

# **Precarious work precarious lives:** how policy can create more security

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# **Precarious work precarious lives: how policy can create more security**

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# Table of Contents

<b>Foreword</b>	<b>3</b>
<b>Acknowledgement</b>	<b>7</b>
<b>Executive summary</b>	<b>9</b>
<b>1. Introduction</b>	<b>15</b>
1.1 Definition of precarious work	18
1.2 Outline	19
<b>2. Mapping out precarious work in Europe</b>	<b>21</b>
2.1 Introduction	22
2.2 Precarious work in Europe	23
2.3 Policy interventions at an EU level	34
2.4 Concluding comment	36
<b>3. Employment legislation, industrial relations and precarious work in Ireland</b>	<b>39</b>
3.1 Introduction	40
3.2 Precarious work in Ireland	40
3.3 Industrial relations and collective bargaining power of workers and trade unions	48
3.4 Trade unions and organising precarious workers	50
3.5 Recommendations	52
<b>4. Welfare and precarious work – Existing between two systems</b>	<b>57</b>
4.1 Introduction	58
4.2 Welfare policy in Ireland	58
4.3 Precarious worker's experience of accessing social welfare supports	60
4.4 Recommendations	63
<b>5. Precarious work and the healthcare system in Ireland</b>	<b>67</b>
5.1 Introduction	68
5.2 Healthcare in Ireland	68
5.3 Precarious workers' experience of health and accessing healthcare in Ireland	70
5.4 Recommendations	72

<b>6</b>	<b>Precarious work and housing in Ireland</b>	<b>75</b>
6.1	Introduction	76
6.2	Housing in Ireland	76
6.3	Precarious workers' experience of finding accommodation	80
6.4	Recommendations	81
<b>7</b>	<b>Precarious work and childcare policy in Ireland</b>	<b>85</b>
7.1	Introduction	86
7.2	Childcare in Ireland	86
7.3	Precarious workers, childcare and having children	90
7.4	Recommendations	90
<b>8.</b>	<b>Conclusion</b>	<b>95</b>
8.1	Precarious work leads to precarious lives	97
8.2	An EU-level response?	97
8.3	Secure and predictable employment	98
8.4	In-work supports – do they work?	98
8.5	A universal rather than means-tested healthcare service	99
8.6	Tackling housing precarity	100
8.7	An overhaul in how we provide childcare services in Ireland	100
8.8	Trade unions have a major role to play in organising precarious workers	101
8.9	Concluding comments	102
	<b>References</b>	<b>103</b>
	<b>Appendix 1</b>	<b>113</b>
	<b>Appendix 2</b>	<b>115</b>

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# Foreword

# Foreword

While still debated in some academic and policy circles, even the OECD accepts that atypical precarious working arrangements, including temporary jobs, involuntary part-time jobs and bogus self-employment, are often not stepping stones to better employment. As FEPS-TASC's research so clearly shows, precarious work leads to precarious lives where people are trapped in uncertainty, floating and on stand-by, with all aspects of their lives, their personal ambitions and hopes for family formation, on hold. The qualitative evidence in the report vividly describes these effects, such as 'forced infantilisation' and mental scarring that impacts the quality of life of precarious workers and their families. This is not just a labour market matter, it is also matters for equality.

While economic recovery in Ireland has delivered a substantial increase in full-time jobs and a corresponding welcome decrease in the unemployment rate, it is also the case that the growth in atypical jobs seen over the economic crisis has imprinted on the shape of the Irish labour market. The FEPS-TASC sectoral analysis shows how different forms of poor-quality jobs are a reality in some (but not all) sectors of the Irish labour market.

The Irish labour market is constantly changing and some might hope upskilling and occupational restructuring might filter these low-quality jobs out of the labour market. However, keeping one's 'fingers crossed' is not a policy response. FEPS-TASC, in this second report, draw attention to the drivers of precarious jobs including low employment protection legislation, procurement policy and practice, and In Work Benefits that support low paid workers but also subsidise low wages and make these jobs in some ways sustainable.

FEPS-TASC rightly focus on policy responses to address the impact of precarity in peoples' lives. But crucially FEPS-TASC assert that labour market regulation is required to restrict the possibility of maintaining old, and creating new, forms of precarious employment. In this regard, the concept of minimum hours regulation needs to take its place alongside minimum wage regulation. As well as mitigating the likelihood of employers creating precarious jobs, much can be done to promote the creation of better-quality jobs. The state can lead by example here, beginning with a cessation of outsourcing service jobs in statutory sectors and continuing with a stronger focus on social clauses for quality employment in procurement policy. All of this is in line with EU competition policy and, consistent with 2014 obligations and public duties on statutory agencies to address inequality and promote human rights.

FEPS-TASC refer to the important role that basic access to public services in health, housing and childcare can play in enabling precarious workers to live decent lives. The idea of universal basic services is key to reimagining how the Irish welfare state can play a key role in enabling people to have the capacity to move through precarious forms of employment without being trapped in that labour market, and without that labour market trapping them in poor quality lives. But what is blocking the concept of universal public services in health, housing and education?

In our political system we see an ideological orientation that privileges the market as the primary mechanism to provide citizens with basic needs. This combines with the power of vested interests who display a culture of entitlement to profit from privatised delivery of such services. Despite evidence that citizens want public services and are willing to pay for them, and despite evidence that social investment pays a decent return on investment, ideology and power impede the citizen's ambition



for decent public services. Recent referenda and opinion polls affirm that Irish public opinion is often more progressive than the political system. The European Pillar of Social Rights and Social Investment Package offer important ways to frame debates about public services at an EU level where universal basic services could be a unifying force for EU citizenship. ETUC and national-level trade unions are a vital advocate for such public services.

A third set of recommendations in FEPS-TASC's report focus on the role that the social welfare system might play in mitigating precarious labour markets. Here, FEPS-TASC are forward-thinking in their recommendation that policy makers need to avoid the sometimes-easier option of enabling the social welfare system, and particularly in-work-benefits, to prop up and subsidise precarious wages. While there are always incremental policy changes to be made to improve and update social protection, the point is well made in the report that it is ultimately employers who benefit from IWB, which can unintentionally incentivise the creation of employment that leads to underemployment.

Policy makers need to take seriously the link between low education and the likelihood of precarious employment. O'Riain (2017) offers the concept of the 'low learning trap' to illustrate how, without skills and education, precarious employment is not a stepping-stone but a trap locking people and families into poverty. What is needed are policy responses built around education and training led upskilling, which Brodtkin (2013) describes as 'enabling' activation. At present, Irish 'work-first activation' requires precarious workers to attend Job Path where the 'underemployed' worker is obliged, on threat of sanctions, to accept additional hours of employment if so offered. This opens up the possibility of the frightening scenario of 'double' and 'triple' precarity where workers are legally obliged to make up a working week combined of various 'jobs'. Not only is this ethically and morally dubious, but it clearly erodes any possibility of upskilling and in-work training and reinforces precarity traps.

Qualitative evidence emerging from studies of Irish public employment services (Intreo, Job Path and Local Employment Services) suggests that much is left to be desired when it comes to 'enabling' guidance-led services or meaningful engagement on upskilling or education. A 'human capital' or 'education-first' activation strategy might not be as attractive in reducing headline-live register numbers, and might be costlier in terms of investment in active labour market measures. However, it should not take too much political imagination to envision the potential value of longer-term returns on social investments at individual and family, as well as societal levels.

Precarious work is disempowering and 'work first' activation further erodes rights from precarious workers and welfare claimants. Pushing the worker to take any job offer, disables the prospective employee from rejecting a poor-quality offer and stymies the possibility of them negotiating stronger terms and conditions. In other shifts in power we see a drop in the proportion of new jobs that are unionised over 2008 to 2014. As the FEPS-TASC report argues, more can be done to make trade unions relevant to precarious workers and to collectively advocate for policy changes that advance their agenda. This report is very welcome, it is a timely resource for all of us working to promote better jobs and advocating for public services. Congratulations to everyone involved, and particularly the lead researcher, Dr Sinéad Pembroke.

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# Acknowledgement

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I would also like to extend my gratitude to the user group members, James Doorley (NYCI) Brid O'Brien (INO), Tricia Kietly (SVP), Paul Ginnell (EAPN), Ethel Buckley (SIPTU) and Brian Forbes (Mandate), who were very generous with their time, their feedback and their overall commitment to this project. I would also like to thank our Scientific Advisory Board members, Dr Michelle O'Sullivan (University of Limerick), Dr Mary Murphy (NUI Maynooth), Professor Joan Miquel Verd (Universitat Autònoma of Barcelona) and Liz Kerrins, (Children's Rights Alliance). Again, the time that you gave was incredibly generous and the feedback and comments were invaluable to this report.

I would also like to thank TASC staff members John White, Robert Sweeney, Kirsty Doyle, and Marcos González Hernando for their support, and Tyler West for proof reading the report. Thank you to our director Shana Cohen for the feedback and the belief in the work we have produced. And finally, I would also like to thank TASC's board members for their feedback and support for the project until its completion.

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# Executive Summary

# Executive summary

## ***Introduction***

Precarious work is a complex concept; it is not just about low-waged work (as not all types of precarious work are low-waged), but includes other factors such as the uncertainty of tenure, working hours, and the frequency of pay. In short, it is the unpredictability of income, the instability of employment and the lack of or limited access to social security that makes precarious work 'precarious'. Therefore, policy interventions must address these issues.

This report examines five major policy areas and the scope for policy interventions. These are employment protection, social protection, health, housing, and childcare. These policy areas were identified following four focus group sessions with precarious workers, and 20 interviews with policy experts.

## ***What is precarious work?***

There are many definitions and understandings of the concept of precariousness. However, the main features identified by Vosko (2010) are, 'work for remuneration characterised by uncertainty, low income, and limited social benefits and statutory elements.' In Ireland, the employment relationships with the highest risk of precariousness are part-time, zero-hour/ if-and when, temporary and solo self-employment. The most recent data from Eurostat's Labour Force Survey (LFS)<sup>1</sup> revealed that as a percentage of total employment, part-time work stands at 19.7 per cent, temporary work stands at 8.4 per cent, temporary agency work stands at 2.4 per cent, self-employment stands at 13.3 per cent and solo self-employment (as a percentage of overall self-employment) stands at 68.5 per cent.

## ***Secure and predictable employment***

The Standard Employment Relationship (SER) continues to play an important role in both Irish society and the rest of Europe. The SER creates security in many ways; it is linked to a sense of coming of age and growing up; it is linked to a sense of independence as an individual; it is linked to one's eligibility to take out a mortgage and purchase a home, to start a family, and to have a pension. For those who do not have a SER and work precariously, these indicators of security will not exist. At an employment protection level, multiple legislative changes are needed. This report recommends to:

1. Protect the standard employment contract.
2. Legislate to ban if-and-when contracts.
3. Honest contracts: a contract must reflect an employees' real hours of work.
4. Introduce a "precarity indemnity" for companies who are over-reliant on temporary contracts.
5. A strict legal definition of self-employment is needed.

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<sup>1</sup> Eurostat's Labour Force Survey (LFS) data from 2018 Q1, except for self-employment where the most up to date data was for 2017.

6. The minimum wage should be replaced with the living wage rate.
7. More resources be made available to enforce and regulate employment legislation.
8. Introduce collective bargaining legislation to give trade unions a right to recognition and a right to access.

### ***Veer away from more in-work supports that subsidise precarious employment***

The social welfare system has played an important role in supporting workers who are underemployed or who choose to work part-time. However, this report does not recommend more in-work supports. The main reason for this is that policy needs to veer away from social welfare payments, which act as subsidies for employers to hire people on low-hour contracts and work with no guaranteed hours. The Department of Employment and Social Protection should be promoting job quality and veering away from work first activation policies that only serve to encourage forced uptake of precarious work in the labour market. Therefore, it is recommended that:

1. Income supports should be extended to people without families.
2. Re-instate social welfare for people under 25 back to the normal rate.
3. Provide a social security safety net for self-employed workers.
4. A "job quality" rather than a "job first" activation policy.
5. Modernise and update the administration of in-work supports.
6. For the Working Family Payment, working hours should be tracked over a six-month period to calculate the average working hours.
7. Extend Job seekers' Transition payment to parents who have children up to eighteen years old.
8. Focus on fixing the state pension, whilst making it more accessible for precarious workers on the lower end.

### ***A universal rather than means-tested healthcare service***

As the only European country that does not offer universal primary care, Ireland is lagging behind the European norm. This is having detrimental consequences for many precarious workers and their health. Therefore, this report recommends to:

1. Legislate for a paid sick leave scheme to be provided by all employers.
2. Legislate for universal GP care for all.
3. Invest in and develop public mental health services.
4. There needs to be political will to bring about universal healthcare.

## ***Tackling housing precarity***

The housing crisis in Ireland is affecting many people and not just precarious workers. However, due to the temporary and insecure nature of precarious work, this puts them at an even more vulnerable situation. Like healthcare services, housing is a necessity, and tackling precarious working conditions also means tackling precarity in the housing sector. This report recommends:

1. Strengthen private rental sector legislation to provide for security of tenure.
2. Increase supply through capital investment in social housing.
3. Adopt the European Cost Rental Model (ECRM) as a long-term solution for a more affordable rental sector.
4. Fill the enforcement vacuum; strengthen the RTB to become a regulator of the private rental sector.

## ***An overhaul in how we provide childcare services in Ireland***

We must also remember that precarious working conditions do not only just affect an individual, but very often their family. Therefore, this report recommends public, sustainable funding of childcare services by providing direct capitation grants, similar to that of the Early Childhood Care and Education (ECCE) programme operated by the Department of Children and Youth Affairs, and in primary and secondary schools by the Department of Education and Skills. This scheme would also entail educators' wages/salaries being paid directly by the State. Therefore, this report recommends:

1. Increase investment for childcare and early years' sector.
2. Develop and publish an early years' strategy.
3. Move towards publicly funding regulated childcare services through direct capitation grants.
4. Regulations for income assessment under the Affordable Childcare Scheme (ACS) need to take into consideration uncertain income and rental/mortgage expenses.
5. Working conditions in the early years and childcare services sector need to be improved.
6. Support and regulate other forms of childcare such as childminders.
7. Paid parental leave.

## ***Trade unions have a major role to play in organising precarious workers***

Trade unions play an important role in workers' rights and the maintenance of economic security for individuals and households across the globe. At a policy level, Ireland has one of the most restrictive collective bargaining legislation compared to other European countries and even further afield. These regulations can pose limitations in what trade unions are able to achieve. In Ireland, an employer does not have to recognise a trade union, and unions do not have the right to access their members. Collective bargaining is another effective vehicle for limiting precarious work conditions. Policy makers can support this by changing collective bargaining legislation to give trade unions a right to recognition and a right to access members in the workplace.



### ***A combination of measures is needed to address precariousness in work and outside of it***

There needs to be a combination of measures to address precarious work. The first facet of this is to introduce legislation that protects the Standard Employment Relationship and confronts insecurity and unpredictability associated with non-standard employment (employment with the highest risk of precariousness), low-pay and low-hour work. The second facet is to address the deficit in universal coverage of vital healthcare and childcare services in Ireland, as well as to enact policy responses to tackle the housing crisis. The third facet is the social protection system; rather than subsidising low pay, the Department should promote a job-quality rather than a job-first activation policy. Finally, industrial relations and trade unions have a major role to play in mitigating precarious work. Therefore, legislation need to be enacted to strengthen the power and resources of enforcement agencies and in consolidating the bargaining power of workers and trade unions.

The recommendations made in this report are not out of reach and already exist in many European countries. However, such changes require the political will to be implemented. Business needs should not come before workers' needs. The onus is on policy makers and employers to ensure that work does pay, but also that work is conducive to family life and that the mental and physical needs of every worker are met.



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# 1. Introduction

# 1. Introduction

In the last three decades, there have been a number of transformations to the Irish and European labour markets that have changed the way we think about work. Precarious work is one such trend that is signalled as a social and economic concern that needs to be addressed<sup>2</sup>. As FEPS-TASC's first report (2018)<sup>3</sup> concluded, this type of work has far reaching and adverse consequences outside of the workplace, particularly in the domains of health, housing and family formation. This report investigates policy responses to address the negative impact of precarious work.

Work is seen as a mechanism to lift people out of poverty. However, workers in Europe are increasingly at risk of experiencing in-work poverty. Currently, this stands at 10 per cent of the total European workforce. Precarious work has been identified as a component of in-work poverty, because work intensity and non-standard employment contracts are contributing factors<sup>4</sup>. EU-SILC data (2014) revealed that when compared to full time and permanent workers, involuntary part-time workers are at the highest risk of in-work poverty (29%), followed by self-employed workers who do not employ staff (25%) and temporary workers (16%). Inequality will continue to increase, unless policy makers address material deprivation associated with precarious work.

One of the greatest challenges to combating precarious work is the lack of a clear picture of just how many people are affected by these insecure and unpredictable working conditions in Ireland and in Europe. As there is no concrete definition or measurement standard for precarious work, statistics can vary<sup>5</sup>. Although precarious work figures fluctuate due to ambiguity, precarious work remains a permanent fixture in both Irish and European labour markets.

These insecure and unpredictable employment practices are also expanding into sectors that were traditionally secure and had good working conditions, such as education, (for example, third level colleges and universities) and human health, (such as homecare workers). Amazon, Uber and Deliveroo<sup>6</sup> are just some of the more well-known companies that currently perpetuate extreme precocity and exploitative treatment. And some predict that precarious work is likely to expand into other sectors. As Mags Dewhurst, a part-time bicycle courier and vice-president of the Independent Workers Union of Great Britain (IWGB) said:

This isn't just about the gig economy. All business is going more and more digital, leaner and leaner...Next it will be banking and retail. These bad practices have to be stopped now<sup>7</sup>.

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<sup>2</sup> Koukiadaki, A. and Katsaroumpas, I. (2017). Temporary contracts, precarious employment, employees' fundamental rights and EU employment law, (Petitions). Brussels: European Parliament. Directorate-General for Internal Policies. Policy Department C: Citizen's Rights and Constitutional Affairs, p.13.

<sup>3</sup> Bobek, A, Pembroke, S and Wickham J., (2018). Living with uncertainty: the social implications of precarious work. FEPS-TASC.

<sup>4</sup> Horesman, J, Marx, I. and Nolan, B. (2016). Hanging in but only just: Part-time employment and in-work poverty throughout the crisis, *IZA Journal of European Labor Studies*, 5(1): 1-19.

<sup>5</sup> Definitions of precarious work vary between measuring subjective insecurity, (the extent to which workers worry that they may lose their jobs) and objective insecurity, (contractual temporariness). For example, FEPS-TASC's first report measured objective insecurity, which measured non-standard employment (temporary, part-time and self-employment). Although non-standard employment does not equate to precarious work, there are higher risks of precariousness associated with these types of work.

<sup>6</sup> These companies are usually referred to as being a part of the Platform Economy.

<sup>7</sup> Roberts, Y., (2018). *The tiny union beating the gig economy giants*, The Guardian, 1/07/2018, <https://www.theguardian.com/politics/2018/jul/01/union-beating-gig-economy-giants-iwgb-zero-hours-workers>

Consequently, 'precariousness is increasingly recognised as a social and economic problem in EU official public discourse'<sup>8</sup>. Only recently (May 2018), the European Parliament adopted a resolution that called 'on the European Commission and EU countries to tackle the issue of precarious employment practices and the abusive use of fixed-term work contracts in the EU public and private sector'<sup>9</sup>. The European Commission and the Council of the European Union are also making similar statements with regards precarious work, acknowledging its negative impact on productivity growth and internal demand<sup>10</sup>.

At a national level, the Irish government is taking steps to address elements of precarious work. For example, the Employment (Miscellaneous Provisions) Bill was published by the Employment Affairs and Social Protection Minister on 7 December 2017. The Minister noted that 'the key objective of the Bill is to improve the security and predictability of working hours for employees on insecure contracts and those working variable hours.' While these are small steps, they are signs that the Irish government also recognises the negative impact of precarious work.

