC framework by adopting the Industrial Relations (Amendment) Act 2012, which narrowed the scope of conditions that could be set under an ERO, introduced opt-out clauses for employers in financial difficulty and reduced the number of sectors covered by JLCs. Further, an ERO is not binding once adopted by the Labour Court, but instead must be given statutory effect by the Minister for Enterprise, Trade and Employment, who must do so by laying the ERO before both houses of the Oireachtas (Parliament), who must then pass a resolution approving it. The effectiveness of this new system has been limited as employers in several sectors have refused to re-establish relations within the revised JLCs.

The Industrial Relations (Amendment) Act 2015 altered the effects of REAs by limiting their application to the workers and employers that are party to the agreement, thereby ensuring their

constitutionality but reducing their impact. However, the Act of 2015 also introduced the Sectoral Employment Order (SEO), a new avenue for establishing universally applicable terms and conditions within a specific industry. Applications to establish an SEO may be made by a trade union alone (unlike in the case of EROs) that is substantially representative within the sector to apply to the Labour Court to investigate pay and conditions in a sector. The Labour Court can then submit a report to the Minister for Enterprise, Trade and Employment, recommending the introduction of an SEO. The Minister can then opt to give the SEO statutory effect following the procedure outlined above in relation to EROs. The Supreme Court's 2021 ruling in *NECI*²² confirmed the constitutionality of the SEO mechanism.

Ireland does not have a system of works councils. The EU directive on information and consultation of workers has been implemented by legislation in 2006, the Employees (Provision of Information and Consultation) Act 2006, last revised in 2019. This piece of legislation is strictly in line with the voluntarist tradition and entrusts the creation of representative structures first and foremost to the collective bargaining process, while imposing standard rules in case there is no agreement. While it is not excluded that such agreements also contain negotiation rights of a works council at enterprise level, this is not the practice in Ireland.

Reflecting the voluntarist nature of the system, employees who are members of a trade union cannot oblige their employer to recognise that union for collective bargaining purposes. Indeed, in *Ryanair v the Labour Court*, held that "... as a matter of law Ryanair is perfectly entitled not to deal with trade unions, nor can a law be passed compelling it to do so".²³ But in contrast to a pure voluntarist system, governments have enacted legislation to pressure employers to engage with unions. Under the Trade Union Act 1941/1971, last amended in 1990, only a licensed trade union or excepted body may lawfully engage in bargaining of employment conditions on behalf of employees. A trade union can only acquire a licence if it has had at least 1000 members over the last 18 months and complies with legislative requirements as regards their statutes, in particular in relation to balloting before industrial action. Employers can also negotiate with excepted bodies, which until 2015 did not have to be independent of employers. This legislative change resulted from the above decision in *Ryanair*, in which the airline appealed a Labour Court ruling requiring them to abstain from negotiating with an employee forum instead of a trade union.²⁴ While Ryan Air won the case, this proved a pyrrhic victory. The procedure established by the Industrial Relations (Amendment) Act 2015 aims to ensure that employers who refuse to engage with trade unions can undergo investigation by the Labour Court, which could potentially lead to recommendations for dispute resolution, unless the employees can demonstrate attempted resolution through alternative methods. While there has been some skepticism in the literature as to the effectiveness of this legislation, (Murphy & Turner, 2020), there were recommendations in favour of unions as early as 2016.²⁵

²² *Náisiunta Leictreach v The Labour Court, Minister for Business Enterprise, and Ireland* [2021] IESC 36

²³ *Ryanair v Labour Court* [2007] IESC 6.

²⁴ *Ibid*, also *Ryanair v Labour Court* 4 IR 199 (Justis); [2007] ELR 57 (Westlaw IE); the Labour Court ruling is Labour Court stage – [2005] ELR 99.

²⁵ Such orders have been effectively implemented in cases like *Freshways Food Co. versus SIPTU* (2016), *Conduit Enterprises Ltd. versus Communication Workers Union* (2017), and *Zimmer Orthopaedics Manufacturing Ltd. versus SIPTU* (2017).

D. The role of collective bargaining in working time

In Ireland, collective bargaining on working time is not the norm in unionised workplaces. Negotiations generally focus more on pay, pensions and leave, whereas an employee's hours and place of work tend to be established in their contract and any variation of those terms is an individual matter to be addressed with their employer, though a trade union may represent the employee in those discussions. Within the public sector, terms and conditions for grades within most services- health, government departments, defence etc, are uniform across all workplaces and are established by national agreement.²⁶ However, there is an exception in higher education. Universities, have a certain degree of autonomy in establishing pay and terms and conditions and there has been greater variation in staff pay and conditions, including working hours.²⁷ While there are national protocols and frameworks on blended (hybrid) working and flexible working for the public sector, which trade unions influence through consultation and engagement with the government, within universities trade unions must also engage in local discussions to establish how these policies will apply.

Remote and hybrid working

From as early as April 2021, SIPTU, which organises all categories of staff within higher education had been engaging on the issue of blended working as many of their members had expressed their preference for maintaining some form of hybrid working beyond the pandemic. The union established a working group with shop stewards and organisers from the Education sector to prepare a report on remote working, sharing the emergency policies on remote working that had been established by each institution as well as existing and draft local frameworks for remote and hybrid work. The purpose of the report was to better inform and prepare SIPTU for negotiations with government, and to act as a tool for shop stewards in negotiations on local policies. This group has continued to meet and to share information on the development of individual policies within higher education workplaces.

In 2022, the Department of Public Expenditure and Reform published a Blended Working Policy Framework, prepared in consultation with trade unions and staff associations at the national level. Availing of blended or remote working does not change employees' general contractual entitlements in terms of pay, pensions, sick leave or their working hours. Each university designed a pilot policy for remote working which would apply for a year and either be revised or extended.²⁸

The terms of the blended policies adopted vary considerably. For example, in University 1, the blended working policy allows for considerable flexibility- there is no minimum number of days that an employee must be on-site, instead each department specifies their own arrangement locally, which may include a minimum number of on-site days or specify a day where the entire staff must be on-site, depending on their business needs and employees then apply to their manager indicating the days they want to be remote. To develop their demands in relation to the content of the pilot, SIPTU organised a sub-group involving shop stewards

²⁶ Interview, Trade Union 2, Organiser 2.

²⁷ This is the case for the older or 'traditional' universities, whereas rates of pay and terms and conditions within the Technological Universities, which were formerly Institutes of Technology are established through the national public sector agreements

²⁸ These policies tend to apply only to professional, administrative, technical and support staff as academic staff already enjoy considerable autonomy in the organisation of their working time. In general, academic staff are only required to attend the workplace for specific meetings, exam boards, assessments and to deliver teaching.

from the university as well as members who had accessed remote working prior to the pandemic. Through the meetings SIPTU arrived at a position, which it presented to the other unions organising in University 1, including the Irish Federation of University Teachers (IFUT), which organises academic and library staff, who agreed with their demands regarding the pilot. The unions wanted a policy which was as flexible as possible- allowing for local arrangements within each department and in which staff had some leeway to change the days of the week in which they were working from home where necessary. As noted above, they were largely successful in achieving this outcome. As one representative noted, the unions were in agreement on their demands which meant refusal from the university would seem unreasonable. The unions also successfully pushed to have an appeals process, with union involvement, where a request for blended working was refused.

University 1's pilot is perhaps the most flexible among the Irish universities, whereas in University 2, the initial pilot programme allowed for only one day of remote working. SIPTU, the union which is recognised by the university, had engaged with their membership and found that the preponderance of workers were in favour of 50/50 remote working, while others had hoped for two remote days. As a result, the union challenged the pilot in relation to the number of days, referring a case to the WRC. Within this forum, the union and the employer have been negotiating a new pilot for over a year. Due to this engagement, after the original pilot expired in 2023, the blended working allowance was supplemented with 21 additional days, allowing for employees to work remotely for two days during 21 weeks of the year. Trade union representatives and organisers have continued to negotiate with the employer under the auspices of the WRC and expect a new pilot to be published shortly.