In contrast, the World Bank is promoting the acceptability of precarious work. The working draft of the bank's flagship World Development Report recommended fewer regulations that protect workers and greater hiring and firing powers for employers<sup>11</sup>. These recommendations carry little insight into the effects that this type of work has on peoples' lives, including at a societal level and particularly in terms of lowering the tax base and consumption levels. Yet, the World Bank is a powerful lobby, which makes it imperative that we respond.

This report advocates for a multi-faceted policy approach in addressing the negative impacts of precarious work in Ireland. As precarious work impacts many domains of a person's life, changes to employment protection legislation are required, but also the recognition of the need for a combination of in-work benefits and social supports, such as childcare, healthcare and social housing. As Eurofound concluded, 'good quality, accessible public services form the cornerstone of fair and progressive societies'<sup>12</sup>.

This report will examine five major policy areas and the scope for policy interventions: employment protection, social protection, health, housing, and childcare. These policy areas were identified following four focus group sessions with precarious workers (five participants in each) and 20 interviews with policy experts. This report also compares how other European countries have addressed precarious work and assesses whether a stronger EU-wide approach is needed.

<sup>8</sup> Koukiadaki, A. and Katsaroumpas, I. (2017). *Temporary contracts, precarious employment, employees' fundamental rights and EU employment law*, (Petitions). Brussels: European Parliament. Directorate-General for Internal Policies. Policy Department C: Citizen's Rights and Constitutional Affairs, p.13

<sup>9</sup> European Parliament, (2018). *MEPs call on EU countries to end precarious employment practices*, 31/05/2018, <http://www.europarl.europa.eu/news/en/press-room/20180524IPR04234/meps-call-on-eu-countries-to-end-precarious-employment-practices>,

<sup>10</sup> European Commission (2016). *Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions and the European Investment Bank: Annual Growth Survey 2017*, Brussels.

<sup>11</sup> Elliott, L., (2018). *World Bank recommends fewer regulations protecting workers*, The Guardian, 20/04/2018, <https://www.theguardian.com/money/2018/apr/20/world-bank-fewer-regulations-protecting-workers>

<sup>12</sup> Eurofound, *Living and working in Europe*, 2017 p. 5.

## 1.1 Definition of precarious work

There are many definitions and understandings of the concept of precariousness<sup>13</sup>. This ambiguity is borne out of the fact that 'there are no agreed official definitions of what constitutes precarious employment'<sup>14</sup>. However, the main features identified by Vosko (2010) are, 'work for remuneration characterised by uncertainty, low income, and limited social benefits and statutory elements'<sup>15</sup>. Similarly, when it comes to identifying the different types of precarious work, there are discrepancies. Non-standard forms of employment are often equated to precarious work. These types of work are measured against the Standard Employment Relationship (SER), which is seen as the norm in today's society. For this reason, work practices that deviate from the Standard Employment Relationship, are known as non-standard employment. The SER is defined as:

A stable, socially protected, dependent, full-time job ... the basic conditions of which (working time, pay, social transfers) are regulated to a minimum level by collective agreement or by labour and/or social security law<sup>16</sup>.

Even though non-standard employment carries a higher risk of precariousness, they are not the only types. Consequently, it is important to acknowledge that, as the European Parliament's report on precarious work observed, 'all employment relationships are at some risk of precariousness'<sup>17</sup>.

Broughton et al.'s study (2016)<sup>18</sup>, produced for the European parliament, measured each employment relationship that exists in the EU against the risk of precariousness. The results are as follows:

**Table 1.1: Employment contract risk assessment for precariousness**

Employment Contract	Risk Assessment
Open-Ended (Full and Part-time)	Low-Risk
Marginal Part-Time work	Medium
Involuntary Part-Time work	Medium
Temporary/ fixed term contracts	Medium
Temporary Agency Work	Medium-High
Self-Employment	Medium
Bogus Self-Employment	Medium
Zero hours contracts	High

<sup>13</sup> Jorgensen, M.B., (2016). Precariat – what it is and isn't – towards an understanding of what it does. *Critical Sociology*, 42 (7-8): 959-974.

<sup>14</sup> International Labour Organisation, (2012). *From precarious work to decent work*. Outcome document to the workers' symposium on policies and regulations to combat precarious employment. ILO. p.29

<sup>15</sup> Vosko, L.F., (2010). *Managing the Margins. Gender, Citizenship and the International Regulation of Precarious Employment*. Oxford: Oxford University Press.

<sup>16</sup> Bosch, G., (1986). Hat das Normalarbeitsverhältnis eine Zukunft? *WSI-Mitteilungen*, 3(90): 163-176. p. 165.

<sup>17</sup> Broughton, A., Green, M., Rickard, C., Swift, S., Eichhorst, W., Tobsch, V., Magda, I., Lewandowski, P., Keister, R., Jonaviciene, D., Ramos Martin, N.E., Valsamis, D., Tros, F.H., (2016). *Precarious Employment in Europe part 1: patterns, trends and policy strategy*. (Employment and Social Affairs). Brussels: European Parliament. Directorate-General for Internal Policies. Policy Department A: Economic and Scientific Policy, p. 11.

<sup>18</sup> Ibid pp.16-18

In the absence of an agreed definition, this report refers to Vosko's (2010) definition of precarious work and examines employment relationships with a medium to high risk of precariousness (as identified in table 1).

## ***1.2 Outline***

**Chapter two** compares precarious employment relationships in Europe. This chapter begins by mapping out the nature and extent of precarious work in Europe, using a case study approach of seven EU countries: Portugal, Italy, Spain, France, Germany, Poland and the UK. Next, this chapter analyses EU policy responses to precarious work practices to date, and concludes by examining the impact they have had on precarious work practices in Europe and by identifying the policy lessons that Ireland can learn. **Chapter three** examines precarious work practices and industrial relations policy in Ireland, and follows with policy recommendations to address policy short comings. This is followed by an examination of the trade union's role in representing precarious workers. **Chapter four** looks at the social protection system in Ireland. First, it examines the social protection system and then examines its short comings from the perspective of a precarious worker. Finally, this chapter describes the policy responses required to address these needs and shortcomings. **Chapter five** examines the healthcare system in Ireland. This chapter begins by contextualising healthcare services and then moves on to explore precarious workers' experiences with accessing healthcare services in Ireland and ways in which insecure working conditions affect their health. Lastly, this chapter makes policy recommendations to address these concerns. **Chapter six** explores the precarious workers' housing experiences. First, it maps out accommodation types in Ireland (home ownership, private rental and social housing). Next, this chapter explores precarious workers' experiences with finding somewhere to live, and then follows by recommending policy responses to address identified deficits. **Chapter seven** examines childcare services and supports in Ireland. This chapter begins by examining the childcare system and follows by exploring the issues that face precarious workers concerning childcare services and supports. Lastly, this chapter makes policy recommendations to address these concerns. **Chapter eight** concludes by arguing that precarious work creates precarious lives and that policy responses to tackle precarious work must be combinations of employment protections to make work more secure and investment in social supports such as, healthcare, housing and childcare.





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## 2. Mapping out precarious work in Europe

## 2. Mapping out precarious work in Europe

### 2.1 Introduction

For decades, neoliberalism has influenced much of the globalised world. It is against this backdrop that precarious work became prominent<sup>19</sup>. Even though it is often linked to the crisis of Fordism<sup>20</sup> in the 1970s and the 1980s, the development of precarious work practices in Europe was encouraged by 'the need for countries to become more competitive in response to globalisation and "financialisation" of the economy, by means of an adaptable, mobile workforce'<sup>21</sup>. Consequently, the highest growth of non-standard employment in Europe (which is associated with a higher risk of precariousness) began in the late 1970s and continued until the global financial crash in 2008<sup>22</sup>. The European Commission has also highlighted how reforms to national employment protection legislation in the 1990s facilitated flexibility and deviations from the standard contract that also included 'lesser protection against dismissal to promote the entry of newcomers and disadvantaged job-seekers to the labour market'. These legislative changes were borne from the viewpoint that regulations inhibited a flexible labour market, a stance that has since been heavily criticised<sup>23</sup>. Consequently, these changes resulted in 'increasingly segmented labour markets'<sup>24</sup>.

When examining working conditions in Europe, it can often be assumed that every country has experienced similar historical shifts. However, precarious working conditions have been experienced in different ways across Europe. Therefore, a more complete picture can be gained by looking at the types of precarious work prevalent in different parts of Europe and how they developed. For example, part-time work is most prevalent in continental Europe, the Nordic countries and the United Kingdom; solo self-employment is most common in Romania, Greece and the Czech Republic; and fixed-term contracts are widespread in Spain, Portugal, and Poland<sup>25</sup>.

The following chapter will explore the development of precarious work in Europe and the policy interventions taken to address employment relationships deemed to be at a higher risk of precariousness at a European and at a national level. This chapter begins with a case study approach that maps out the main types of precarious work in seven European countries and the policy interventions taken by each government. Lastly, this chapter examines policy interventions taken at an EU level and determines whether an EU-level response may be effective in tackling precarious work.

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<sup>19</sup> Numerous scholars have also argued that precarious work is nothing new, articulating that characteristics associated with precarity have been permanent fixtures in the working-class experience for centuries (Fraser, P., (2013). *The precariat: a class or a condition?* *New Labor Forum*, 22 (2): 11–14).

<sup>20</sup> Neilson B and Rossiter N., (2008). Precarity as a political concept, or, Fordism as exception. *Theory, Culture & Society* 25(7–8): 51–72.

<sup>21</sup> Guitierrez-Barbarrusa, T., (2016). The growth of precarious employment in Europe: Concepts, indicators and the effects of the global economic crisis. *International Labour Review*, 155 (4): 477–508, p.478.

<sup>22</sup> Eurofound (2017), *Aspects of non-standard employment in Europe*. Eurofound, Dublin.

<sup>23</sup> Rubery, J., Keizer, A., and Grimshaw, D. (2016) Flexibility bites back: the multiple and hidden costs of flexible employment policies. *Human Resource Management Journal*, 26(3): 235–251.

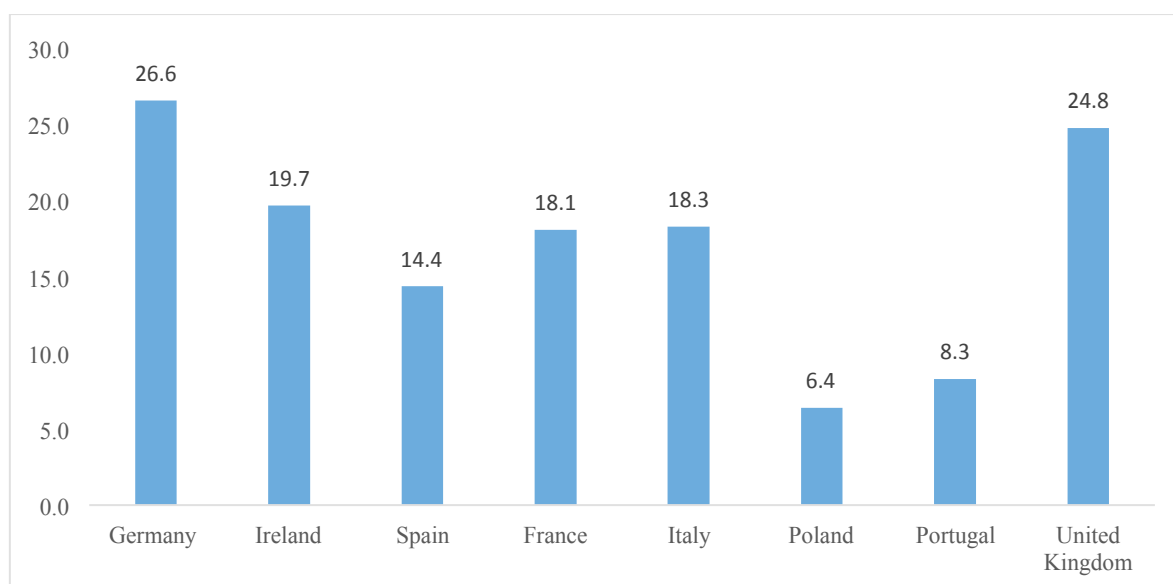
<sup>24</sup> European Commission, (2006). *Modernising labour law to meet the challenges of the 21st century*. Green paper, p. 5.

<sup>25</sup> Allmendinger, J., Hipp, L. and Stuth, S. 2013. *Atypical Employment in Europe 1996–2011*. Berlin: WZB Discussion Paper P 2013-03.

## 2.2 Precarious work in Europe

The EU member states that will be examined are: Portugal, Italy, Spain, Poland, France, Germany and the UK. The most recent composition of high-risk forms of precarious work are detailed below for each of the seven EU member states and Ireland<sup>26</sup>. According to Eurostat's Labour Force Survey (LFS), part-time work is highest in Germany (26.6%), France (18.1%), Italy (18.3%) and the UK (24.8%). Temporary work is highest in Portugal (19.1%), Spain (22.6%) and Poland (20.6%). Temporary agency work is low amongst all seven EU member states; however, France and Spain have the highest rates (3.3% and 3.4% respectively). Self-employment is highest in Italy (20.8%) and Poland (17.4%). Finally, solo self-employment (as a percentage of total self-employment) is high amongst all seven EU countries, however, the UK has the highest level of solo self-employment (84%), followed by Poland (77.5%). How does Ireland compare? Ireland also has a low rate of temporary agency work (2.4%) and a high rate of solo self-employment as a percentage of total self-employment (68.5%). Ireland also has a high rate of part-time work (19.7%).

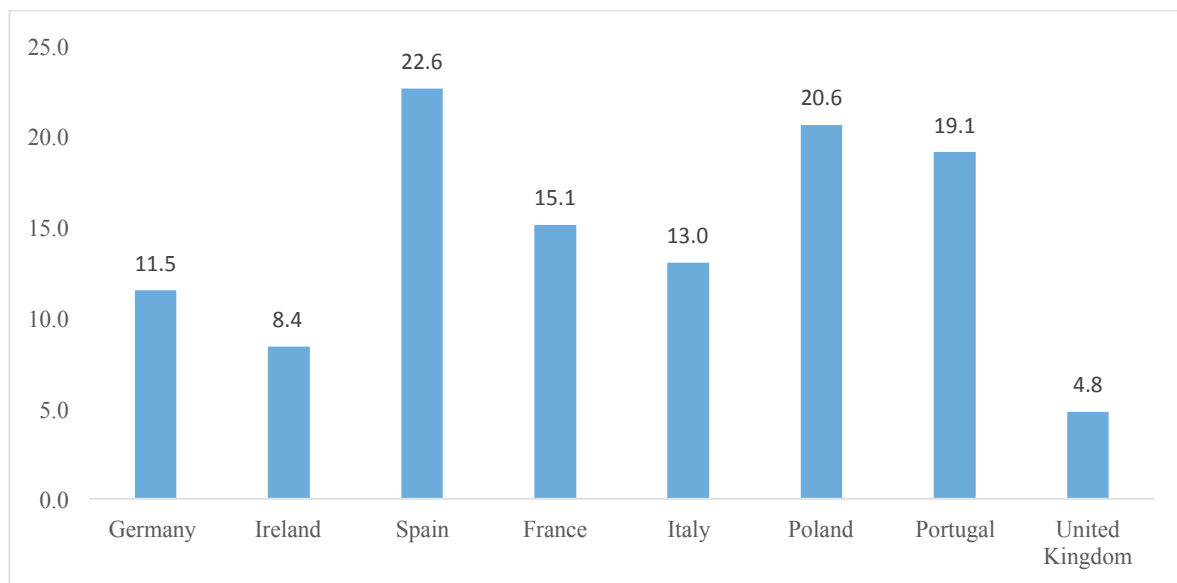
**Chart 2.1: Part-time employment as a percentage of total employment (2018 Q1)**



Source: Eurostat

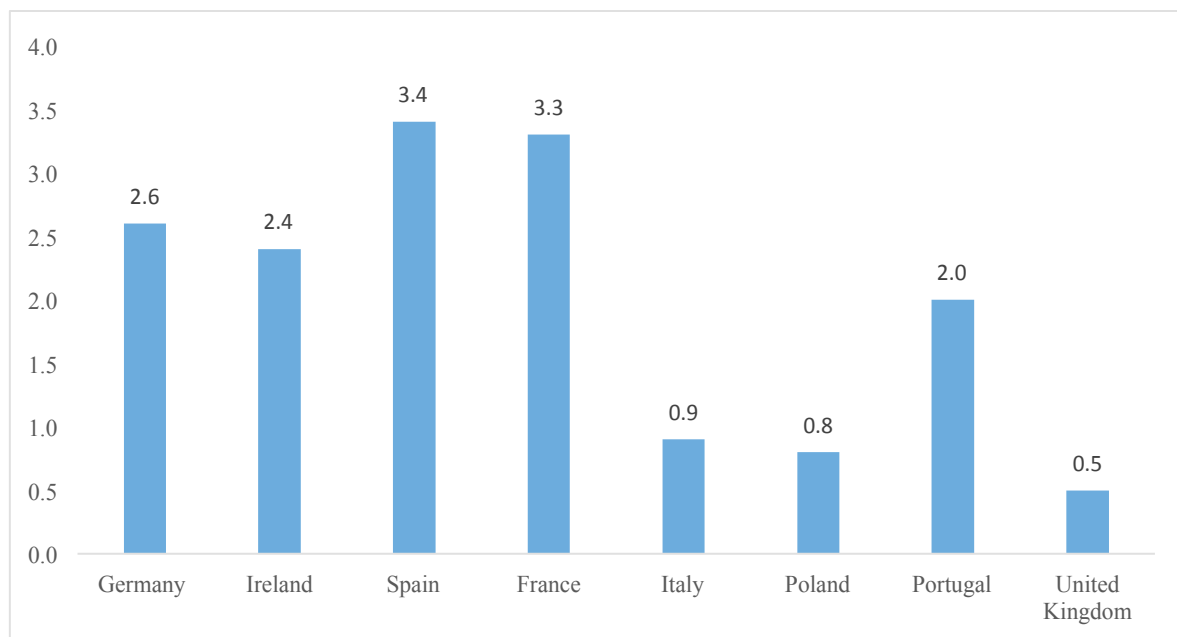
<sup>26</sup> Eurostat Labour Force Survey (LFS)

**Chart 2.2: Temporary employment as a percentage of total employment (2018 Q1)**

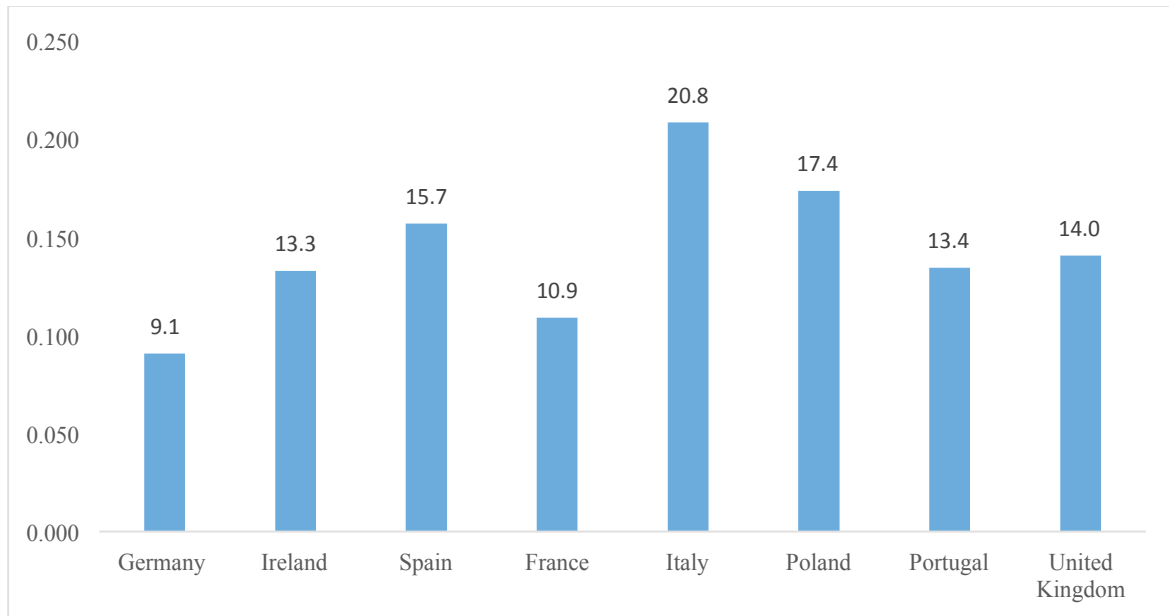


Source: Eurostat

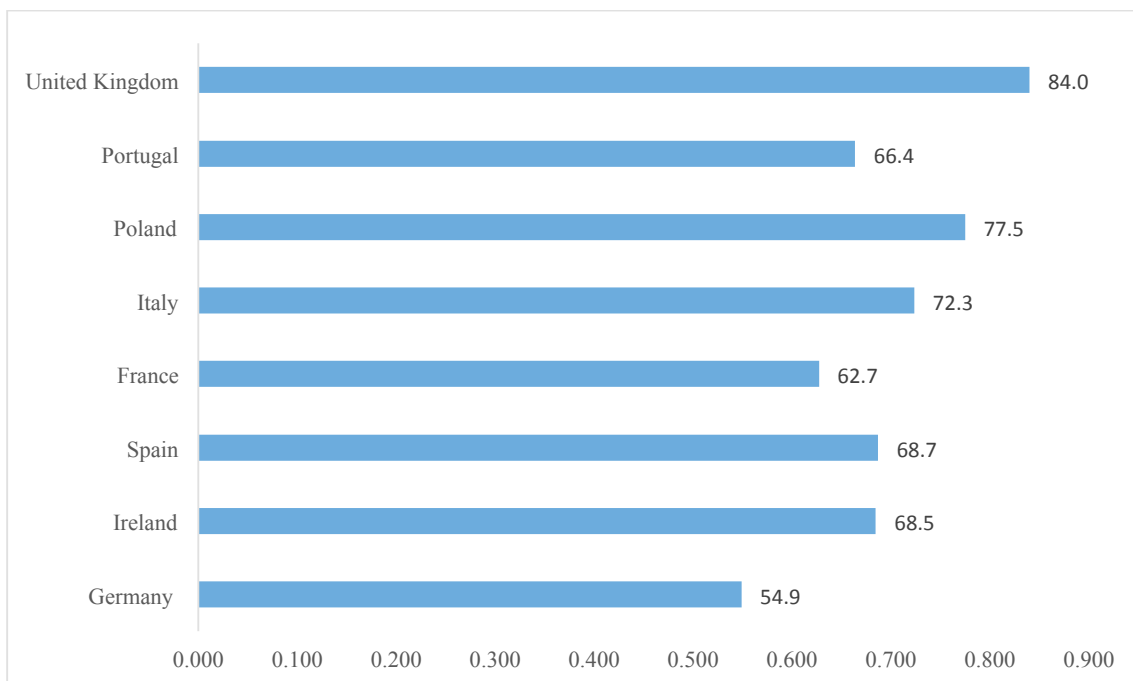
**Chart 2.3: Temporary agency work as a percentage of total employment (2017)**



Source: Eurostat

**Chart 2.4: Self-employment as a percentage of total employment (2017)**

Source: Eurostat

**Chart 2.5: Solo self-employment as a percentage of total self-employment (2017)**

Source: Eurostat

The following seven case studies describe the patterns, trends and historical shifts in precarious work, as well as the policy interventions undertaken in the respective case study country.

## *Portugal*

### *Type of precarious work*

Precarious work increased in Portugal following the Carnation Revolution in 1974. From 1975 onwards, unemployment increased alongside the public sector deficit, which was a consequence of the collapse of foreign exchange reserves. This led Portugal to accept a number of IMF loans in the late 1970s and again in the 1980s. It was against this backdrop that the law introducing short-term employment contracts was introduced in 1976. The informal job economy was also facilitated during this time.

By 1988, the highest rate of job growth was in 'atypical forms of employment'<sup>27</sup>, which was attributed to Portugal's ascension to the EU, where Portugal faced new international competition. Stable and permanent working conditions that were codified into law after the revolution were never adopted. Consequently, this 'a-typical' job growth led to the expansion of the call-centre sector in the 1990s, because firms out-sourced services, such as customer service to other companies and used temporary, low paid contracts.

In Portugal, job insecurity remains a structural challenge. While there was a slight increase in permanent contracts in 2017, it was not enough to reverse labour market segmentation. According to a report published by CES (Centro de Estudos Sociais, University of Coimbra) 22 per cent of all employees are on fixed term contracts, and this figure increases for youth employment, as it stands at 65 per cent. 81 per cent of new private sector employment contracts are fixed-term or temporary. This has led the report to conclude that the economic recovery has not led to vast improvements in job security for the population<sup>28</sup>.

### *Policy intervention*

In Portugal, a number of reforms were made to employment legislation to lessen the precariousness of temporary employment. In 2011, severance pay on all new fixed-term contracts were brought in-line with that of all new open-ended contracts (20 days for each year they were employed). Furthermore, in Portugal, temporary contracts can now only be used to meet a temporary need in the business. Likewise, fixed term contracts can only be renewed three times and the total duration cannot exceed three years. There are some exceptions made, such as for first-time jobseekers and the long-term unemployed.

The reforms that took place during the period between 2011 and 2015 also covered tackling false self-employment. According to the OECD's report on labour market reforms in Portugal (2011-2015), 'the Labour Code of 2009 already defined the conditions under which an employment contract would be presumed (i.e. under which the worker would be considered a wage earner)'. However, with the addition of the new Law 107, which came into effect in September 2013, it 'provides labour inspectors with the necessary tools to enforce the existing regulations... In a first instance, the employer is given ten days to regularise the situation. If this fails, a process is initiated to establish an employment contract'<sup>29</sup>.

This year, the current government have made commitments to tackle precarious working practices and consequently have recently published proposals to that effect. Measures include reducing the maximum duration of fixed-term contracts (from three to two years) and reducing the number of times

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<sup>27</sup> Matos, P. (2012), *Call centre labour and the injured precariat: shame, stigma and downward social mobility in contemporary Portugal*, *Dialect Anthropology*, 36:217-243, p.227

<sup>28</sup> [https://www.ces.uc.pt/ficheiros2/files/18BarometroCrises\\_Retoma\\_precariedade.pdf](https://www.ces.uc.pt/ficheiros2/files/18BarometroCrises_Retoma_precariedade.pdf)

<sup>29</sup> OECD (2017), *Labour Market Reforms in Portugal 2011-2015: a preliminary assessment*, p. 134.

temporary contracts can be renewed. The Portuguese government has also proposed a new social security contribution for employers who are over-reliant on fixed term contracts. These proposals followed recent steps taken by the Portuguese government to address the precarious nature of self-employed workers. The reformed Social Security contributory plan has been passed into law, and this entailed a deduction system that is based on the average income accumulated in the previous trimester. Previously, deductions were based on the income from the preceding year. Furthermore, Social Security contributions decreased from 29.6 per cent to 21.4 per cent, and self-employed workers can adjust their payments up or down by as much as 25 per cent, in order to take fluctuating incomes into consideration. Self-employed workers must contribute a minimum of twenty euro per month to ensure consistency and continuity in order to assure future pension entitlements and other social benefits, such as those for unemployment and illness. The new scheme also makes provisions for a requirement of 360 days of contributions rather than 720 days, as was the case previously. Under the new scheme, sick pay is awarded on the eleventh day onwards, rather than after the 31st day.

## Italy

### *Type of precarious work*

Italy's labour market became more flexible from the 1980s onwards. First, work-and-training-contracts were introduced, followed by the erosion of rules pertaining to fixed-term contracts. This led to more accessibility for firms to hire people using sub-contracting, new forms of self-employment, and also bogus self-employment. However, the labour reforms made in 1997 saw the biggest change to the Italian labour market, with the introduction of the Treu Law by the centre-left government. These reforms sought to 'increase employment by introducing agency work, liberalising the job placement market and extending other forms of atypical work'<sup>30</sup>. However, labour reforms made in favour of creating more flexible forms of atypical work continued in the 2000s, which saw the implementation of the Biagi Law (2003), and introduced many new forms of non-standard contracts. Consequently, there are now over forty different non-standard employment contracts<sup>31</sup>.

Italy has seen an increase in the size of its "cognitariat"<sup>32</sup>- the proletariat of cognitive work. Italy is above the EU average when it comes to the use of dependent and independent self-employment, alongside undeclared employment; self-employment represents 17 per cent of national employment. People belonging to this class are usually known as consultants, who may enjoy the type of work they do, but are forced to accept insecure working conditions. This has led to 'workers who in their workaholic hyper-identification are both voluntarily and compulsorily in production'<sup>33</sup>. Furthermore, in Italy they face great difficulty in accessing welfare support and other social rights such as sick leave, maternity leave and pensions. Accordingly, this lack of security during periods of unemployment is seen as a bigger problem for precarious people than the precarious work itself because it is tailored to the needs of standard employment contracts; only 40 per cent of temporary contracts and 30 per cent of agency work have entitlements to unemployment benefits<sup>34</sup>.

<sup>30</sup> Pulignano, V., Gervasi, L.O., and Franceschi, F. (2016), *Union responses to precarious workers: Italy and Spain compared*, *European Journal of Industrial Relations*, 22(1): 39-55, p. 42

<sup>31</sup> Ballarino, G. (2005), *Strumenti nuovi per un lavoro vecchio. I l sindacato italiano e la rappresentanza dei lavoratori atipici*, *Sociologia del lavoro* 97: 174-190.

<sup>32</sup> Berardi, F. (2005), *what does Cognitariat Mean? Work, Desire and Depression*, *Cultural Studies Review*, 11 (2): 57-63.

<sup>33</sup> Murgia, A. (2014), *Representations of precarity in Italy*, *Journal of Cultural Economy*, 7(1): 48-63.

<sup>34</sup> Berton F., Richiardi M. and Sacchi S. (2009), *Flex-insecurity. Perché in Italia la flessibilità diventa precarietà*, Bologna, Il Mulino.

## *Policy intervention*

In Italy, the former Prime Minister Matteo Renzi enacted a law in 2015 called the Jobs Act. The intention of this Act was supposedly to give workers on temporary contracts more job security. However, the Jobs Act was highly controversial for a number of reasons. For example, the Jobs Act revised employment protection for permanent workers whilst incentivising employers to reduce the use of temporary contracts. So, while on the one hand the Act included a measure that incentivised employers to hire workers on permanent contracts, (a temporary tax break that exempts employers from paying employees' pension contributions for three years), on the other hand, the scrapping of Article 18 of the Labour Code (that stipulated that employers with more than 15 workers must reinstate someone who was wrongly dismissed) made permanent jobs more insecure. However, even the reforms to the law aimed at reducing temporary contracts were criticised for a number of reasons:

1. The requirement for the employer to indicate the reason (also known as the *causale*) for which fixed-term employment has been required was removed;
2. The obligation for giving objective reasons for extending contracts was abolished;
3. Contracts can be extended up to five times;

However, on the other hand the Jobs Act does

1. Set out a maximum number of fixed-term contracts and a maximum duration (36 months);
2. There is a limit of 20 per cent of the total workforce of a company that can be hired on a temporary contract;
3. It imposes an administrative sanction for violations of the maximum number of fixed-term contracts allowed<sup>35</sup>.

Consequently, the current Labour Minister Luigi Di Maio, leader of the anti-establishment 5-Star Movement, has vowed to review the Jobs Act.

## *Spain*

### *Type of precarious work*

A similar story of deregulation of the labour market occurred in Spain. In 1982, the centre-left government (Partido Socialista Obrero Espanol) was keen to create more jobs to reduce the high unemployment rate. The PSOE believed the way to spur job growth was to make employment more flexible. Their plan focused on reducing costs relating to employee dismissal, which was seen as an obstacle to creating more jobs. The focus was on using labour legislation reforms to facilitate temporary contracts, fixed term contracts and Temporary Work Agencies (TWAs).

In 1984, following heavy negotiations with the two main Trade Union Confederations and the employer's association, the first labour market reform entered into law. Subsequently, fixed term contracts became a permanent fixture in the labour market and continued to grow at a rapid pace; 73 per cent of new entrants into the labour market between 1985 and 1993 were hired on temporary, fixed-term contracts<sup>36</sup>.

<sup>35</sup> Eurofound, (2015). *Italy: Changes to fixed-term contracts, 27/04/2015*, <https://www.eurofound.europa.eu/publications/article/2015/italy-changes-to-fixed-term-contracts>

<sup>36</sup> Conde-Ruiz, J.I. et al. (2010), *The Spanish labour market reforms: an obsolete model*, FEDEA, Colección Estudios.



However, as time went on and the dualisation of the Spanish labour market (permanent workers on one side and non-standard workers on the other) became more pronounced, policy makers started seeing this division of the labour market as a problem. Therefore, in 1997 some reforms were enacted to reduce temporary employment. Although temporary contracts were reduced in the private sector (from 41 to 26 per cent), the public sector increased its use of temporary contracts (from 16 to 24 per cent) during the same period<sup>37</sup>. A study conducted by Amuedo-Dorantes et al. (2010) revealed that temporary employment in Spain is involuntary and provides no career advancement prospects and provides low transitional rates to permanent employment<sup>38</sup>.

In more recent times, a combination between short, fixed-term and part-time work has increased. This change was the result of legislative changes to the regulation of part-time work contracts, most prominently more flexibility for employers to use overtime with part-time contracts. Therefore, it was concluded by the Precarious Employment in Europe Report that

this high flexibility on imposing overtime in part-time contracts, along with the power of the employer to unilaterally alter the distribution of working time with only a minimum period of five days' notice (Article 34.2 of the Workers Statute), and the weakening of sectoral collective agreements to regulate this type of contract, leads to an overall assessment of this reform as negative for the protection of workers' rights.<sup>39</sup>

The Spanish Labour Force Survey first began to notice this trend in the last quarter of 2015, when it showed a 123 per cent increase in hourly-paid short-term jobs. The data also showed that there was a 48 per cent increase in full-time contracts that lasted seven days or less. This contract became attractive during this time because of the economic recession. Consequently, the labour market reforms of 2012 and 2013 eroded job quality in Spain.

### *Policy intervention*

In Spain, labour market reforms were enacted through Law 3/2012. The unemployment rate was 22.5 per cent, a consequence of the economic crisis. While government proponents at the time considered these reforms necessary to reduce the unemployment rate, the changes remained highly controversial with the opposition because they made work more precarious in Spain<sup>40</sup>. This legislation aimed to reduce the high rate of fixed-term contracts and reduce the risk of the 'precarity trap', a phenomenon in which employees become trapped in an endless sequence of temporary contracts. However, this legislation also focussed on increasing internal flexibility within companies. For instance, a new open-ended contract was established for employees less than thirty years old, in which they could be dismissed without reason within the first year of their employment. It also allowed for collective dismissals (these were to be used by small and medium sized businesses and this applied even if the business was not undergoing economic difficulties). Furthermore, dismissal payments were significantly reduced.

<sup>37</sup> Pulignano et al. 2016: pp. 43-44

<sup>38</sup> Amuedo-Dorantes, C., Georges, A. and Pozo, S., (2010). Precarious work report Spain, Segmentation – transitions. *The ANNALS of the American Academy of political and social science*, 630 (1): pp. 224-244.

<sup>39</sup> Broughton, A., et al. (2016). *Precarious Employment in Europe part 2: country case studies*, (Employment and Social Affairs). Brussels: European Parliament. Directorate-General for Internal Policies. Policy Department A: Economic and Scientific Policy, p. 33.

<sup>40</sup> Bosque, D., (2016). *Spain's 'unfair' labour reform creates jobs but erodes rights*, *The Local*, 7/03/2016, <https://www.thelocal.es/20160307/spains-unfair-labour-reform-unemployment>

## *France*

### *Type of precarious work*

According to INSEE (The National Institute of Statistics and Economic Studies), non-permanent contracts more than doubled between the mid-1980s and late 1990s from 5 per cent to 12 per cent. Again, similar to other European countries during this time, France was experiencing high unemployment and the concurrent government was looking for a way to reduce this.

Unlike other parts of Europe, people employed on temporary contracts decreased during the recession, as they were the first to lose their jobs. In fact, temporary jobs increased after the recovery because companies first employed people on short-term contracts<sup>41</sup>. In France, we also saw major discrepancies among the demographic profiles, when it came to understanding the rate of temporary employment. For example, between the mid-1980s and the late 1990s, the rate of temporary employment increased from 17 per cent to 47 per cent.

During the past ten years, the number of fixed-term contracts (FTC) of one month or less has risen sharply, particularly FTCs of less than one week; between 2000 and 2012 these increased by 120 per cent. Insarauto et al (2015) argued that these short-term contracts are similar to zero-hour contracts<sup>42</sup>. Askenazy and Erhel (2015) have also noted that the transition rate to a more secure contract has decreased; in 1990, the transition rate was 40 per cent, which decreased to 25 per cent in 2014<sup>43</sup>.

In more recent times, a type of 'self-employment' has also increased and employees in this scheme are known as auto-entrepreneurs. This approach was introduced in 2008, which is 'the right, for certain independent workers to benefit from simplified tax returns and social security contributions, subject to a maximum turnover'. Furthermore, 'the regime does not create a specific status, rather a regime for independent workers pursuing small-scale activities'. Subsequently in 2009, it was given specific legislative status, which contributed to the increase in numbers of people working in this way. Consequently, this type of employment regime has been increasing; in 2014, there were almost one million auto-entrepreneurs, 'an increase of 8.6% (or 78,000) in one year'.<sup>44</sup>

Auto-entrepreneur schemes were introduced as measures to tackle unemployment. However, similar to other countries around Europe, France facilitates bogus self-employment. For example, INSEE data has shown that only 58 per cent of workers remain economically active after three years. This statistic is often related to the fact that income for auto-entrepreneur workers is low, with nine out of ten workers earning less than the minimum wage<sup>45</sup>. It is compulsory for auto-entrepreneurs to take out health insurance, but are not entitled to employment protection nor unemployment insurance. They are also excluded from collective bargaining, which makes them more vulnerable. As with other forms of bogus self-employment, employers are forcing employees to adopt this regime as a tax saving measure.

### *Policy intervention*

In France, a 'precarious indemnity' (L'indemnité de fin de contrat) was added to the labour code, which is a fine for employers who use fixed-term contracts. It stipulates that the employer must pay 10 per cent of the total gross remuneration of the employee as compensation for their loss of security.

<sup>41</sup> Ibid p. 11.

<sup>42</sup> Insarauto, V., Kornig, C., Louit-Martinod, N. and Mehaut, P., (2015). *Reducing precarious work in Europe through social dialogue, the case of France, first interim report.*

<sup>43</sup> Askenazy, P. and Erhel, C., (2015). *The French productivity puzzle.* IZA Discussion paper series.

<sup>44</sup> Broughton et al., 2016: pp 15-16.

<sup>45</sup> Ibid p. 16

Furthermore, since August 2015, fixed-term contracts can only be renewed twice, (and this is only if it does not exceed the 18-month maximum period for fixed-term contracts).

## Germany

### *Type of precarious work*

In Germany, non-standard employment was expanded through the Hartz reform package in the early 2000s<sup>46</sup>. These reforms included a reduction in the entitlement for pay-related unemployment benefits, which put pressure on the unemployed to take on lower-quality employment. Furthermore, the Hartz reforms also included changes to employment legislation that allowed the creation of 'mini-jobs' (marginal part-time work) and 'ein Euro jobs'. Consequently, Hartz IV spurred the first low-wage service sector in Germany, one in which precarious employment played a central role<sup>47</sup>.