Flexible working time

There is a national protocol on flexible working flexible working and flexitime (also referred to as flexi leave). As is the case with remote working, where an employee relies on these arrangements this does not alter their general conditions of employment. Flexible working allows employees to work their full contracted hours but to choose their starting and finishing time within specified bands. To allow for flexible working, university staff agree to endeavour to schedule meetings and other important events within 'core hours' between 10.00 and 16.00. Flexitime allows employees to gain up to a day and a half in leave or time in lieu where they work beyond their quota of hours, within the appropriate time bands, over a specified period.

Trade union organisers and representatives engage in discussion with their members before pursuing implementation of these policies, discussing potential benefits but also drawbacks. For example, to avail of flexible working arrangements, employees must agree to record their hours by clocking in and out and some groups of workers are resistant to this level of scrutiny, meaning there is a potential loss of rights that may undermine the advantages of availing of flexi time or flexi leave. In University 3, administrative workers chose to avail of the scheme as they already spent most of their working day at their workstation (at that time) and as such were subject to oversight, therefore the requirement to clock in was not a significant incursion. In addition, many of these staff were already working beyond their hours to meet the demands of their job, without receiving any overtime or any other benefits. The introduction of flexible working and flexitime meant that these extra hours were recorded and since the employer couldn't afford to routinely pay overtime, the flexi system forced line managers to ensure that staff were not working beyond their hours (other than the quota which could be used as credit for a day and a half leave) and were going home at the appropriate time. However, another group of workers that initially expressed interest, technical officers- who teach in labs and have less supervision from line managers- were deterred by the perceived lack of flexibility entailed

by clocking in. For the same reason, academic staff, who enjoy considerable autonomy in the organisation of their working time, generally do not avail of flexitime.

In addition, since the introduction of pilot arrangements for blended working, some universities have suspended flexitime, though flexible working remains in force. Trade union representatives are engaging with the employer on this issue.

Reduced working time

In 2019, SIPTU adopted a four-day week as one of its objectives, and this remains a goal that the trade union is working towards. Since the pandemic, the pursuit of hybrid working has been a more immediate focus and has allowed employees to gain some of the benefits of a four day week (in relation to balancing childcare, commuting less) without the potential loss of earnings a reduced working week might entail. In the public sector context, one representative interviewed pointed out that working hours were extended during the Global Financial Crisis and have not been fully restored to their previous level. As such, calling for shorter hours allowing for a four-day week in higher education and other public services is part of a longer struggle over working hours and relates to not only winning improvements but recovering previous conditions.

But as representatives indicated in interviews, remote working is only available to some workers, and tends to benefit those who have larger residences with space to accommodate home working whilst potentially putting workers in shared, rented accommodation at a disadvantage. As such, winning a reduced week would bring some compensation to those employees, the nature of whose work or accommodation does not allow for them to avail of hybrid or remote schemes and who are excluded from the work/life balance benefits these bring. The ICTU and Fórsa have also committed to pursuing the four-day week and are involved in a national Four Day week campaign, supported by the ICTU and Fórsa as well as the National Women's Council of Ireland, Friends of the Earth and several universities. Thus far, a four-day week has not been implemented in any workplace within the higher education sector.

Within public services such as the higher education sector, trade union organisers and representatives engage on behalf of employees seeking to reduced their working time by moving to job sharing or part time work. Often, workers seek such a reduction to manage care responsibilities, and will want the arrangement to be time limited, so that they may return to their previous contract once their circumstances have changed. Such a change requires altering an employee's contract of employment and accepting a reduction in pay, pension benefits and leave. Where employees avail of job sharing (working 50%), their net income is not halved as the reduction in gross salary brings them into a lower tax bracket, which mitigates some of the financial impact.

Whether an employee can have their contract changed to accommodate a reduction in working time is not a collective issue but instead depends on individual negotiations. However, trade union organisers and representatives may negotiate on members' behalf. There is no legal entitlement for the employee to rely on, even in the wake of the Work Life Balance and Miscellaneous Act, workers only have a right to request such arrangements, which brings certain procedural protections as detailed above, but ultimately their needs will be balanced with those of the business as well as the Code of Practice.

Domestic violence and coercive control

As noted above, the Work Life Balance and Miscellaneous Provisions Act introduces a legislative entitlement to 5 days paid leave for employees who have suffered domestic abuse. However, in 2021, prior to the enactment of this legislation, SIPTU education organisers negotiated with University 3 for the introduction of a domestic abuse policy providing for up to 10 days of paid leave for employees experiencing domestic violence or abuse. The policy was adopted during the Covid-19 pandemic, when calls to domestic violence support organisations increased by 43% in Ireland.²⁹

E. Other issues regarding working time arrangements and overall conclusion

The findings from the case study on higher education raised a number of issues related to existing innovative working arrangements. Blended and remote working are discussed as work life balance and family friendly arrangements, and trade unionists acknowledge their benefits for many workers. But they can also disadvantage workers in accommodation with limited space, who are potentially sharing living quarters. The report of the SIPTU working group on remote work suggests that establishing local remote hubs for public sector workers who have large commutes could address this issue. Further, in all blended working pilots and engagements related to their adoption, trade union representatives were clear that blended working should be optional- if employees want to be in the office five days a week, they should be able to attend. This point is important in a context where the most recent public sector pay agreement refers to blended working as a means to better exploit public service employers' property portfolio and office space, and calls on the parties to co-operate in the use of hot desking and reducing single occupancy offices.³⁰ This objective should not mean that employees are pushed to work remotely where they do not have a suitable place to do so. Finally, there is both survey, academic and anecdotal evidence to suggest that working remotely can impede as well as facilitate work life balance. While it may be compatible with childcare and other responsibilities to a certain extent, many workers find themselves working longer hours and struggling to disconnect after finishing work. In addition, the absence of breaks that are built into the workday on-site, e.g. having to walk across the building to attend a meeting or go to the bathroom, can lead to work intensification and increased stress.

As mentioned above, flexitime schemes are still suspended in multiple universities, in some cases since the beginning of the pandemic, which means employees working beyond their scheduled hours cannot get this back as time in lieu. This is an area of contention for workers and challenge for their representatives, as union surveys show that many members are working in excess of their contracted hours. Findings from interviews also suggested limits to the work life balance contribution of reduced working time arrangements which involve a reduction in pay such as job sharing and part time. We heard anecdotal evidence of workers who are part time or job sharing being given high task loads due to understaffing and having to work beyond their contracted hours, at times working close to full time hours but at reduced pay. This is

²⁹ Women's Aid. 2021, 22 Jun. Media Release: 29,717 Domestic Abuse Contacts Made With Women's Aid in 2020 are Just 'the Tip of the Iceberg', *Women's Aid*, online, <https://www.womensaid.ie/get-informed/news-events/media-releases/29717-domestic-abuse-contacts-made-with-womens-aid-in-2020/#:~:text=The%20Covid%2D19%20pandemic%20made,difficult%20of%20years%2C%20is%20staggering>. [Accessed 29 July 2024]

³⁰ Public Service Agreement 2024-2026 <https://www.gov.ie/en/publication/29e6c-public-service-agreement-2024-2026/>

particularly problematic if workers are availing of blended working and cannot rely on flexi time.