Since the mid-2000s, there have been approximately seven million marginal part-time jobs (or mini jobs) created in Germany<sup>48</sup>. If marginal part-time workers earn below a certain threshold, they are exempt from income tax and full employee social security. Since 2013, this threshold has been set at a maximum gross wage of 450 euros per month. This has led to an enduring presence of low-paid jobs that are concentrated in occupational sectors such as retail, hospitality and cleaning. For unemployed people taking up marginal part-time work, this can create a poverty trap because 'according to current German legislation on earnings disregard clauses, they can only earn 165 euros on top of their benefits before benefits are withdrawn', which 'impedes mobility to more substantial forms of work leading to higher earnings'<sup>49</sup>. Another consequence of these reforms is that no working-time limit was established. Therefore, hourly pay rates have dropped and marginal part-time work has replaced full-time and regular part-time work in some sectors<sup>50</sup>. In 2015, however, the German government established a statutory minimum wage, which had a direct effect on tackling low-paid, marginal part-time work, although it was still not a sufficient solution. For example, there is no legislation to address the fact workers are exempt from taxation and social insurance coverage.

Another consequence of the Hartz reforms was an increase in temporary agency work. The reform 'abolished the maximum assignment period and the ban on the synchronisation between job and assignment'<sup>51</sup>. Temporary agency workers have the same social insurance coverage as standard workers, however, there is a wage difference between temporary agency workers and comparable directly-employed staff. This is due to sector-specific wage scales. The temporary nature of such work varies; some workers can have long contracts, while others are employed on short contracts. According to Jaehrling and Wagner (2015) half of temporary agency workers were employed for less than three months in 2012<sup>52</sup>. Temporary agency work is generally concentrated in the service sector.

Finally, similar to other countries in Europe, self-employment is also on the rise in Germany. There are approximately two million people who are self-employed without employees, making this the dominant

<sup>46</sup> Hassel, A. and Schiller, C. (2010). *Der Fall Hartz IV. Wie es zur Agenda 2010 kam und wie es weiter gehen wird*. Frankfurt: Campus.

<sup>47</sup> Dörre, K., (2013). Finance Capitalism, Landnahme and Discriminating Precariousness – Relevance for a New Social Critique, *Social Change Review* 10(2): 125-151.

<sup>48</sup> Eichhorst, W. et al., (2012). *Geringfügige Beschäftigung – situation und gestaltungsoptionen*. IZA Research Report 47.

<sup>49</sup> Broughton et al., 2016: p. 18.

<sup>50</sup> Jaehrling, K. and Wagner, I., (2015). *Reducing precarious work in Europe through social dialogue- The case of Germany*. Institute for Work, Skills and training (IAQ). University of Duisburg-Essen.

<sup>51</sup> Broughton et al., 2016: p. 19.

<sup>52</sup> Jaehrling, K. and Wagner, I., 2015.

form of self-employment. Health care insurance is mandatory in Germany, meaning that self-employed workers do have access to healthcare like everybody else, but they must pay the full contribution. There is also pension insurance but it is not mandatory. Unemployment insurance is also accessible on a voluntary basis, but this is dependent on being unemployed or dependently employed for a period of time. Minimum wages do not apply to freelance workers and neither do collective agreements.

### *Policy intervention*

In Germany, temporary agency work has been re-regulated (the 2003 Hartz reforms abolished the maximum job period). In April 2017, the German Act on Temporary Agency Work came into effect, which limits the length of time that a business can hire a temporary agency worker (the maximum time limit is eighteen months). Furthermore, if the limits are exceeded, the new law grants the worker employee status, and after nine months, the worker is entitled to the equivalent pay of permanent employees. Lastly, striking employees cannot be replaced by temporary agency workers.

Furthermore, in the autumn of 2015, the German government proposed legislation to combat false self-employment practices. It was proposed to provide a stricter definition of self-employment. Also, if a worker is required to work on the "client's" premises at specified times, etc., this would characterise a dependent employment (or false self-employment) situation. This bill was only proposed, however, and has not yet come into effect.

## *Poland*

### *Type of precarious work*

Since early 2000, Poland has seen a rise in temporary employment under standard fixed-term employment contracts, civil law contracts and temporary work agencies (TWA). Fixed-term contracts were further encouraged in 2002 with the temporary removal of legislation that limited the number of renewals of fixed-term contracts. These changes remained in place until Poland's accession to the EU in 2004.

While fixed-term contracts are in some senses the least precarious type of work in Poland (given that similar to open ended contracts, there are also social security contribution payments made and a notice period), these can be terminated without justification from the employer. This is not the case for open-ended contracts where an employer must provide a reason that adheres to the labour code (the reasons for terminating are defined in the labour code).

Civil law contracts are not governed by the Labour Code and also carry a lower tax status. There are two types of civil law contracts: a contract of mandate and a specific purpose contract. The latter contract is not covered by social security contributions, yet workers employed on these contracts pay income tax. A contract of mandate is covered by social security contributions. However, civil law contracts do not pay annual leave, sick leave, maternity leave, or severance pay. Furthermore, the minimum wage is not mandatory for civil law contracts, which has meant that wages remain very low. Civil contracts do not have a guaranteed notice period, nor is there legislation that regulates the number of civil contracts a person can work.

### *Policy intervention*

In Poland, there were two amendments made to the Labour Code; the first was related to fixed-term work and the second was in relation to temporary agency work. The first amendment tightened up the provision on fixed-term work by limiting it to three fixed-term contracts, with total duration limited to 33 months. The second amendment concerned temporary agency work and synchronised the notice periods for both temporary workers and open-ended contracts.

## **UK**

### *Type of precarious work*

The topic of precariousness began to be hotly debated in the UK media in recent years, and particularly around the time of the financial crisis. The media largely focused on zero-hour contracts, which is the most prominent form of precarious work in the UK. Zero-hour contracts do not give the worker a defined minimum number of working hours, meaning they can range from zero to full-time working hours. Those who advocate for the use of zero-hour contracts argue that these types of flexible contracts allow employers in sectors such as hospitality to respond to fluctuations in service demand. Zero-hour contracts are also prevalent in other sectors including education, health, social work and tourism.

It is important to note that people who work on a zero-hour basis are classed as workers rather than employees, which is an important distinction because workers have less labour law entitlements than employees. Even though zero-hour workers can refuse work, they often feel pressured to accept the hours for fear that they may be penalised and receive less hours or none at all. Zero-hour contracts put people at risk of poverty; the TUC (Trade Union Congress) found that two in five workers on zero-hour contracts earned less than 111 pounds per week, thus losing out on statutory sick pay<sup>53</sup>. The CIPD survey also discovered that 50 per cent of all zero-hours contract workers earn 15,000 pounds or less annually, while only six per cent of employees received such low pay<sup>54</sup>.

### *Policy intervention*

In the UK, legislation was introduced to deal with zero-hour contracts. The Small Business, Enterprise and Employment Act of 2015 came into law on 26 March, 2015. Section 153 of the law amended the Employment Rights Act of 1996 by inserting a new 'Part 2A' that aims to prevent employers from using 'exclusivity clauses' (where workers are restricted from working with other employers). Additionally, section 27A (2) was amended to contain the ban on exclusivity clauses:

- (3) Any provision of a zero hours contract which—
  - (a) prohibits the worker from doing work or performing services under another contract or under any other arrangement, or
  - (b) prohibits the worker from doing so without the employer's consent, is unenforceable against the worker<sup>55</sup>.

<sup>53</sup> TUC (2014). *Women and casualization: women's experience of job insecurity*.

<sup>54</sup> CIPD (2013) *Zero-hour contracts: understanding the law*.

<sup>55</sup> <http://www.legislation.gov.uk/ukpga/2015/26/part/11/crossheading/exclusivity-in-zero-hours-contracts/enacted>

There was some criticism at the time from commentators that 'the contractual unenforceability of the clause would be meaningless vis-à-vis the worker if the employer was nonetheless free to refrain from providing future work should the worker ignore an exclusivity requirement'<sup>56</sup>. Consequently, the government considered this criticism and deliberated on how best to address it. As a result of this consultation, the Exclusivity Terms in Zero Hours Contracts (Redress) Regulations 2015 (SI 2015/2021) came into law. The regulations create rights for:

- zero-hours workers classed as "employees" not to be unfairly dismissed for failing to comply with an exclusivity requirement;
- zero-hours workers classed as "workers" not to be subjected to any detriment for failing to comply with an exclusivity requirement<sup>57</sup>.

The rights are enforced through an employment tribunal.

There is also legislation in place to regulate temporary agency workers. The Agency Workers Regulations of 2010 are intended to implement the Temporary and Agency Workers Directive into UK law. They put agency workers on-par with their full-time counterparts who do the same work (in terms of pay and working time).

In October 2016, the Prime Minister commissioned Matthew Taylor, Chief Executive of the Royal Society for the encouragement of Arts, Manufactures and Commerce (RSA), to write a report assessing employment regulations and digital platform work in the UK. The Taylor Review, as the report came to be known, was titled, *Good Work: The Taylor Review of Modern Working Practices*, and was published in July 2017. The report detailed a number of recommendations. Firstly, the Taylor review recommended that a higher national minimum wage be brought in for hours that are not guaranteed<sup>58</sup> and that workers on zero-hour contracts be entitled to request regular hours<sup>59</sup>. The British government responded, stating that it accepted both recommendations and that it would consult with the Low Pay Commission (LPC) on how best to tackle the issue of legislating for a higher national minimum wage for non-guaranteed hours. The LPC is expected to respond later this year. The government also accepted the recommendation for the right to request regular hours but wants to extend this to all workers.

### ***2.3 Policy interventions at an EU level***

In recent years, the European Union have made it quite clear that precarious work is an issue that needs to be tackled throughout Europe, both at an EU and national level. The European Pillar of Social Rights includes secure and adaptable employment as one of its twenty principles, stating that 'employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts'<sup>60</sup>. In July 2017, a resolution on working conditions and precarious employment was adopted by the European Parliament. The resolution defined precarious employment as 'employment which does not comply with EU, international and national standards and laws and/or does not provide sufficient resources for a decent life or adequate social protection'<sup>61</sup>. This,

<sup>56</sup> Pyper, D. and Powell, A. (2018) *Zero-hour contracts*, House of Commons Library, p. 20.

<sup>57</sup> *Ibid* p. 21

<sup>58</sup> Taylor, M. (2017) *Good Work: The Taylor Review of Modern Working Practices*, p.44.

<sup>59</sup> *Ibid* p.48

<sup>60</sup> European Commission, (2018). *The European Pillar of Social Rights in 20 principles*, [https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles\\_en](https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights/european-pillar-social-rights-20-principles_en)

<sup>61</sup> Eurofound, (2018). *Precarious work*, 20/06/2018, <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/precarious-work>

along with the more recent resolution passed by the European Parliament (June 2018) that called on the European Commission and EU countries to tackle precarious work, prove this is an important policy issue at EU level.

In recent decades, the EU has instituted a framework of legislation to curtail precarious work practices that focuses on directives. A 'directive' is 'a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals'<sup>62</sup>. There are various directives related to areas such as, working time, part-time work, fixed-term contracts and temporary agency work.

The EU applies a 'soft law' approach when it comes to other types of precarious work practices, such as self-employment and zero-hour contracts. This consists of non-binding recommendations from the European Commission to EU member states in processes such as the EU's Mutual Learning Programme and the European Semester. The European Semester process involves an annual analysis of EU Member State's plans and responds with recommendations to cover the next 12 to 18-month period. The Mutual Learning programme (MLP), comes under the European Employment Strategy (EES) and, 'aims to support, coordinate and encourage mutual learning between EU Member States in order to assist progress towards the goals of the European Employment Strategy'<sup>63</sup>. These processes are quite limited because of their non-binding nature and only offer to highlight good practice. It is the aim of the Senior Labour Inspectors Committee (SILC) to enforce existing labour and security legislation at a national level.

The EU has implemented a legislative framework related to some aspects of precarious work. There are directives in place for part-time work (part-time work directive), for temporary fixed-term contracts (fixed-term contracts directive), and for temporary agency work (temporary agency work directive). Self-employment and zero-hour contracts have only been addressed on a non-binding level, (European Semester process level and EU Mutual learning programme).

1. **Council Directive 1999/70/EC of 28 June 1999** relates to the framework agreement on **fixed-term work** and aims to protect such workers on fixed-term contracts; to ensure equal treatment and to avoid abusive relationships between an employer and an employee on a fixed-term contract. In particular, it addresses abuses related to the use of consecutive employment contracts.
2. **Council Directive 97/81/EC of 15 December 1997** concerns the Framework Agreement on **part-time work**. This directive aims to guarantee part-time workers receive analogous treatment to full-time staff, removing unjustified discrimination and improving job quality for part-time workers. The directive also addresses the issues around organising work hours to suit both employers' and employees' needs.
3. **Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008** on **temporary agency work** aimed to guarantee that temporary agency workers' working conditions would not be exploited by the user company.

<sup>62</sup> [European Union. \(2018\). Regulations, Directives and other acts. https://europa.eu/european-union/eu-law/legal-acts\\_en](https://europa.eu/european-union/eu-law/legal-acts_en)

<sup>63</sup> Broughton, A., et al., (2016). *Precarious Employment in Europe part 1: patterns, trends and policy strategy*, (Employment and Social Affairs). Brussels: European Parliament. Directorate-General for Internal Policies. Policy Department A: Economic and Scientific Policy, p.144.

4. **Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 on the organisation of working time** outlines the minimum number of breaks and the maximum number of working hours. It leaves it up to Member States to decide whether to allow workers to opt out of the 48-hour maximum working week.
5. There is a proposal for a directive on ***Transparent and Predictable Working Conditions***, which is a follow-up to the publication of the European Pillar of Social Rights. This directive aims 'to set new rights for all workers, particularly addressing insufficient protection for workers in more precarious jobs, while limiting burdens on employers and maintaining labour market adaptability'<sup>64</sup>. The Commission proposes the directive to include more complete information on the essential aspects of the work in writing, no later than the first day of work, to limit the length of probationary periods, to ban exclusivity clauses (in which the employer states that the employee cannot work anywhere else), for workers with variable working schedules to know in advance (within a reasonable period) when work will take place, for workers to receive a written reply to a request to transfer to another more secure job, and for workers to receive mandatory training that the employer has a duty to provide, for free. This directive is currently at the "co-decision procedure" stage and after the Commission's proposal will go to the European Council and Parliament for negotiations.

While these are positive steps, enforcement and implementation of such directives in individual Member States is weak. The directives also lack consistency, as some EU countries go further than others when it comes to applying the minimum standards set in the directive. Furthermore, due to an increase in recent years of non-standard employment, many workers find themselves left out of a lot of employment protection. McKay et al (2012) noted that 'this has both major and long-term consequences for European law, as legislative models have been framed around the concept of the standard contract and has resulted in the exclusion of increasing numbers of Europe's workers because their employment relationship does not fit the standard'<sup>65</sup>.

## ***2.4 Concluding comment***

Although there is EU-level consensus that something needs to be done about this phenomenon, the prevalence of precarious work is different in each country. Furthermore, every country has its own legislative systems, laws and social support mechanisms. As the seven case study countries revealed, different forms of precarious work are prevalent in each country; so, while zero-hour contracts might be a particularly pertinent issue in the UK, in Portugal this is not the case; temporary contracts are the issue there.

Consequently, the seven case studies reveal that at a national level, legislative provisions to tackle precarious work generally go beyond the requirements set out in the EU legislation. This is largely due to the fact that national legislation on the issue is usually a response to a particular type of precarious work that has caused alarm in a particular country, and thus is reactionary. This is also the case for Ireland, as the next chapter will examine.

At a national level, addressing the prevalence of precarious work is a major policy issue that has been identified by policy makers in the seven case study countries. In countries such as Portugal, Spain and

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<sup>64</sup> <http://ec.europa.eu/social/main.jsp?catId=1313&langId=en>

<sup>65</sup> McKay, S., Jefferys, S., Paraskevopoulou, A. and Keles, J. (2012), *Study on precarious work and social rights, (Carried out for the European Commission)*. Working Lives Research Institute, London, p. 5.



Italy, (where new governments have recently come into power), addressing precarious work has been given a high priority. Ultimately, this review of regulations from seven EU countries revealed that policy concentrates on reducing the prevalence of non-standard employment (which carries a higher risk of precariousness), and also strengthening or maintaining protections for the Standard Employment Relationship (SER). Policy makers from these seven EU countries are also crossing over into the area of social protection and enacting related reforms to address self-employed work.

What can policy makers in Ireland learn from this policy review?

- First, reforms to non-standard employment must not be made at the expense of the Standard Employment Relationship, such as was the case in Italy and Spain. Legislation must maintain and strengthen employment protection for permanent workers.
- Second, while policy interventions to address temporary contracts have been relatively similar across the EU (limiting the number of fixed term contracts), France, Italy, and Portugal also include measures that deter or limit companies using them. For example, in France they issue a 'precarious indemnity' in which the company pays 10 per cent of the total gross remuneration of the employee to compensate for their loss of security. In Italy, only 20 per cent of the total workforce of a company can be hired on a temporary contract. And Portugal have proposed a new social security contribution for employers who are over-reliant on using fixed-term contracts. Further restrictions and penalties for using temporary contracts is also worth considering in Ireland, particularly in the sectors where they are most prevalent (e.g. third level and early years' education).
- Third, the UK have taken measures to prohibit the use of exclusivity clauses by employers. This has been proposed to be included in the forthcoming directive on *Transparent and Predictable Working Conditions*.
- Fourth, measures are being taken to address discrepancies in the area of social protection between employed and self-employed workers, to ensure that the latter are also covered. For example, Portugal have introduced law reforms to the social security contributory plan. Amongst the changes is a deduction system based on the average income from the previous trimester, rather than the previous year.
- Fifth, EU countries such as Germany and Portugal have also introduced definitions of employment and self-employment or are reviewing the definition of self-employment to make it stricter.
- Finally, policy has also focussed on strengthening enforcement of employment legislation. In Portugal, the new law 107, which came into effect in September 2013, provides labour inspectors with the necessary tools to enforce the existing regulations. This case highlights the importance of legislation, as well as investment in enforcement.

While at an EU level, directives are the predominant tools used to regulate precarious work, it is up to each EU Member State to decide how to implement them. At the EU level, there is room for a directive to address false self-employment. However, due to the differences in legislation and social protection systems, the legislative response to precarious work lies at a national level.



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# 3. Employment legislation, industrial relations & precarious work in Ireland

## 3. Employment legislation, industrial relations and precarious work in Ireland

*'At the moment, I don't even have a contract and I've been working at this company for a year. Tomorrow they could tell me anything. Flexible working conditions is great for them but it just means total uncertainty for me.'*

(Elaine, a temporary commercial archaeologist)

### 3.1 Introduction

One of the most important policy areas that affects precarious workers is legislation concerning employment regulation. However, as O'Sullivan et al. (2017) argued, while 'the state is critical to economic life yet the labour and employment relations field has underemphasised the role of the state'<sup>66</sup>. Due to the complexities surrounding precarious work, numerous changes are required at a legislative level, in particular addressing insecurity and unpredictability associated with non-standard employment (employment with the highest risk of precariousness), low-pay and low-hour work, strengthening the power and resources of enforcement agencies, and consolidating the bargaining power of workers and trade unions.

First, this chapter will contextualise the most prevalent types of precarious employment relationships in Ireland and the legislation already in place. This will be followed by recommendations based on the information gathered from the focus group sessions and interviews with policy experts. This chapter will also address industrial relations, and the legislative changes and actions needed to address this deficit for precarious workers.

### 3.2 Precarious work in Ireland

In Ireland, the employment relationships with the highest risk of precariousness are part-time, zero-hour/ if-and- when, temporary and solo self-employment (this is also where false self-employment is accounted for). The most recent data from Eurostat's Labour Force Survey (LFS)<sup>67</sup> revealed that as a percentage of total employment, part-time work stands at 19.7 per cent, temporary work stands at 8.4 per cent, temporary agency work stands at 2.4 per cent, self-employment stands at 13.3 per cent and solo self-employment (as a percentage of overall self-employment) stands at 68.5 per cent. However, simply looking at the aggregate data for non-standard work in Ireland does not give a complete picture.

First, there are a number of sectors<sup>68</sup> of the Irish labour market that have above-average proportions of precarious workers and second, each sector experiences precarious work differently. According to FEPS-

<sup>66</sup> O'Sullivan, M., Turner, T., Lavelle, J., MacMahon, J., Murphy, C., Ryan, L., Gunnigle, P and O'Brien, M., (2017). The role of the state in shaping zero hours work in an atypical liberal market economy, *Economic and Industrial Democracy*, Online First Issue, November 2017, p.2.

<sup>67</sup> Eurostat's Labour Force Survey (LFS) data from 2018 Q1, except for self-employment where the most up to date data was for 2017.

<sup>68</sup> For the purpose of this analysis, we are using the CSO Standard Classification of Industrial Activity (NACE), which is the classification developed by the European Community. For a detailed explanation of this classification please see: <http://www.cso.ie/en/methods/classifications/classificationofindustrialactivity/>

TASC's first report on precarious work (2018), human health scored higher than the national average on part-time work (32.3 per cent), transportation and storage scored high on solo self-employment (80 per cent), education measured high on temporary employment (12 per cent), construction measured high on solo self-employment (72 per cent) and temporary work (11.5 per cent), wholesale and retail, accommodation and administration and support measured higher than the national average in part-time (33.3 per cent, 38.5 per cent, and 35.20 per cent, respectively) and temporary work (8 per cent, 11.2 per cent and 9.2 per cent, respectively). 'Other NACE sectors' (this includes various occupations such as hairdressers, sports facilities workers and art workers) scored higher than the national average on all three types of precarious work<sup>69</sup>.

While the overall percentage of non-standard employment remains low, this is not to say that precarious work is not facilitated in the standard sector. King and Rueda argued that 'countries that rely on abundant cheaper labour in standard employment (signified by a high incidence of low pay) do not need as significant a supply of fixed-term and part-time workers'<sup>70</sup>. Correspondingly, Ireland is 'an outlier in terms of its high levels of low pay'<sup>71</sup>. According to TASC's submission to the Low Pay Commission, Ireland has the highest rate of low pay, compared to other Small Open Economies (SOE), where 'at 24%, Ireland...has double the rate that pertains in small, open economies (SOEs), and 10 percentage points above the EU-15 average (13.53)'<sup>72</sup>. High levels of low pay and weak employment protections and industrial relations legislation indicates that employers in Ireland do not need to rely on non-standard employment for cheap labour.

### *Part-time work*

*'I'm ten years in retail and I started off on an eight-hour contract, went up to a 12 and then up to a 16... You never know from week to week what hours you're in. You're always in different hours on different days—sometimes four hours, sometimes six hours. But you had to be 100 per cent flexible. I want to work full-time. I'm there ten years now and there is nothing I would love more than not to have to go near the welfare system. I want to be able to pay my bills myself. I don't want to have to depend on anybody else – especially the welfare system.'*

(Louise, a retail worker)

The definition of a part-time worker in Ireland is 'an employee whose hours of work are less than the normal hours of a comparable full-time worker'<sup>73</sup>. Part-time workers are covered by the Protection of Employees (Part-Time Work) Act 2001. The purpose of this Act is to ensure that part-time employees are not treated less favourably than a comparable full-time employee (a comparable employee is one employed in the same company and who performs similar work).

However, there are a number of factors that can make part-time work precarious, including low hours of work (known as marginal part-time work), low pay and the involuntary nature of it, (known as involuntary part-time work). According to the OECD's definition of involuntary part-time work, this comprises three groups:

<sup>69</sup> Bobek, A., Pembroke, S., and Wickham, J. (2018) *Living with uncertainty: the social implications of precarious work*. FEPS-TASC, p.31.

<sup>70</sup> King, D. and Rueda, D. (2008) Cheap labour: the new politics of "bread and roses" in industrial democracies. *Perspectives on politics*, 6 (2): 279-29. P. 290.

<sup>71</sup> <http://www.thejournal.ie/readme/living-wage-ireland-is-an-outlier-in-terms-of-its-high-levels-of-low-pay-4116976-Jul2018/>

<sup>72</sup> [https://www.tasc.ie/download/pdf/tasc\\_low\\_pay\\_submission\\_2018.pdf](https://www.tasc.ie/download/pdf/tasc_low_pay_submission_2018.pdf)

<sup>73</sup> [https://www.workplacerelations.ie/en/Publications\\_Forms/Guide\\_to\\_Protection\\_of\\_Employees\\_Part-time\\_Work\\_Act.pdf](https://www.workplacerelations.ie/en/Publications_Forms/Guide_to_Protection_of_Employees_Part-time_Work_Act.pdf) p.4

i) individuals who usually work full-time but who are working part-time because of economic slack; ii) individuals who usually work part-time but are working fewer hours in their part-time jobs because of economic slack; and iii) those working part-time because full-time work could not be found<sup>74</sup>.

Although a part-time working arrangement can suit some people, it can also be entered into involuntarily. For example, some lone-parent and two-parent families find that part-time work can be beneficial for working around childcare responsibilities. Similarly, students can find it beneficial for arranging time to study. However, employers can make part-time work a condition of employment, even though the worker wants to work more hours or on a full-time basis. This arrangement is particularly common in retail. Louise, a retail worker, revealed that:

Most places will take you on part-time, flexi, low contract hours. Any job that I've gone for - and I have had so many interviews - they're all part-time. None of them have been full-time jobs. None of them. One of them was a 12/16 hour, depending. A phone store was eight hours. There was another place and that was six hours. That was laughable.

According to Broughton et al.'s (2016) study for the European Parliament on precarious work, marginal and involuntary part-time work carry the most risk of precariousness. Part-time work can have set hours or can be a combination of guaranteed and non-guaranteed hours. For example, a retail worker can have a contract that stipulates that they work eight hours but can then be asked to work additional hours on an if-and-when basis. These are known as "hybrid", If-and-When contracts whereby 'employees have some guaranteed hours and any additional hours of work are offered on an if- and- when basis'<sup>75</sup>. Andrew, an English language teacher, revealed that:

In my industry for example there are a lot of 15-hour contracts but actually you work double that, and that's your regular week, but nobody says that and if it suits them you'll be back down to 15 hours if they want it.

This fluxuation of hours adds a further element of insecurity in terms of income, as the following will explore.

### *Zero-hour and if-and-when contracts*

*'I don't want to be on a contract where I've four extra hours, and then all of a sudden, it's gone. You get used to that money, even if it's only for a few short weeks'*

(Claire, Retail worker)

According to the University of Limerick's Kemmy Business School report (2015), there are two types of contracts with non-guaranteed hours: a zero-hours contract and an if-and-when contract. One of the key findings from this report was that if-and-when contracts are far more prevalent than zero-hour contracts<sup>76</sup>. The definition of a zero-hours contract is that the employee is available for work but their hours have not been specified. For example, a typical zero-hours contract might stipulate:

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<sup>74</sup> <https://stats.oecd.org/glossary/detail.asp?ID=2016>

<sup>75</sup> University of Limerick, Kemmy Business School. (2015) *A study on the prevalence of zero-hour contracts among Irish employers and their impact on employees*, p. ix.

<sup>76</sup> Ibid

You are on a flexible contract, up to 39 hours per week according to the business needs. Hours may change per week but will be according to the business needs<sup>77</sup>.

Therefore, if you have a zero-hours contract there is a formal arrangement in which the worker must be available for a certain number of hours per week, or when required by the employer, or a combination of the two. In Ireland, employees on zero-hours contracts are protected by the Organisation of Working Time Act 1997<sup>78</sup>. Section 18 of this Act stipulates that an employee with a zero-hours contract is entitled to compensation in situations where the employee is required to be available to work and works less than 25 per cent of their hours in any week. The level of compensation depends on the amount of work the employee received. For example, if they had no work, then the compensation is for 25 per cent of the possible available hours or for 15 hours, whichever is less. If the employee did work a fraction of those hours, they are compensated up to 25 per cent of the possible available hours.

Presently, there is legislation passing through the Dáil that aims to tackle a number of contractual issues concerning zero-hour contracts. The Employment (Miscellaneous Provisions) Bill 2017, makes provisions to amend three existing acts; the Organisation of Working Time Act (1997) and the Terms of Employment (Information) Act 1994 and the Workplace Relations Act (2015). The amendments deal with different features of the employment relationship, most notably seeking to address the issue of predictable hours of work. The amendments to the Terms of Employment (Information) Act 1994 seek to legislate so that core terms of employment are provided at the beginning of employment, to make it an offence not to provide this information, and thus is a further provision to protect workers from being penalised for exercising their rights as detailed in the Act. The amendments to the Organisation of Working Time Act (1997) include a minimum payment in the instance where an employee is called into work but then is sent home, the prohibition of contracts that stipulate 'zero' as the contract hours, and an introduction of new legislation on 'banded hours'<sup>79</sup>.

If-and-when contracts, are similar to zero-hour contracts in that workers do not have guaranteed hours<sup>80</sup>. However, they differ because there is no mutuality of obligation. This lack of obligation is based on the premise: "if" the employee is available and "when" the employer has hours, then they call them for work, which means that the employer is under no obligation to offer work to the employee and, if they do, there is no obligation on the employee to accept. In legalistic terms, this means that 'there is no mutuality of obligation under an if- and- when contract...If there is no mutuality of obligation between employer and employee there is no contract of service. And this means that the worker is not, in the eyes of the law, an employee and does not have the protection of employment law, including section 18 of the Organisation of Working Time Act, 1997'<sup>81</sup>.

Consequently, as there is no mutuality of obligation between employer and employee, there is also no contract of service. Thus, the worker is not an employee and does not have the protection of employment law, including Section 18 of the Organisation of Working Time Act (1997). As a result, workers are only paid for hours worked and are not compensated for hours they were supposed to work because the individual does not have to be available to the employer.

<sup>77</sup> Quotation taken from interview with a trade union official who read out the wording of a zero-hours contract.

<sup>78</sup> This does not apply to casual employment.

<sup>79</sup> The Bill provides that, where an employee's contract of employment does not reflect the number of hours worked per week, the employee will be entitled to be placed in a band of weekly working hours that reflects their average weekly working hours during the reference period.

<sup>80</sup> O'Sullivan et al., 2015

<sup>81</sup> Gorry, T., (2016). *Zero Hours and If and When Employment Contracts-the Legal Issues*, Employment Rights Ireland, 26/03/2016, <https://employmentrightsireland.com/tag/if-and-when-contracts/>





Temporary work refers to an employment relationship that is limited to a certain period of time, the span of which is based on the needs of the employer. This can be on a part-time and a full-time basis. There are a number of different temporary contracts that a person can be hired under. These include rolling contracts (in which an individual's fixed-term contract is immediately renewed under another when it expires), seasonal contracts, temporary agency work (in which a worker has an employment relationship with a temporary work agency and is assigned to a user on a temporary basis and is under the user's supervision), fixed-purpose contracts (in which workers are employed for a specific project) and fixed-term contracts (in which workers are hired for a specific time period). Consequently, all temporary contracts enforce flexibility because an employee does not get to choose when to terminate their employment; that decision is left to their employer.

The Protection of Employees (Fixed-Term Work) Act (2003) is applicable to most employees on fixed-term contracts. People employed under such contracts generally have the same rights as permanent employees—to annual and maternity leave, for example. According to the Terms of Employment (Information) Acts (1994–2014), it is required to give written notice of the expiry date. An employee who has worked on a fixed-term or specified-purpose contract continuously for at least 104 weeks may qualify for a redundancy payment when the contract comes to an end. However, this is something not many people on temporary contracts are aware of.

Employers cannot continually renew fixed-term contracts indefinitely, and the total must not exceed four years (this is lower in some incidences such as in the education sector where the maximum is two years). After this period, an employee's contract must be open-ended, otherwise known as a Contract of Indefinite Duration. A provision has been made under the Unfair Dismissal Acts (1977–2015) aimed at ensuring that successive temporary contracts are not used to avoid that legislation. This provision stipulates that, where a fixed-term or specified-purpose contract expires and the individual is re-employed within three months, the employed is defined as continuous service.

Our focus group participants discussed temporary contracts in detail and primarily viewed them negatively. For them, the Standard Employment Relationship (SER) or 'permanent contract' was still the preferred employment relationship. The respondents explained that they held this view because temporary contracts make it so difficult to plan their lives both inside and outside of the workplace. Inside the workplace, these contracts leave them with a lack of career progression. When a contract ends, either it will be renewed or it will not. If it is not renewed then they must find another job, which can mean starting over again. If it is renewed, it is usually done so under a continuity of the terms and conditions in-line with the previous contract, which means no promotion and no wage increases (as would happen in permanent public or private sector employment). This means that the employee is constantly searching for a new job, which not only heightens anxiety<sup>86</sup>, but also makes it difficult for workers to focus solely on their employment duties. Dorothy, like many other participants, expressed that she wanted to be flexible on her own terms:

It's the lack of control over your own future when you're on contract because you just never know where you're going to be, which is dreadful!

Temporary contracts also make life outside of the workplace equally unpredictable and uncertain. While all types of temporary work leave an employee feeling uncertain about their future, the level of uncertainty differs depending on the length of a temporary contract. However, even though our

<sup>86</sup> McGann, M., White, K., and Moss, J., (2016). Labour casualization and the psychosocial health of workers in Australia. *Work, Employment and Society*, 30 (5): 766-782.

participants did not speak favourably of temporary contracts, they did not call for them to be banned. Ultimately, these contracts provide employment, even if it is temporarily. However, it is imperative that the use of such contracts be curbed and that they should not replace the standard, permanent employment relationship.

### *Self-employment*

You're self-employed but you're not really; you're working as an employee but they want you to put it as self-employed'.

(Michael, a temporary English language teacher)

There are two types of self-employment; there is self-employment in the traditional sense of the term, in which the person works for themselves and has many clients, and then there is "bogus" self-employment, (also known as "disguised employment" and "false self-employment"). In this scenario, even though the worker is defined as self-employed by Revenue, they are directed by only one employer. According to Eurofound, 'amidst high unemployment and global economic competition, the EU has been more actively promoting self-employment'. This approach is being pushed to create the conditions for entrepreneurship, which the EU sees as a way to create jobs and to increase growth. However, Eurofound's report goes on to say that 'not all of the 32 million self-employed workers (15% of the working population) are entrepreneurial; in fact, not all want to be self-employed, and not all are prospering'<sup>87</sup>.

Classification of a person's employment status and the regulation of such, lies with the Department of Employment Affairs and Social Protection. These institutions apply standard tests to decide whether a worker is employed or self-employed. To confuse the matter, there is no legal definition of employment or self-employment. Thus, 'the decision on your employment status is reached by looking at what you do, how you do it and the terms and conditions under which you were engaged'<sup>88</sup>. This decision process involves a "Code of Practice", which includes:

#### *A person who is employed:*

- Is under the control of another person (employer);
- Receives fixed hourly/weekly/monthly wages;
- Supplies labour only;
- Cannot subcontract the work;
- Has 'mutuality of obligation', that is where the employer is obliged to offer work and the employee is obliged to perform work;
- Does not supply equipment/materials for the job;
- Is entitled to sick pay/holiday pay;

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<sup>87</sup> Eurofound, *Living and working in Europe*, (2017), p. 11.

<sup>88</sup> [http://www.citizensinformation.ie/en/employment/types\\_of\\_employment/types\\_of\\_employment.html](http://www.citizensinformation.ie/en/employment/types_of_employment/types_of_employment.html)

- Is provided with insurance cover by their employer;
- Works a set number of hours per week;
- Has their tax deducted from their wages under PAYE.

*A person who is self-employed:*

- Owns their own business;
- Is exposed to financial risk;
- Can subcontract the work;
- Has no 'mutuality of obligation' and is not obliged to take on specific work;
- Supplies the necessary equipment for the job;
- Costs and agrees a price for the job;
- Is not entitled to paid leave;
- Provides their own insurance cover;
- Controls their own hours in fulfilling a job;
- Is registered for Self-Assessment tax and is required to file their tax returns<sup>89</sup>.

The Department's Scope Section has the legal authority to make determinations on a person's employment status under the Social Welfare Consolidation Act (2005) (as amended). However, this is only inspected if the employers, employees or their representatives apply to have the employment investigated. Social welfare inspectors also have the authority to identify cases that need to be investigated. Because there is no legal definition of the terms 'employed' and 'self-employed', 'deciding officers must exercise a high degree of judgement in making their determinations'<sup>90</sup>.

False self-employment has long been widespread in sectors such as construction, but it has now reached its apogee in the 'gig' or 'portal' economy under employers such as Uber and Deliveroo. The most recent report (2013) of the Advisory Group on Tax and Social Welfare on Extending Social Insurance Coverage for the Self-Employed stated that:

The issue of "disguised employment" remains a serious concern, particularly in the construction and food processing sectors. Employment trends over the last two decades towards greater flexibility and casualization have resulted in low paid and precarious employment, with some workers being classified as self-employed even though they might not possess those characteristics of entrepreneurship and risk-taking often perceived as features of the self-employed<sup>91</sup>.

<sup>89</sup> <http://www.welfare.ie/en/Pages/EmploymentStatus.aspx>

<sup>90</sup> Department of Finance and Department of Social Protection, 2018: p. 34.

<sup>91</sup> Advisory Group on Tax and Social Welfare, (2013). *Third Report: Extending social insurance coverage for the self-employed. Report to the Minister for Social Protection*, Dublin, p.10

What remains clear is that workers categorised as self-employed may lose out on numerous entitlements including holiday pay, the national minimum wage, and redundancy pay, as well as other benefits. Currently, employees have tax and PRSI deducted under the PAYE<sup>92</sup> system, whereas self-employed workers make their own PRSI contributions and tax payments using the self-assessment system. Furthermore, false self-employed workers do not enjoy the same benefits that would usually accompany traditional self-employment. For example, they would have little to no control over when they work. In contrast, employers who hired people on self-employed bases are encouraged to do so because there are financial benefits for them, such as significant savings on PRSI.

However, at a national level, self-employment also leads to a reduction in the Social Insurance Fund and potentially lower tax revenues. The rate of PRSI payable depends on the PRSI classification of a taxpayer's income. The PRSI classification is as follows: A, B, C, D, E, H, J, K and M. Most employees come under Class A, because it applies to public servants, along with industrial, commercial and service employees. PRSI is paid by the employee and the employer. On the other hand, self-employed workers come under PRSI Class S, in which there is no employer PRSI contribution.

### ***3.3 Industrial relations and collective bargaining power of workers and trade unions***

'There's another bigger problem there, which is union recognition. I mean even the US recognises collective representation of workers and we don't in Ireland. So that's another way to solve that problem – if your workers get together and join a union, the employer has to recognise it, but in Ireland they just ignore it!'

(Rosie, a university teaching-fellow)

In Ireland, employers are required by law to adhere to statutory employment rights<sup>93</sup>. These rights outline the minimum rules that employers must follow, but workplaces can also implement working condition guidelines that surpass them. Responsibility for promoting good industrial relations in Ireland rests with the Workplace Relations Commission (WRC), established on 1st October 2015. This is an independent body whose role and functions include, 'the inspection of employment rights compliance, the provision of information, the processing of employment agency and protection of young persons (employment) licences and the provision of mediation, conciliation, facilitation and advisory services'.<sup>94</sup>

Workers can be represented by a number of organisations and political actors, including trade unions. ICTU (the Irish Congress of Trade Unions), represents approximately 830,000 people in affiliated trade unions in Ireland. There are currently 55 trade unions affiliated with ICTU, including SIPTU, Forsa, Mandate, the Communication Workers Union (CWU) and Unite. Union membership is higher in the public sector than in the private sector (approximately two-thirds of public sector employees are members, compared with less than one-quarter in the private sector).

The role of trade unions is to protect employment rights, but also to negotiate to further improve conditions in the workplace. Given this mandate, industrial relations have an important role to play in

<sup>92</sup> The PAYE system was introduced in the 1960s, where the income tax year is divided into 52 weekly, 13 four-weekly or 12 monthly payments. An employee's tax is deducted on a weekly, fortnightly or monthly basis. It divides the income tax year into 52 weekly, 26 fortnightly, 13 four-weekly or 12 monthly payments and deducts an employee's tax accordingly on a weekly, fortnightly, four-weekly or monthly basis.