Looking at trade unions' potential to promote innovative working time arrangements beyond higher education, the situation in relation to sectoral bargaining is likely to undergo significant change in the short to medium-term, in light of the report of the High-Level Group on collective bargaining, established in the framework of the Labour and Employer Economic Forum.³¹ The High-Level Group was established in 2021, to 'examine the adequacy of the workplace relations framework supporting the conduct and determination of pay and conditions of employment', in the context of EU Directive 2022/2041 on Adequate Minimum Wages, then still at the draft stage. This Directive requires Member States with collective bargaining coverage below 80% to establish an action plan to promote collective bargaining. The report recommends, *inter alia*:

1. that existing legislation relating to JLCs be strengthened to address the current situation where employers are refusing to participate in the process, by enabling an Employment Regulation Order can be implemented where employers have been afforded all reasonable opportunities to engage.
2. that legislation be enacted to require an employer to engage with a trade union that seeks good faith engagement where they represent at least 10% of workers in a grade group or category within the employment.
3. that where an employer refuses such an engagement and ignores the Labour Court decisions on the matter, the trade union can seek a Circuit Court order for implementation against the employer.

These recommendations are designed to encourage employers to engage with trade unions, with a view to achieve broader coverage of collective agreements in Ireland. It is difficult to assess whether they will be implemented before the next election in Ireland, which has not yet been scheduled. If they are, there may well soon be a more favourable environment for sectoral or even national level bargaining, in addition to the existing legislation and practices. Given the priority accorded by trade union members to hybrid working as a means for achieving a more acceptable work life balance, as well as the recently adopted legislative basis for requesting remote and flexible working, it is reasonable to expect that we may see innovative working time arrangements becoming a greater focus of collective bargaining in this new industrial relations environment.

References

- BACIK, I., DREW, E., Struggling with juggling: Gender and work/life balance in the legal professions, *Women's Studies International Forum*, Vol. 29. No. 2. Pergamon, 2006.
- CULLINANE, L., Working in Cork : Everyday life in Irish Steel, Sunbeam-Wolsey and the Ford Marina Plant, 1917-2001, Cork University Press, Cork. 2020 Available from: ProQuest Ebook Central. [16 July 2024].
- DEVINE, F., Safety, Health and Welfare at Work in the Irish Free State and the Republic of Ireland, 1922—1990: measuring the problem. *Saothar* , Vol. 31 Published by: Irish Labour History Society, 2006, pp 65-74

³¹The final report of November 2022 can be retrieved from [final-report-of-the-leef-high-level-working-group-on-collective-bargaining.pdf](https://enterprise.gov.ie/final-report-of-the-leef-high-level-working-group-on-collective-bargaining.pdf) (enterprise.gov.ie)