<sup>93</sup> [http://www.citizensinformation.ie/en/employment/employment\\_rights\\_and\\_conditions/employment\\_rights\\_and\\_duties/employment\\_law\\_update.html](http://www.citizensinformation.ie/en/employment/employment_rights_and_conditions/employment_rights_and_duties/employment_law_update.html)

<sup>94</sup> [http://www.workplacelrelations.ie/en/WR\\_Bodies/WRC/](http://www.workplacelrelations.ie/en/WR_Bodies/WRC/)

addressing precarious work. In the 1970s, three distinct industrial relations models were identified in English-speaking countries. These were: a Voluntarist system (seen in Britain and Ireland); an Award system (based on arbitration in Australia and New Zealand); and the Wagner Act frame-work (in both the United States and Canada), in which industrial relations are legally regulated<sup>95</sup>. Voluntarism signifies the reaching of agreement between all sides without the interference of the state. However, the Irish state has enacted legislation that does establish minimum standards, such as the minimum wage, working hours, holidays, redundancy, dismissals and equality legislation.

To negotiate improved working conditions, trade unions use collective bargaining. The International Labour Organisation define collective bargaining as:

all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for:

- (a) Determining working conditions and terms of employment; and/or
- (b) Regulating relations between employers and workers; and/or
- (c) Regulating relations between employers or their organisations and a workers' organisation or workers' organisations.<sup>96</sup>

In relation to collective bargaining legislation, there are two pathways traditionally taken by the countries mentioned above. These are:

1. The statutory right to recognition (US, Canada and the UK)
1. The right to bargain mechanisms (Australia and Ireland)

All Irish employees have a constitutional right to join a trade union. However, there is no legal obligation on the employer to recognise a union. A trade union must also have a negotiating licence to represent workers on wages and other working conditions.

For a long time, industrial relations were governed by the Industrial Relations Acts (1946-1990). In 2015, the government amended the Acts to legislate for Registered Employment Agreements (REAs). This was because Part III of the Industrial Relations Act (1946) was declared to be unconstitutional by the Supreme Court in 2013 (*McGowan and others v the Labour Court, Ireland and the Attorney General*, May 2013). The amended Act made provisions for<sup>97</sup>:

- A new system for Registered Employment Agreements (REA)

An employment agreement ("EA") is an agreement made between a trade union(s) of workers and an employer(s), relating to the remuneration or conditions of employment, which is binding only on the parties to the agreement. This agreement becomes a REA when it is registered in the Labour Court's Register of Employment Agreements.

- Sectoral Employment Orders (SEOs)

<sup>95</sup> Colvin, A. J. S. and Darbishire, O., (2013). Convergence in industrial relations institutions: The emerging Anglo-American model? [Electronic version]. *Industrial & Labor Relations Review*, 66(5): 1047-1077.

<sup>96</sup> ILO Convention No. 154 (Article 2).

<sup>97</sup> <http://www.irishstatutebook.ie/eli/2015/act/27/enacted/en/html>

While limited in scope, a SEO sets the minimum rates of pay, pension and sick pay entitlements of workers within a specified economic sector, and this is legally binding across the sector to which it relates. An SEO begins as a request to the Labour Court, (by organisations that represent employers or workers such as trade unions). The Labour Court then takes a decision on whether to recommend that an SEO be made or not by the Minister for Jobs, Enterprise and Innovation.

- *Adjusted the Labour Court's jurisdiction to make legally binding determinations, even with employers who do not recognise trade unions.*

The Industrial Relations (Amendment) Act 2001 legislated to enable the Labour Court to make non-legally binding recommendations and legally binding determinations even in cases where the employer does not engage in collective bargaining. The 2015 Act amended this because in *Ryanair Ltd versus The Labour Court* (2007 4 I.R. 199), the Supreme Court examined the definition of collective bargaining given in the 2001 Act. During the Supreme Courts deliberations, it was concluded that collective bargaining in a non-union company did not have to take the same form as it would with a trade union, and consequently the term should be defined using its "ordinary dictionary meaning". The Industrial Relations (Amendment) Act's (2015) definition of collective bargaining now reads as:

Voluntary engagements or negotiations between any employer or employers' organisations on the one hand and a trade union of workers or excepted body to which this Act applies from the other, with the object to reaching agreement regarding working conditions or terms of employment, or non-employment, of workers.

### ***3.4 Trade unions and organising precarious workers***

A senior trade union official articulated that young people understand the value of collectivising and the majority of young people do want to join a union. However, unions need to change to adapt to workers because work itself is changing. Change includes organising precarious workers and acknowledging that precarious work is an important area of employment that must be tackled.

When it comes to organising precarious workers, Trade Unions can no longer rely on workplace organising, but must reconceptualise organising as not only associated with a physical workplace, but also online communities of interest and social movements. This need is made more acute by Ireland's weak trade union legislation. However, this need is extended to trade unions internationally, particularly in regions where precarious work is on the rise.

There is a new trend towards new styles of organising, particularly a move towards organising with grass-roots movements, and these have proven successful. For example:

The Fight for \$15 campaign has brought thousands of fast-food workers, service and domestic workers traditionally considered beyond the reach of the American labor movement into the union fold. Its legislative victories in city after city from New York to Seattle prove to previously passive workers that strikes and mobilisations can work<sup>98</sup>.

In Britain in 2017 and 2018, the Bakers' Union have also organized the first strikes at British branches of McDonald's in 2017 and 2018. New types of organising also include using new tactics and strategies

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<sup>98</sup> Parfitt, S., (2018). *The future of trade unions*. Open Democracy.net, 10/06/2018, <https://www.opendemocracy.net/transformation/steven-parfitt/future-of-trade-unions>.

to put pressure on employers during a dispute. A recent example of this is from 2011, when cleaners and porters at the University of London held a wildcat strike over unpaid wages by Balfour Beatty Workplace. This action was successful and 17 workers received £6,000 in unpaid wages that were owed to them. This was followed by a campaign to secure the London living wage, which was successful, and the launch of the “3Cosas” campaign for sick pay, pensions and holidays that were afforded to in-house staff. Fourteen months later, after demonstrations, sit-ins by students who supported the workers, strikes, and social media and email campaigns that placed public pressure on the vice-chancellor of the university, the movement achieved success. Consequently, trade unions need to think about new strategies of organising—ones that have a grass roots appeal. As Jason Moyer-Lee, the general secretary of the Independent Workers' Union of Great Britain explained:

For us, it's about disruptive surprise protests, direct action, mini-occupations and exerting as much public pressure as possible until it becomes better for the university to give in rather than risk continuing reputation damage<sup>99</sup>.

Union representation was spoken about in a positive light, and as already mentioned, participants wanted more legislation that strengthens the power for trade unions to negotiate on their behalf. As Peter articulated:

What I've experienced is that when you are in a union and you're a collective group of people, you have that solidarity, which always existed amongst workers. But what you feel in the union is that there are people there whose job it is to protect you. So, you do feel a little bit more protected especially in precarious work.

This sentiment is also replicated amongst young people internationally. For example, Liz Schuler, secretary-treasurer of the American Federation of Labor and Congress of Industrial Organisations (AFL-CIO) said that young workers have realised that 'a generation of corporate-driven policy choices have decimated the rights and economic security of working people'. She continued by saying, 'the millennial and Gen Z generations are more civic minded and acutely in tune with the power of collective action...a union card helps them leverage their power'<sup>100</sup>. However, some concerns were also raised by precarious workers in Ireland that related to their experiences with trade union membership.

#### *A generational difference between members and some officials*

Some participants who were members of a trade union spoke of a divide in attitudes and priorities that at times existed between some older trade union members and younger ones. Linda spoke about this extensively and cited a particular incident that happened to her:

A Trade Union official came to talk to me, and turned around to me and goes, "well 30,000 a year is great for a kid who is only under 30 isn't it?!" I thought, how dare you?! I think he was like don't rock the boat because the rest of us public servants are old! Not being ageist but they're from that earlier class.

Claire also reiterated similar sentiments that other participants also agreed on, in which they felt that the older generation do not understand:

<sup>99</sup> Roberts, Y., (2018). *The tiny union beating the gig economy giants*, The Guardian.

<sup>100</sup> Chen, M. (2018). *Can millennials save unions in America?* The Guardian, 29/06/2018, <https://www.theguardian.com/world/2018/jun/29/can-millennials-save-unions-in-america>

I think a lot of people just don't understand the situation, like the older generation can't get their head around it. So, it's missing from the general discourse and media coverage. So, in that way I don't feel represented. I think people think we choose to be in this situation.

This sentiment is also replicated internationally, and the TUC general secretary, Frances O'Grady 'concedes that the image of unions is "male, pale and stale"<sup>101</sup>.

#### *Permanent union members' interests versus temporary workers' interests*

Another critique made during our focus group interviews related to a general sentiment that the trade union they belonged to did not adequately represent precarious workers. This was explained as a consequence of the fact that the union also represented permanent workers within their sector, who were bigger in numbers. Hugh, who worked in the third-level education sector explained:

When I joined the union, it was just me which was a bit pointless. The union was also representing lecturers and they were the ones deciding our hours as precarious workers.

If they want to organise precarious workers, unions need to be conscious of that group's concerns.

### **3.5 Recommendations**

At a policy level, a combination of measures is needed to deal with precarious work in Ireland. A number of these measures relate to changes in employment legislation to either ban or limit the precarious effect of non-standard employment and to protect the Standard Employment Relationship (SER). Other measures are needed to recognise the importance of the involvement of Trade Unions and the Industrial Relations mechanisms in countering precarious work and to strengthen collective bargaining laws for workers and trade unions. The following recommendations address each characteristic associated with precarious work: uncertainty, low income, and limited social benefits and statutory elements.

#### **1. Protect the standard employment contract**

While it is important to address non-standard employment, reforms must not be made at the expense of the Standard Employment Relationship, such as was the case in Italy and Spain. Because the Standard Employment Relationship is still the most predominant type of employment in Ireland and other European countries, legislation must protect and further strengthen employment protection for these workers to ensure they remain at low risk of precariousness.

#### **2. Legislate to ban if-and-when contracts**

The Employment (Miscellaneous Provisions) Bill (2017), which is currently passing through the Dáil, does not deal with if-and-when contracts, which are more prevalent than zero-hour contracts. This report recommends that legislation be introduced to ban if-and-when contracts. The legislation would need to address the lack of a mutuality of obligation clause inherent in these types of employment relationships because legally there is no Contract of Service. As it stands, the worker is not, in the eyes of the law, an employee and does not have the protection of employment law, including Section 18 of the Organisation of Working Time Act, 1997.

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<sup>101</sup> Roberts, Y., (2018). *The tiny union beating the gig economy giants*, The Guardian.



### 3. **Honest contracts: a contract must reflect real hours of work**

For workers who perform hourly-paid work, the contract must reflect an employee's real hours of work. This report concurs with the recommendation made in the University of Limerick's study (2015) that argued, 'legislation be enacted to provide that: 'a mechanism will be put in place whereby, after the minimum number of hours is established, employers and employees can periodically review the pattern of working hours so that the contract accurately reflects the reality of working hours'<sup>102</sup>. This is an essential element for financial security and predictability for hourly-paid workers.

### 4. **Introduce a 'precarious indemnity' for companies who are over-reliant on temporary contracts**

This report recommends that measures be taken to deter both the public sector and companies in the private sector from becoming over-reliant on the use of temporary contracts. In France, the government issues a 'precarious indemnity' in which the company pays 10 per cent of the total gross remuneration of the employee, so as to compensate for their loss of security. In Portugal, that government have proposed a new social security contribution for employers who are over-reliant on using fixed-term contracts. A financial deterrent should also be introduced in Ireland for employers who are over-reliant on temporary contracts.

### 5. **A strict definition of self-employment is needed**

There is no legal definition of the terms 'employed' and 'self-employed', whereas there is already a legal definition of 'false self-employment' and 'fully dependent self –employment' in the Competition Amendment Act 2017. Without a legal definition of employed and self-employed, those terms are open to interpretation. In fact, the current process for defining an employed and a self-employed worker is problematic because standard tests decide whether a worker is employed or self-employed, which is open to interpretation. Spain, for instance has made a statutory distinction between direct-employment and self-employment. The Worker's Legal Statute (1980) and the Self-employed Workers' Statute (2007) govern each employment status with their own rules. Accordingly, 'these demarcate their own scope of action, establishing different sets of rights and using dependence and subordination is the most relevant criteria to distinguish between the two'<sup>103</sup>.

### 6. **The minimum wage should be replaced with the living wage rate**

Ireland is an outlier in terms of its high levels of low pay<sup>104</sup>. The living wage is designed to calculate the wage needed to live a minimum acceptable standard of living. The Living Wage Technical Group<sup>105</sup> bases its findings on Vincentian Partnership for Social Justice Research, which determines the minimum standard that no one should live below. This report recommends to increase the minimum wage to the same rate as the living wage, which translates into a 25 per cent increase on the current minimum wage. However, it is important that this change is accompanied by legislation that strengthens the security and predictability of working hours.

<sup>102</sup> University of Limerick study on prevalence of zero-hour contracts p. xii.

<sup>103</sup> Eurofound, *Living and working in Europe*, 2017: p. 13.

<sup>104</sup> <http://www.thejournal.ie/readme/living-wage-ireland-is-an-outlier-in-terms-of-its-high-levels-of-low-pay-4116976-Jul2018/>

<sup>105</sup> Comprises various civil society organisations and academics.

## 7. More resources be made available to enforce and regulate employment legislation

Employment protection legislation is only one dimension of addressing precarious work. It is also important to invest in enforcement of these regulations and impose heftier penalties. For example, the government recently launched an awareness campaign to tackle false self-employment<sup>106</sup>. While this is a welcome step, this campaign puts the onus on the employee to report false self-employment, an approach that is flawed because of the vulnerability false self-employed workers face; if they are found out, they could lose work. Consequently, the solution to preventing false self-employment must be a combination of legislation and more investment and powers being allotted to enforcement agencies.

## 8. Introduce collective bargaining legislation to give trade unions a right to recognition and a right to access

The Industrial Relations Amendment Act (2015) may have "enhanced" some aspects of collective bargaining in the workplace. For example, a trade union can only take a case under the Act if the employer does not engage in collective bargaining, therefore an employer refuting this must show that they do engage in collective bargaining. The main difficulty with the legislation is that it still allows employers to refuse to engage in collective bargaining and refuse to recognise a trade union. Additionally, it also does not provide trade unions a right to access their members in the workplace (except in limited circumstances).

A poignant issue is the fact that there are multinationals operating in Ireland, who recognise unions in their operations abroad, but refuse to recognise a trade union in their operations in Ireland. This means that workers from the same company are represented by a trade union while similar Irish workers are not represented by a trade union. As O'Sullivan et al. (2017) argued, 'research indicates that collective bargaining provides a critical way of limiting precarious work and the state can support collective bargaining through union recognition laws and the extension of collective agreements to unorganised sectors of the economy'<sup>107</sup>. The Industrial Relations Act (2015) should be further amended to make provisions for a right to union recognition, including a right for trade unions to access their members in the workplace.

## 9. Trade Unions need to change to adapt to a changing workforce

The move to organising low-paid and precarious workers is proving to be successful during a time where union membership has seen a long trend of decline internationally. For example, in the US, union membership has declined from approximately 20 per cent in 1983 to just under 11 per cent last year. However, last year in the US, union membership grew by 262,000, (one in four new hires was unionised last year, of nearly 860,000), and three out of every four recruits were under thirty-five<sup>108</sup>. In Britain, the IWGB is 'championing the rights of the lowest paid in the most precarious jobs, the young and those outsourced to private companies and in the gig economy'<sup>109</sup>. The union movement as a whole can learn to thrive from the strides being taken by smaller unions like the IWGB.

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<sup>106</sup> Miley, I., (2018). [Government to launch public awareness campaign on false self-employment. RTE, 7/05/2018, https://www.rte.ie/news/ireland/2018/0507/960768-campaign-self-employment/](#)

<sup>107</sup> O'Sullivan et al. 2017: p.6.

<sup>108</sup> Chen, M. (2018). [Can millennials save unions in America? The Guardian](#)

<sup>109</sup> Roberts, Y., (2018). [The tiny union beating the gig economy giants, The Guardian](#)

We have also seen a shift towards these new forms of organising in Ireland. The most notable grass roots campaign that trade unions were involved in (Mandate, Unite and the CWU) was the Right2water campaign against the introduction of water charges<sup>110</sup> and Right2Change<sup>111</sup>. Within the trade union movement, we have also seen unions organising precarious workers where a union was not present in their sector before, such as SIPTU organising Early Years' Educators<sup>112</sup>, Unite the Union organising temporarily-employed commercial archaeologists<sup>113</sup> and English Language Teachers<sup>114</sup> and Mandate organising precarious retail workers<sup>115</sup>. This concerted effort is a step in the right direction. This report recommends that trade unions continue this momentum and organise other precarious workers in other sectors, such as third-level lecturers, researchers and couriers.

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<sup>110</sup> <https://www.right2water.ie>.

<sup>111</sup> Right2Change is a political movement born out of the Right2Water campaign. It seeks a fairer, more equal Ireland that benefits all of the people rather than a select few.

<sup>112</sup> <https://www.bigstart.ie/>

<sup>113</sup> <http://unitearch.wixsite.com/unitearchaeology>

<sup>114</sup> Murdiffe, K., (2018). *Can anyone give me another word for precarious?* TASC Blog, 20/03/2018, <https://www.tasc.ie/blog/2018/03/20/can-anyone-give-me-another-word-for-precarious/>

<sup>115</sup> <https://dunnesworkers.com/>



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# 4. Welfare and precarious work – Existing between two systems

## 4. Welfare and precarious work – Existing between two systems

### ***4.1 Introduction***

Often, precarious work and the social protection system go hand in hand; a substantial amount of part-time work is subsidised by in-work welfare payments. Pensions also comes under the social protection remit, and for precarious workers, their future pension entitlements are a major concern because their employment relationship leaves them with a pension deficit in which their only entitlement is the state pension.

This chapter will begin by contextualising welfare policy in Ireland and will follow by exploring the experience of precarious workers who access the social protection system. This analysis will include part-time workers' experiences of receiving in-work payments, lack of awareness of social welfare entitlements, negative attitudes they experienced from staff in social welfare offices, the limitations precarious lone-parents face when working and accessing social welfare payments, and the issues around pensions for precarious workers in Ireland. Finally, this chapter will finish by making recommendations based on the issues raised.

### ***4.2 Welfare policy in Ireland***

Ireland's social welfare and supports system is complex, and is made up of three types of payments: social insurance payments, means-tested payments and universal payments. For all three, a person applying must satisfy certain criteria that are specific to the rules of the scheme. The DEASP (Department of Employment and Social Protection) is the Government Department that controls and administers most income supports.

Social insurance payments are awarded to individuals who have made the necessary social insurance contributions (PRSI). Employees will usually get a PRSI contribution for each week they earn over €38. Typical Social Insurance benefits include: Jobseeker's Benefit, Illness Benefit, and State Pension (Contributory). Means-tested payments cover people who do not have enough PRSI contributions. For example, a person who does not have enough PRSI contributions can apply for Job Seekers' Allowance instead of Job Seekers' Benefit. Universal payments do not depend on a person's income or social insurance record, but instead the person claiming must satisfy specific circumstances. Child Benefit is an example of one such payment.

The most common social welfare entitlements claimed by precarious workers include unemployment benefit/allowance, and for parents who work precariously, child benefit, one parent family payment, Back To Work Family Dividend, Job Seekers' Transitional Payment, and Family Income Supplement (recently renamed the Working Family Payment). Finally, the state pension (contributory and non-contributory) also falls under this remit.

If you become unemployed in Ireland, you are entitled either to Job Seekers' Benefit (social insurance contributions rules apply), or Job Seekers' Allowance (means-tested and proof of residency is necessary). Furthermore, a person can work up to three days per week and receive Job Seekers Benefit/Allowance. However, for each day that one works and receives Job Seekers' Allowance or Benefit, they lose the daily rate of payment. There is a 20-euro income disregard after which earnings are means-tested against the remaining Job Seekers' Payment. Casual workers who fit the eligibility for receiving Job Seekers Benefit/Allowance must fill out "the X's and O's docket" each week. The rates are as follows:

**Table 4.1: Jobseeker's Allowance rates (2018)**

Age	Maximum personal rate	Increase for a qualified adult	Increase for a qualified child
26 and over	€193.00	€128.10	€29.80
25	€147.80	€128.10	n/a
18-24	€102.70	€102.70	n/a

Self-employed workers can also avail of Job Seekers' Allowance because they pay Class S PRSI. However, Job Seeker's Allowance is means-tested, and many self-employed workers cannot pass the means test to be eligible.

Child Benefit is universal. The only criteria that is necessary to qualify is to have a child. It is paid monthly and anyone who has a child under sixteen years old qualifies. Furthermore, anyone who has a child under eighteen who is still in full-time education also qualifies. The rate is 140 euros per month.

One Parent Family Payment is means-tested, and again, proof of residency is required. Only lone parents with children under the age of seven are entitled to this payment. Once the child reaches seven, the payment stops. As part of the means test, a lone-parent must have gross earnings from insurable employment or self-employment of €425 or less per week. When it comes to the means test, the first €110 of gross weekly earnings is disregarded. This means that you can earn up to €110 per week and still qualify for the full One-Parent Family Payment. Subsequently, half of the remainder of gross income up to €425 per week is assessed. The rates are as follows:

**Table 4.2: One-parent family payment weekly rates**

One-Parent Family Payment	Weekly rate (maximum)
Personal rate (under 66)	€193.00
Child dependant	€29.80

The Jobseeker's Transitional Payment (JST) is a scheme that continues to support lone parents once they no longer qualify for the One Parent Family Payment. Lone parents can transfer onto this scheme once their child is seven years and older. This payment is available to lone parents whose youngest child is aged between 7 and 13 years. Unlike Job Seekers' Allowance, JST does not require a person to be available for full-time work. However, it is possible to work and get JST, and the rate depends on your weekly means. The first €130 of gross weekly earnings is disregarded, and 50 per cent of the balance is means-tested. It is not possible to receive both JST and the Working Family Payment (formerly Family Income Supplement). A self-employed person is entitled to this payment; however, the income disregard is not applicable and net profit is instead assessed.

The Back to Work Family Dividend (BTWFD) is a scheme to support people with children who take up employment or self-employment and stop claiming a Jobseeker's Payment or a One-Parent Family Payment. The scheme lasts for up to two years. For the first year of employment, any Increases for Qualified Children that a person may have been eligible for under their previous payment is also paid, then half that amount in the second year. The rate is 29.80 euro per child per week in the first year, and it can be claimed with Family Income Supplement and some other non-primary social welfare payments.

The Working Family Payment (previously named the Family Income Supplement (FIS)) is means-tested and paid to people who are employed and have children. Self-employed workers are not eligible. This is a payment designed to supplement families on a low-earned income. To be eligible, you must also have at least one child that lives in your home, who is under eighteen years old and in full-time education, and you must work 38 or more hours per fortnight, and that employment must last at least three months. In order to be eligible for the payment, the average weekly family income is 60 per cent of the difference between the income limit that applies and your average weekly income. The income limits are as follows:

**Table 4.3: Working Family Payment income limits**

If you have:	Income limits
One child	€521
Two children	€622
Three children	€723
Four children	€834
Five children	€960
Six children	€1,076
Seven children	€1,212
Eight or more children	€1,308

People over the age of 66 are entitled to receive the State Pension. As most precarious workers do not have a Private Pension or an Employer's Pension scheme to contribute towards, they depend on this. There are two types of State Pension: Contributory and Non-Contributory. The State Pension (Contributory) is dependent on a person's social insurance contributions. The State Pension (Non-Contributory) is means-tested.

### **4.3 Precarious worker's experience of accessing social welfare supports**

Precarious workers constantly interact between the PAYE system and the social welfare system. Firstly, many part-time workers depend on Job Seeker's Allowance to supplement their wages because their employers will not increase their hours. Secondly, many temporary workers also depend on job seeker's allowance when between contracts. The majority of precarious workers we spoke to felt that the procedures put in place and the services and supports offered often did not correspond with the reality of their situations. They felt that as the 'traditional' welfare state model was based on the predication of



accessing welfare during periods of unemployment in order to reduce the risk of poverty<sup>116</sup>, the system and the people working in it are ill-equipped to deal with the new employment challenges and the poverty risks precarious workers face.

#### *Part-time workers and claiming job seekers allowance: the three-day rule*

Part-time workers often access Job Seekers' Allowance for the days they do not work. However, there is a three-day threshold. This is difficult for part-time workers with variable hours because each week can bring different working days and variable hours. It can also mean working low hours spread over four or five days. Eva, who is employed on an if-and-when contract revealed:

I'm on those work slips at the minute. Like even though I'm only doing four hours a day, if I put that I'm doing the two days a week it's fine, but if you do four days a week, you don't get paid from the dole because you're down as four days even though you're only doing three or four hours a day. So, it's crap the way they work it out.

Low hours work is also problematic. Mary spoke about how impoverished she was, working only three hours per day, five days per week, yet no entitlement to Job Seekers' Allowance. When asked about accessing Job Seeker's Allowance to supplement her income she said: 'I wouldn't even get that because I'm in work every day'.

#### *Lack of awareness of social welfare entitlements*

Often, the mainstream media's narrative on social welfare tends to focus on so-called "welfare cheats". However, there is not much focus on people who are unaware or do not claim their social welfare supports. There was substantial evidence of this amongst our precarious participants. This was particularly the case for in-work supports that part-time workers might be entitled to, such as Job Seekers Allowance. Martha alluded to this when speaking about her part-time work:

I've never accessed it and I've never even asked whether I'm entitled to it. I never thought of social welfare as an option, honestly, it's never even crossed my mind that that could be an option. So, it's just about finding the right job, or a job is what is on the list, and this definitely never crossed my mind.

#### *Negative attitude felt from staff at the social welfare office*

Interactions with social welfare were also spoken about in a negative light by some participants. Barbara's interview provides an example:

You go up to social welfare and they look at you like you are scum. And I've cried in social welfare, I've cried because going in to put a claim and they tell you that you can't get it, or there's something wrong, or you didn't put your form in last week. They make you feel so worthless. Nobody wants to do that consciously. I only ever done it because I had no other choice; literally I couldn't feed myself or pay rent if I didn't claim.

<sup>116</sup> Bonoli, G., (2007). Time matters: Post-industrialization, new social risks and welfare state adaption in advanced industrial democracies. *Comparative Political Studies*, 40:5: 495-520.

### *Difficulties precarious lone-parents face while accessing social welfare payments*

Lone-parents are entitled to a number of social welfare payments, which can be accessed while working. However, these are means-tested and involve a balancing act of finding a job that can accommodate them, while also taking care of their children. The Working Family Payment, is one such payment that can be accessed by both two-parent and one-parent families. However, lone-parents we spoke to felt that certain requirements, such the requirement that their boss must sign the form, put them in a vulnerable position. Natasha, who claims the Working Family Payment, revealed:

They sent my boss a huge form; he said it took him about an hour to fill it out. I mean this is the other thing; there is so much that my boss has to do for me. And I feel really bad every time I have to go and ask him, if he'll fill out another form. And you feel like he could be thinking to himself, I could just have an employee where I don't have to deal with social welfare. It puts you at a disadvantage as well, because you are kind of thinking to yourself, I feel indebted to my boss. that he will even fill these forms out for me.

A major concern for lone-parents working on an if-and-when bases is that this contractual arrangement can result in not being eligible for social welfare payments. Lois, who is on the Job Seekers' Transitional payment and employed on a part-time, zero-hours contract explained:

Last year I lost over a thousand euro from the welfare because I went over the 23. One week, I did 23 and a half hours and because I did that half hour, they stopped €122. A half an hour! I couldn't believe it, which is what, €6.50. You're down an awful lot of money. My co-worker, with one dependent child, she was a 12 hour but because they were giving her 16 hours some weeks, 18 hours some weeks, even though her contract was only 12 hours, they refused to give her anything at all. Then, she eventually just signed on.

### *Pensions for precarious workers*

It became evident when speaking to our participants that they were not thinking about pensions because their precarious and low-wage working conditions forced them to live in the present or to only think in the short-term. Their wage insecurity meant that the issues they were most preoccupied with were with paying the rent, paying their bills, and being able to afford food and medical bills.

However, when participants were asked about pensions, it worried them greatly. Due to the lack of security associated with their work, it also meant the security of an occupational pension did not feature. Mark, for example, who has always worked on a fixed term basis, explained that:

When I was working in the community organisation, I said "I'm not paying into my pension, my wage is not enough". But obviously, in the university, you do get paid into a pension as a public-sector contract, but then I went off the pension when my contract finished. So, I have no idea what impact going out of the public sector has, but I'm in that situation where I had one year in a university and I don't know what I'm getting out of it, pension-wise.

Furthermore, many employers say they offer pensions, however, for hourly-paid workers this is often a partnership with a bank who advises on private pensions, rather than a scheme that employers contribute towards. Again, this is not something that hourly-paid workers can afford or prioritise because they are on insecure and/or low hourly wages. Michael, a temporary, English language teacher on an if- and- when contract articulated:

The way that the two schools offered is that they have a partnership with the bank and they say, "We are suggesting you go to this bank to get a pension". So, it's not subsidised or anything. So that doesn't really help if you're not sure how many hours you're going to be working next week. How much can you actually put into a pension?

#### 4.4 Recommendations

The social welfare system is complex and serves the needs of many different groups of people, and this has to be taken into consideration. For example, a solution for one group of people could be problematic in the functioning of the welfare system as a whole. Another consideration is to ensure that any changes to the social welfare system do not facilitate precarious working practices. Murphy (2017) referred to this as 'flexi-insecurity', a play on the term 'flexicurity'<sup>117</sup>. Murphy argued that 'if flexicurity features good jobs, generous welfare and a human capital oriented but conditional activation policy, then 'flexinsecurity' features poor jobs, less generous welfare and a more conditional work-first activation strategy'<sup>118</sup>.

It is important to first point out where the social welfare system does make a positive impact for precarious workers:

- There is a social security system in place that precarious workers can avail of when between jobs.
- There are a number of payments that can be claimed in conjunction with part-time work, including Job Seekers' Allowance, the Working Family Payment, One Parent Family Payment and Job Seekers' Transitional Payment.
- There is a State Pension.

While we are calling for changes to Irish employment policy that would see if-and-when contracts banned, we also recognise that this type of work is presently a reality. Therefore, based on our interviews and focus groups with both precarious workers and experts in the area of social welfare, we recommend a number of changes.

##### 1. **Income supports should be extended to people without families**

Beyond the Job Seekers' Allowance for part-time workers, there is nothing to address the income support needs of single people without families. There are a number of policy responses the government could choose, ranging from a basic income to an in-work support, or a tax credit. For example, the Working Family Payment could be reimagined as an in-work support for people in precarious and volatile working situations. Of course, a more detailed cost-benefit analysis is necessary, because any changes would have broader implications that go beyond this issue, such as labour market, labour supply, and employer behavioural impacts. In particular, we are conscious of the latter and wish to avoid facilitating precarious work for employers. However, it is also urgent that something is done to address the needs of precarious workers without families who are on low wages, and social welfare supports are one way to do that.

<sup>117</sup> Flexicurity originated in Denmark in the 1990s as a policy framework to simultaneously allow for more flexible working conditions while also enhancing the social security system.

<sup>118</sup> Murphy, M.P., (2017). Irish flex-insecurity: the post-crisis reality for vulnerable workers in Ireland, *Social Policy and Administration*, 51(2): 308-327, p.310.

## 2. Re-instate social welfare for people under 25 back to the normal rate.

Prior to 2014, a young person aged 23-24 years and in receipt of social welfare received €144 per week. Those aged 25 received €188. In the 2014 budget, the Fine Gael-labour coalition government reduced these to €100 and €144 respectively. Since then, the rates have seen a small increase that is in-line with increases that were made to the Job Seekers' Allowance more generally (€102.70 and €147.80 respectively). However, we recommend that the rates are re-instated (along with the modest increase). According to the National Youth Council of Ireland (NYCI) who conducted research on youth unemployment in Ireland, almost four out of ten young people struggled to make ends meet<sup>119</sup>. Furthermore, Focus Ireland have illustrated how these cuts leave young people more vulnerable to homelessness<sup>120</sup>. Similar to the National Youth Council of Ireland, while we welcome quality and meaningful education and training, impoverishing young people further is not the answer. The OECD's report concluded that 16-24-year olds in Ireland had the highest risk of poverty in the EU, at 40 per cent<sup>121</sup>. And the reduction in social welfare rates since 2014 can only make this worse.

## 3. Provide a social security safety net for self-employed workers

One of the major differences between a self-employed worker and an employee is in terms of their social protection entitlements. The general trend in the EU is that self-employed workers have less entitlements to benefits than employees. According to Eurofound, 'Ireland and the UK operate the most parsimonious systems, where social security rights for the self-employed are very limited, mostly complemented by means-tested benefits'<sup>122</sup>. Other European countries such as Denmark, Finland and Sweden provide both the self-employed and employees with the same social protection entitlements. This is because most of the schemes are universal.

In the EU, there is discussion on reviewing and changing social security coverage so as to cover self-employed workers. One of the principles of the European Pillar of Social Rights is to guarantee access to social protection to everyone, and that includes the self-employed<sup>123</sup>. The European Commission is currently exploring a potential EU initiative to make this a reality. Therefore, a recommendation is to prepare for this eventuality by extending more benefits to self-employed workers. Of course, this also includes researching the best way to finance this extension of coverage, such as how to calculate the contribution.

## 4. A "job quality" rather than a "job first" activation policy

Participants were critical about their interactions and engagement with Intreo because they felt that it was focused on getting them off the live register and into employment or a course, without tailoring it to their individual financial and educational needs<sup>124</sup>. This report recommends that we move away from 'activation' that focuses on job seeking rather than job quality. Active Labour Market Policies (ALMPs) that emerged as a result of reforms to the welfare state model throughout Europe have played

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<sup>119</sup> National Youth Council of Ireland, (2014). *NYCI Briefing Paper 2: Jobseekers' allowance*. Can be viewed here:[http://www.youth.ie/sites/youth.ie/files/NYCI%20Briefing%20Paper\\_RedC\\_Jobseekers%27%20Allowance\\_Final.pdf](http://www.youth.ie/sites/youth.ie/files/NYCI%20Briefing%20Paper_RedC_Jobseekers%27%20Allowance_Final.pdf)

<sup>120</sup> <https://www.focusireland.ie/press/focus-ireland-warns-rising-crisis-number-18-24-year-olds-homeless-shoots-78-since-april-2014/>.

<sup>121</sup> González, P.A., (2013). *Getting Irish Youth on the Job Track*, OECD Economics Department Working Papers, No. 1101, OECD Publishing, Paris, p.63.

<sup>122</sup> Eurofound, *Living and working in Europe 2017*, p. 11.

<sup>123</sup> European Commission, (2018). *Access to social protection for workers and self-employed*, 03/2018, [https://ec.europa.eu/commission/sites/beta-political/files/european-pillar-social-rights-social-protection-workers-march2018\\_en.pdf](https://ec.europa.eu/commission/sites/beta-political/files/european-pillar-social-rights-social-protection-workers-march2018_en.pdf)

<sup>124</sup> It should be noted that at the time the interviews and focus groups took place, no one had experienced the employment activation programme "Job Path", which has seen the outsourcing of this programme to two companies – Seetec Limited and Turas Nua Limited.

a significant role in 'intensifying market discipline within the workforce'<sup>125</sup>. Today, "workfare", an ALMP model that originated from welfare reforms in the USA in the 1990s, has come to define labour activation policy. Consequently, welfare is no longer seen as an entitlement, but instead conditional and enforced through sanctions that push job seeking rather than training<sup>126</sup>. In Ireland, sanctions have increased in the last five years. According to figures from the DEASP in 2012, 1500 penalties were handed out, and in 2017, this figure increased to 16,000<sup>127</sup>.

Policy must focus on promoting job quality and Intreo have a major role to play in this. Rather than focusing on finding a job, we need to focus on providing a service that is about finding employment that maximises hours and money. As Boland and Griffin point out, 'strengthening behavioural conditionality and sanctions contributes to the growth of lower-paid, part-time, temporary-contract employment. Such employment is associated with a cascade of further public welfare dependencies'<sup>128</sup>. Policy makers should be careful in this respect because the more state supports there are for precarious work, the more reasonable it will be for employers to offer it and for the state to sanction someone for not taking up a low-paid and precarious job offer. As they suggested, 'job quality metrics should be integrated into welfare policies'<sup>129</sup>. A job quality policy, rather than a job-first policy, is not only beneficial for people, but it is also in the interest of the DEASP because good quality employment means that the numbers of people claiming welfare and state supports will decrease.

#### 5. Modernise and update the administration of in-work supports

Many of the criticisms about in-work supports were related to the bureaucracy involved and the potential for these forms to be misplaced. This was particularly noticeable when participants spoke about Part-Time Jobseekers' Allowance and the Working Family Payment. For example, people in receipt of Part-time Job Seekers' Allowance must fill out a form every week and post it in a box in their local Social Welfare Office. Many people complained about their forms becoming lost, which they were sanctioned for, because the social welfare office was unable to process them. A straightforward recommendation is to modernise and update the system.

#### 6. For the Working Family Payment, working hours should be tracked over a six-month period to calculate the average working hours.

An important dimension of in-work support schemes that are currently being administered by DEASP are those for one and two-parent families, particularly the Working Family Payment. The Millward Brown Report concluded that FIS is an effective means of encouraging people to stay in work or return to work<sup>130</sup>. When it comes to supporting one and two-parent families into work, a holistic approach is needed<sup>131</sup> that takes into consideration the challenges experienced by working families, such as their caring obligations. This was particularly articulated by one-parent families that experienced further hardship and challenges because there was no second parent for support.

<sup>125</sup> Greer, I., (2015). Welfare reform, precarity and the re-commodification of labour, *Work, Employment and Society*, 30(1): 162-173, p. 165.

<sup>126</sup> Peck, J., (2001). *Workfare States*, London: Guilford Press.

<sup>127</sup> NES, (2015). *Jobless households: an exploration of the issues*, National Economic and Social Council. It should be noted that as a percentage of overall claimants it is still low but this shows that it is growing exponentially.

<sup>128</sup> Boland T. and Griffin R., (2016). *The impact of sanctions: evidence from international research and WUERC Primary research*. WUERC, Waterford: WIT, p.1

<sup>129</sup> Ibid 2016, p.1

<sup>130</sup> Millward Brown IMS, (2008). Family Income Supplement uptake research, Department of social and family affairs. Can be downloaded: <http://www.welfare.ie/en/downloads/fisuptakereport.pdf>

<sup>131</sup> Gray, J and Rooney, C (2018), *Supporting low income working families: Enabling resilience*, MUSSI working paper series, pp. 87-88.

Participants in receipt of the Working Family Payment spoke about the difficulties faced when calculating their income while on part-time contracts with variable hours. Gray and Rooney's study (2018) also raised this issue and made a recommendation for 'a more flexible approach to calculating eligibility for in-work supports to take account of seasonal working'<sup>132</sup>. This report recommends that working hours should be tracked to calculate the average working hours.

**7. Extend Job seekers' Transition payment to parents who have children up to eighteen years old.**

For one-parent families who are not in a position to take up employment, all supports end when their child reaches fourteen years old. Not only does this create a poverty trap, but also does not take into consideration that caring obligations for their children past fourteen years old do not finish until they are eighteen years old. The Job Seekers' Transition Payment should be extended to parents who have children living in their homes up to eighteen years old.

**8. Focus on fixing the state pension, whilst making it more accessible for precarious workers on the lower end.**

Recently, there has been a lot mentioned in the media and by the government about the need for pension reforms<sup>133</sup>. One of the proposals expected in the coming months from the government is to introduce auto enrolment. Auto enrolment means that everybody in the workplace would be enrolled in the pension scheme, unless they opt out. Such a system already exists in New Zealand and the UK. While in theory this sounds like a good idea, in practice it will be based on contributions, and guaranteeing what pension providers will deliver.