- DOHERTY, M., Can the patient survive the cure? Irish labour law in the austerity era, *European Labour Law Journal* Vol 5 No.1, 2014, pp 81-94.
- DOHERTY, M., New Morning: Irish Labour Law Post-Austerity, *Dublin University Law Journal*, Vol 39, 2016, pp 51.
- EUROSTAT, Gender employment gap, by type of employment (sdg_05_30), 2024. . Online. Available from: https://ec.europa.eu/eurostat/cache/metadata/en/sdg_05_30_esmsip2.htm [Accessed 31 May 2024].
- EUROSTAT, Gender pay gap in unadjusted form (sdg_05_20), 2024. . Online. Available from: https://ec.europa.eu/eurostat/cache/metadata/en/sdg_05_20_esmsip2.htm [Accessed 31 May 2024].
- FINE-DAVIS, Margret, 2020. *Women and Work in Ireland: A Half Century of Attitude and Policy Change*. London: Routledge.
- GEARY, J., BELIZÓN CEBADA, M.J., Union voice in Ireland First findings from the UCD Working in Ireland Survey, 2021, University College Dublin. 2022.
- GEARY, J. and BELIZÓN CEBADA, M.J., Working at home and employee well-being during the Covid-19 pandemic First findings from the UCD Working in Ireland Survey, 2021, University College Dublin, 2022.
- GEARY, J., WILSON, L., Job quality in Ireland. First findings from the UCD Working in Ireland Survey, 2021, University College Dublin, 2023
- GEOGHEGAN, M., An Analysis of Working Time in Ireland during the Twentieth Century, unpublished thesis (MBS), University College Dublin, 1985
- GILMORE, O. A 4-day week for Ireland? A report on the feasibility of a four-day working week in Ireland, 2019. Link:
- HUMPHREYS, P., FLEMING, S., O'DONNELL, O. Flexible and innovative working arrangements in the Irish public service, 1999.
- MACCARRONE, V., ERNE, R. REGAN, A., Ireland: life after social partnership, *Collective bargaining in Europe: Towards an endgame*. European Trade Union Institute, 2019, pp 315-335.
- MCGINNITY, F., RUSSELL, H. Work Rich, Time Poor? Time-Use of Women and Men in Ireland. *Economic & Social Review* Vol 38 No. 3, 2007,.
- MOOS, K.A., The Political Economy of State Regulation: The Case of the English Factory Acts. *UMass Economics Working Papers*, 2017
- MURPHY, F., DOHERTY, L., The experience of work life balance for Irish senior managers, *Equality, Diversity and Inclusion: An International Journal* No. 30 Vol 4, 2011, pp 252-277.
- O'CARROLL, A., The long and the short of it: working time in the Irish IT sector. *The new world of work: Labour markets in contemporary Ireland*, 2005, 163-180.
- O'CARROLL, A., Busy Ireland. In *Belongings: Shaping Identity in Modern Ireland. Irish Sociological Chronicles*, Vol 6, Institute of Public Administration, Dublin, 2008, pp. 245-256
- O'FARRELL, R., The polarisation of working hours in Ireland, Nevin Economic Research Institute, 2013.
- PAOLUCCI, V., ROCHE, W.K., Social partnership, company-level collective bargaining and union revitalization in Ireland, *Economic and Industrial Democracy*, 2024.
- PAOLUCCI, V., ROCHE, W.K. GORMLEY, T., Decentralised Collective Bargaining in Ireland-National Report, 2023.

- RUSSELL, H., O'CONNELL, P., MCGINNITY, F., The impact of flexible working arrangements on work–life conflict and work pressure in Ireland, *Gender, Work & Organization* Vol 16 No. 1, 2009, 73-97.
- SIPTU EDUCATION SECTOR, Remote Working Group Report, 2021.
- TEAGUE, P., MCCARTNEY, J., Industrial Relations in the Two Irish Economies, *PROCEEDINGS-BRITISH ACADEMY*. Vol. 98. OXFORD UNIVERSITY PRESS INC., 1999.
- WHITE, L., *Annual hours working in Ireland: an exploration of its extent, and examination of the experiences of management, unions and workers*, Dissertation, University of Limerick, 2010.
- WICKHAM, J., Changing Times. Working Time in Ireland 1983-2000. *Report for ERC Labour Market Observatory*, 2000.
- WICKHAM, J., Employment Options of the Future, National Report: Ireland, Dublin, European Foundation for the Improvement of Living and Working Conditions, 2000

Links to relevant legislation, case law, collective labour agreements and other useful sources

- Building Momentum - A New Public Service Agreement 2021-2022
<https://www.gov.ie/en/publication/e9d23-building-momentum-a-new-public-service-agreement-2021-2022/>
- Dublin City University Remote Working Pilot
https://www.dcu.ie/sites/default/files/hr_access/2023-09/Remote%20Working%20Pilot%202023_2024.pdf
- Employees (Provision of Information and Consultation) Act 2006
<https://www.irishstatutebook.ie/eli/2006/act/9/enacted/en/html>
- Employment Equality Act of 1998
<https://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/pdf>
- Final Report of the LEEF High Level Working Group
<https://enterprise.gov.ie/en/publications/publication-files/final-report-of-the-leef-high-level-working-group-on-collective-bargaining.pdf>
- Industrial Relations Act 1946
<https://www.irishstatutebook.ie/eli/1946/act/26/enacted/en/html>
- Industrial Relations Act 1990
<https://www.irishstatutebook.ie/eli/1990/act/19/enacted/en/html>
- Industrial Relations (Amendment) Act 2001
<https://www.irishstatutebook.ie/eli/2001/act/11>
- Industrial Relations (Miscellaneous Provisions) Act 2004
<https://www.irishstatutebook.ie/eli/2004/act/4#:~:text=AN%20ACT%20TO%20MAKE%20FURTHER,TO%20PROVIDE%20FOR%20RELATED%20MATTERS.>
- Industrial Relations (Amendment Act) 2012
<https://www.irishstatutebook.ie/eli/2012/act/32/enacted/en/html>
- Industrial Relations (Amendment) Act 2015
<https://www.irishstatutebook.ie/eli/2015/act/27/enacted/en/html>
- John Grace Fried Chicken Ltd & Ors v. Catering Joint Labour Committee & Ors [2011] IEHC 277
https://courts.ie/acc/alfresco/b794959c-c19b-4198-96d0-408483c5d12b/2011_IEHC_277_1.pdf/pdf#view=fitH
- The Labour Court <https://labourcourt.ie/en/>

- McGowan v. Labour Court [2013] IESC 21; [2013] 3 I.R. 718 https://courts.ie/acc/alfresco/198b491a-c4dd-417d-a53f-6a81bf2a1ceb/2013_IESC_21_1.pdf/pdf#view=fitH
- Náisiunta Leictreacht v The Labour Court, Minister for Business Enterprise, and Ireland [2021] IESC 36 https://www.courts.ie/acc/alfresco/6cbf54cd-3bff-4a68-904e-867bbd1d2ea9/2021_IESC_36_MacMenamin%20J..pdf/pdf#view=fitH
- Organisation of Working Time Act 1997 <https://www.irishstatutebook.ie/eli/1997/act/20/enacted/en/html>
- Public Service Agreement 2024-2026 <https://www.gov.ie/en/publication/29e6c-public-service-agreement-2024-2026/>
- Recommendations and circulars on remote and hybrid working <https://enterprise.gov.ie/en/what-we-do/workplace-and-skills/remote-working/>
- Ryanair v. Labour Court [2007] IESC 6 https://courts.ie/acc/alfresco/cb8aa1b0-819b-41b8-b632-ea02b37a69c7/2007_IESC_6_1.pdf/pdf#view=fitH
- Trinity College Dublin Pilot Blended Working Policy <https://www.tcd.ie/media/tcd/about/policies/pdfs/hr/procedure15b-blended-working.pdf>
- University College Cork Pilot Hybrid Working Policy <https://www.ucc.ie/en/media/support/hr/policies/PilotBlendedWorking-UMTApproved22-2.pdf>
- University College Dublin Hybrid Working <https://www.ucd.ie/hr/a-z/covid-19/hybridworking/#:~:text=No%20one%20will%20be%20required,can%20continue%20to%20do%20so.>
- University of Galway Hybrid working policy <https://www.universityofgalway.ie/media/humanresources/policiesproceduresandforms/policiesprocedures/QA180--Hybrid-Working-Policy.pdf>
- Work Life Balance and Miscellaneous Provisions Act 2023 <https://www.irishstatutebook.ie/eli/2023/act/8/enacted/en/html>
- Workplace Relations Commission <https://www.workplacerelations.ie/en/>
- Workplace Relations Commission Code of Practice for Employers and Employees Right to Request Flexible Working and Right to Request Remote Working https://www.workplacerelations.ie/en/what_you_should_know/codes_practice/code-of-practice-for-employers-and-employees-right-to-request-flexible-working-and-right-to-request-remote-working/