There are two types of pensions, occupational pensions and private pensions, and the former are economies of scale in which the charges are much lower for employees. If Ireland institutes auto-enrolment, then the government will need to set up an organisation to create occupational pensions based on economies of scale. In the UK, this organisation is called NEST<sup>134</sup>. Private pensions are not recommended because if one is in a personal plan (PRSA) and they are a low-income earner, the charges will be high and will consume most of the contributions.

However, most precarious workers will only have access to the State Pension. People in low-income employment benefit from the state pension because it is redistributive so the contribution is related to your income. Therefore, it would benefit precarious workers for policy makers to address sustainability of the State Pension and increase efforts to make it more accessible for precarious workers.

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<sup>132</sup> Ibid p. 88

<sup>133</sup> For example, Reddan, F., (2018). *Universal scheme looms as pension time bomb ticks*, Irish Times, 6/02/2018, <https://www.irishtimes.com/business/personal-finance/universal-scheme-looms-as-pension-time-bomb-ticks-1.3367156>

<sup>134</sup> <https://www.nestpensions.org.uk/schemeweb/nest/aboutnest/nest-charges.html>

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# 5. Precarious work and the healthcare system in Ireland

# 5. Precarious work and the healthcare system in Ireland

## 5.1 Introduction

Ireland's healthcare system has been influenced by three major factors: the Catholic Church, medical professionals, and private health insurers. As a result, healthcare in Ireland is a 'complex mixture of public and private delivery and financing and multiple eligibility tiers, which govern access to care'. Furthermore, 'Ireland has the only European health system that does not offer universal coverage of primary care'<sup>135</sup>.

The following chapter will explore the experience of accessing healthcare services in Ireland as a precarious worker. First, this chapter contextualises the healthcare system that is in place and then explores the issues precarious workers face when accessing the healthcare system. This chapter focuses on data collected from the focus group sessions and addresses issues such as the negative effect of precarious work on mental health, the double burden of unpaid sick leave and GP fees, the reality of not being able to afford health insurance, and the overall experience of a cohort of people that is neither covered by public nor private health insurance. This chapter ends with policy recommendations to address the issues raised, with reference to research and policy experts interviewed for this report.

## 5.2 Healthcare in Ireland

For most of the twentieth century, the Catholic Church controlled the domains of health, education and welfare in Ireland. This legacy has resulted in a long history of opposition to "socialised medicine"<sup>136</sup>, which pre-dates Irish independence. This opposition came from both the Catholic Church and the medical profession. Consequently, while many European countries like France and the UK introduced healthcare systems funded by taxation and free at the point of entry following World War II, Ireland did not. Meanwhile, from the 1960s onwards, the Catholic Church began to alter its views around healthcare and came to understand it as a human right. However, the medical profession still did not and continued to oppose reforms. For example, hospital consultants threatened to strike to prevent free hospital care in 1973. It was not until 1991 that universal free hospital care was introduced, which was a response to campaigning from the trade union movement<sup>137</sup>. This change, however, was not extended to primary care services such as GP care<sup>138</sup>.

The privatisation of healthcare services was cemented into healthcare policy in the 2000s by the Progressive Democrats (who were in coalition with Fianna Fail), with an ideological interest in a market-based solution to all policy areas, similar to the thinking of Reagan and Thatcher. As a consequence, tax subsidies were also diverted to the construction of private hospitals and the private health insurance industry was opened to competition<sup>139</sup>. This increased competition gave the for-profit sector more

<sup>135</sup> Wren M.A. and Connolly S., (2017). A European late starter: lessons from the history of reform in Irish health care, *Health economics, Policy and Law*, 1-19, pp. 2-3.

<sup>136</sup> The provision of medical and hospital care for all by means of public funds.

<sup>137</sup> Wren, M.A., (2003). *Unhealthy State- Anatomy of a sick society*, Dublin: New Island.

<sup>138</sup> Ruane, F., (2010). *Report of the expert group on resource allocation and financing in the health sector*. Dublin, Ireland: Department of Health and Children.

<sup>139</sup> The Voluntary Health Insurance Board was created in 1957 under the Voluntary Health Insurance Act. VHI held a monopoly in the provision of private health insurance until the late 90s, early 2000s. It is a statutory corporation and its members are appointed by the Minister for Health.



scope to grow and to become influential stakeholders as lobbyists on healthcare policy.

Presently, Ireland's public healthcare system is governed by the Health Act 2004, which established the Health Service Executive as a new body responsible for providing services to anyone living in Ireland. People residing in Ireland are either entitled to full-access (category 1) or limited-access (category 2) to the public health system. Category 1 includes people who are entitled to medical cards. Medical card holders are entitled to a wide range of health services and medicines free of charge, which includes:

- Free GP services
- Prescribed drugs and medicines (subject to a charge for each item)
- Public hospital services
- Dental and optical services
- Maternity and infant care services
- Community care and personal social services

According to the HSE, by April 2017, 34.4 per cent of the population had a medical card<sup>140</sup>. The medical card is means-tested and is available to those who fit the eligibility criteria, namely those receiving welfare payments, low-income earners, and people with long-term or severe illnesses. There is also the GP Visit Card, which is also means-tested and entitles the holder to free GP appointments only. Below are the weekly income limits used to means test a person's eligibility to receive one.

**Table 5.1: Weekly income limit (gross less tax, Universal Social Charge and PRSI)**

Category	Aged under 66	Aged over 66
Single person living alone	€184	€201.50
Single person living with family	€164	€173.50
Couple, married/cohabiting/civil partners (or lone parent with dependent children)	€266.50	€298
Allowance for each of first 2 children aged under 16	€38	€38
Allowance for 3rd and each subsequent child under 16	€41	€41
Allowance for each of first 2 children aged over 16 (with no income)	€39	€39
Allowance for 3rd and each subsequent child over 16 (with no income)	€42.50	€42.50
Each dependant over 16 years in full-time third-level education, who is not grant aided	€78	€78

<sup>140</sup> Source: <http://health.gov.ie/wp-content/uploads/2018/01/Key-Trends.pdf>

**Table 5.2: GP visit card weekly income limit (gross less tax, USC and PRSI)**

Category	Aged under 66	Aged 66-69
Single person living alone	€276	€302
Single person living with family	€246	€260
Married or cohabiting couple (or lone parent with dependent children)	€400	€447
Allowance for each of first 2 children aged under 16	€57	€57
Allowance for 3rd and for each subsequent child under 16	€61.50	€61.50
Allowance for each of first 2 children aged over 16 (with no income)	€58.50	€58.50
Allowance for 3rd and for each subsequent child over 16 (with no income)	€64	€64
Each dependant over 16 years in full-time non-grant aided third-level	€117	€117

Primary healthcare in Ireland is mostly provided by General Practitioners who operate as sole traders or in health centres with other GPs and health professionals. For those who do not have a medical or GP card, the cost of a GP consultation can be up to 65 Euros. Some private health insurance companies, depending on the plan, partially or fully refund the cost of a GP visit. The HSE also runs its own health centres that provide a range of primary care services throughout Ireland, including GP services, nurses, social work and child protection services, disability services, older people services, physiotherapy, psychiatric services and home help.

The Irish health system is 'two-tiered' as individuals can also avail of private health insurance. Currently, almost 46 per cent of the population have private health insurance in Ireland.<sup>141</sup> However, even if we assume that the percentage of those with a medical card and the percentage of those who have private insurance is exclusive, there is still a significant number of people who are covered by neither. Considering this gap in coverage, it could be argued that the health system in Ireland is in fact 'three-tiered'. With this in mind, TASC's report on health inequalities in Ireland described the Irish health system as 'a complicated mix of public, private and voluntary care providers with unfair, unclear and complex routes in and through the system for the patients and users of health services.' The authors identified three main groups who access the Irish health system: those with medical cards, those with private health insurance and those who have neither<sup>142</sup>. The latter are the people who fare the worst, as they are faced with all the costs of accessing primary care services, in addition to emergency hospital care.

### ***5.3 Precarious workers' experience of health and accessing healthcare in Ireland***

Our findings concluded that precarious workers faced a number of problems related to health and accessing healthcare services in Ireland.

<sup>141</sup> Source: <https://www.hia.ie/publication/market-statistics/>

<sup>142</sup> Burke, S., and Pentony, S., (2011). *Eliminating health inequalities: a matter of life and death*. Dublin. TASC, p. 22.

*Precarious work has a negative effect on mental health*

The majority of participants described how their temporary and insecure working conditions caused depression and anxiety because they were unable to plan for the future. Anxiety was also experienced as a result of their financial deprivation when working on a temporary or zero-hour basis. Many described the anxiety of not being able to afford to pay the bills or buy food.

Social isolation, a result of insecure and/or low-waged employment also had an effect on participants' mental health. It was commonly reported that one's lack of job and financial security meant they could not socialise, which they felt ashamed by. As a consequence, it was common to lose contact with friends. Noel revealed:

I don't really see anybody to be honest. I've lost a lot of friends, which is also hard because I have no support socially. And I think that's fed into my depression, and I was only diagnosed a year ago and have been on medication ever since. And I think a lot of that is due to our situation, and not being able to afford to go and do things with people, let alone time. But I can't afford to go and do something.

*Precarious workers are reluctant to take sick leave*

Precarious work also had a negative effect on physical health. The majority of our participants spoke about coming into work when they were ill, which often prolonged their illnesses. Many precarious workers do not get paid sick leave and therefore cannot afford to take time off work. Numerous participants also described occasions in which they or others were injured on the job and still continued working or came back the next day. However, it is not just the loss of wages, but the cost of seeking medical treatment that creates a situation in which illness is a major financial burden. Elaine revealed that:

Between the doctor's appointment, the antibiotics and the four days off work, it was approaching 600 euro that I will never see back again.

Even for temporary workers who are entitled to paid sick leave, many still came into work. Often the fear of losing their jobs, having their hours reduced or not having their contracts renewed was so great that they still came in when they were ill. This is known as "sickness presenteeism"<sup>143</sup>. Linda revealed:

I didn't want to annoy people; I wanted to keep my job. So, I went into work anyway (after bicycle accident) even though I was concussed.

*Can't afford private health insurance*

The majority of participants relied on a network of people, such as parents or a partner for financial support. This was particularly pertinent when it came to accessing healthcare services. Those who did have private health insurance did so either because their parents paid for it or their partner had a policy that they were added to.

For those who did not have a support network, the result was simple: they didn't have private health insurance. Sometimes it was also required to avail of private healthcare because the public hospital waiting lists are too long. Again, it was those who were "lucky" enough to have a family member who

<sup>143</sup> Virtanen, M., Kivimäki, M., Elovainio, M., Vahtera, J., and Ferrie, J.E., (2003). From insecure to secure employment: changes in work, health, health related behaviours, and sickness absence. *Occupational Environmental Medicine*. 60 (12): 948-53.

could pay for them who accessed this. However, those who received financial support admitted they would prefer that not be the case. Claire admitted:

So, my dad is saying to me to go private and that he'll pay for it. I don't have the money to pay for it privately, but thankfully I can get the money from family, but that shouldn't be the case.

Precarious work created a scenario interpreted as 'forced infantilisation', whereby their ability to live an independent life, something normally associated with being an adult, was severely restricted.

#### *Neither covered by public nor private health insurance*

For the majority of our participants, there was a financial barrier to accessing GP, dental and other primary care services. While there are means-tested medical cards and GP cards that do give access to a number of free primary care services, most precarious workers fall outside of the eligibility criteria. This is largely due to means tests not taking insecure income into consideration. This ineligibility means that precarious workers have to pay the GP fee and the cost of any medication or treatment that they need, which can be very costly.

Consequently, a sudden bout of ill health can impact workers' finances. The majority of our participants admitted that they avoided going to the doctor out of financial concern. For those who avoided going to the GP, their health often deteriorated further. Moreover, when a person on a precarious contract has a recurring or chronic health condition, then accessing healthcare services becomes a long-term financial burden that cannot be avoided. Barbara revealed:

I remember the feeling of, 'shit what am I going to do, I don't have enough money to do me for the next week?!' It would have had to come down to one or the other: food or inhaler.

These hard choices also had wider implications for female reproductive health. The expense of the GP fee was often cited by our female participants as a reason why they had to stop taking the pill. Paula said:

I used to be on the pill but you have to go back to see your doctor again, which is 60 quid. So, I've come off that.

## **5.4 Recommendations**

At a policy level, there have been some indications that we need to change how we provide health services in Ireland. In 2017, *Slaintecare*<sup>144</sup> was published by an all-party parliamentary committee that was established on healthcare services in Ireland. The report made numerous recommendations, amongst them to roll out universal primary care services in Ireland. This report is welcomed, as it will have a positive effect for not only precarious workers in Ireland but everyone struggling with accessing healthcare services at present. What is needed now is to see *Slaintecare* implemented in full. However, when we look at healthcare services in Ireland, the problem lies in political will to implement such a system as recommended by the cross-part parliamentary committee. In particular, there is a lack of political will to challenge stakeholders such as the medical profession and private health insurers who would strongly oppose such plans.

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<sup>144</sup> Houses of the Oireachtas Committee on the future of healthcare. (2017), *Houses of the Oireachtas Committee on the Future of Healthcare Slaintecare Report*. Houses of the Oireachtas, Dublin.

It is important to first point out the healthcare policies in place that do positively impact precarious workers:

- Extension of medical cards to children under six years old.
- Medical card for adults over 70 years old – both of these are positive steps towards free GP care for all.
- Medical and GP cards for people who are eligible.
- A public hospital system that offers universal hospital care.

### **1. Legislate for paid sick leave scheme to be provided by all employers**

No worker should feel that they cannot take sick leave for financial reasons; workers' health should be a priority. A healthy workforce is also good for the employer for reasons of Health and Safety, as well as productivity. Furthermore, employees entitled to sick leave will feel valued by their employer, and a valued workforce is good for business. However, business often do not see the benefits behind providing paid sick leave to their workers. Focus group participants who worked where paid sick leave was not provided, often spoke about how they felt disposable and devalued. Therefore, it is recommended that the government legislates to make sick pay schemes mandatory.

### **2. Legislate for universal GP care for all**

Access to healthcare services is an important issue and universal healthcare needs to be prioritised. As FEPS-TASC's report<sup>145</sup> revealed, precarious workers are unable to afford GP costs but are also not covered by the public system. According to Connolly and Wren<sup>146</sup> (2017), of those reporting an unmet healthcare need in Ireland, 59 per cent attributed the gap to unaffordability, particularly in relation to GP care. Accordingly, 'the impact of income on the likelihood of reporting an unmet need was particularly strong for those without free primary care and/or private insurance, suggesting a role for the health system in eradicating income-based inequalities in unmet need'<sup>147</sup>.

Currently, the means-tested system is leaving a proportion of the population who cannot afford to access primary care services like GPs, without coverage. Connolly and Wren (2017) argue that this group is composed of people who have a low income but are just above the income threshold. For those who are on a low income and who live with their family, the means-test assesses the income of the household, which can also preclude them from being eligible for a medical card. As long as we have a means-tested medical card system in place, there will always be sections of the population who 'just miss' the threshold. The only way to avoid this lack of coverage is through universal healthcare.

<sup>145</sup> Bobek, A., Pembroke, S and Wickham, J. (2018). *Living with uncertainty: the social implications of precarious work*. FEPS-TASC, Dublin.

<sup>146</sup> Connolly, S. and Wren, M.A., (2017). Unmet healthcare needs in Ireland: Analysis using the EU-SILC survey. *Health Policy*, 121:434-441.

<sup>147</sup> *Ibid* p.434

### 3. Invest in and develop public mental health services

Mental illness affects many people in Ireland today. The true figure will never be known because of the stigma that still exists around mental health issues<sup>148</sup>. However, as noted in our findings, precarious work has a negative impact on mental health and can lead to depression and anxiety. Policy makers need to recognise that precarious work is a contributing factor for mental illness. This requires addressing employment protection legislation, as indicated in chapter three, but it also requires addressing the need for increased investment for publicly-provided services. This report recommends that more funding go into public mental health services. However, while the government keeps pledging additional funding (an additional 55 million euros in 2019)<sup>149</sup>, there must be transparency around how this money is spent<sup>150</sup>. Furthermore, we also concur with the recommendations from the Joint Committee on the Future of Mental Health Care (2018)<sup>151</sup>.

### 4. There needs to be political will to bring about universal healthcare

Subsequently, when we look back at consecutive Irish government's response to all three stakeholders (the Catholic Church, the medical profession and private health insurers) it is clear that there has been unwillingness to challenge them. Furthermore, in the case of private health insurers, it was government policy that in fact encouraged that sector's growth. It is important to remember this fact when making recommendations, particularly in relation to the healthcare sector; there needs to be political will in order to bring about the changes needed.

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<sup>148</sup> *Mental health: a stubborn stigma*, Irish Times, 11/09/2017, <https://www.irishtimes.com/opinion/editorial/mental-health-a-stubborn-stigma-1.3214196>

<sup>149</sup> O'Halloran, M., (2017). *Tánaiste defends budget mental health funding pledge*, Irish Times, 12/10/2017, <https://www.irishtimes.com/news/politics/oireachtas/tánaiste-defends-budget-mental-health-funding-pledge-1.3254168>

<sup>150</sup> Houses of the Oireachtas Joint Committee on the Future of Mental Health Care, (2018). *Second Interim Report: Recommended actions arising from progress made to date*. Houses of the Oireachtas, Dublin, p. 7

<sup>151</sup> *Ibid* p. 7.

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# 6. Precarious work and housing in Ireland

## 6. Precarious work and housing in Ireland

*'Especially at this time of year (winter), we're all conscious of homeless people on the street, and you can see how a few bad months that could be me. It's not a problem that is a million miles away from home.'*

(Martin, an if-and when bar worker)

### 6.1 Introduction

The housing crisis in Ireland has affected families and individuals from very different backgrounds. However, the difficulties that people in precarious work encounter are even more pronounced because they lack economic stability. Similar to other European countries, housing in Ireland consists of three pillars: home ownership, the private rental sector and local authority housing (social housing).

The following chapter will look at the provision of the housing landscape in Ireland under these three headings. Then, this chapter will look at the issues precarious workers face in relation to renting, such as a lack of tenancy security, the high cost of renting and the lack of accountability of landlords to their tenants. Because most precarious workers we interviewed cannot buy a home and there is a deficit in the construction of social housing, most of their housing experiences were in the private rental sector. This section is followed by policy recommendations.

### 6.2 Housing in Ireland

#### **Home ownership**

Until recently, Ireland was characterised by a relatively high level of home ownership. This statistic was not only a feature of the private sector, but also the public sector (through tenant purchasing schemes run by the local authorities). Tenant purchasing has been a staple fare of housing policy in Ireland since 1936. This was initially prioritised in rural parts of the country and later extended to cities by the 1966 Housing Act. This Act unified the Right-to-Buy Provision across the State<sup>152</sup>. However, while social housing tenants were purchasing their homes, the output of social housing construction slowed and was unable to keep up. As Dr Michael Byrne, explained,

During the boom years, between 1997 and 2006, 43,218 new local authority units were added to the stock. During the same period 17,197 units were sold to tenants. In other words, over 43 percent of new output was lost through tenant purchase...Between 2011 and 2014, local authorities added 2,364 units to their stock. Over the same years, they sold 2,233 units. Tenant purchase sales were equal to 94 percent of new units. And this was in the middle of a chronic housing crisis.<sup>153</sup>

<sup>152</sup> Norris, M. and Fahey, T., (2011). From asset-based welfare to welfare housing? The changing function of social housing in Ireland, *Housing Studies*, 26(3): 459-469.

<sup>153</sup> Byrne, M., (2016). *We are selling off social housing and it's madness*, *Dublin Inquirer*, 27/04/2016. <https://www.dublininquirer.com>



On the other hand, the growing economy of the 1990s and the early 2000s resulted in a rapid expansion of housing units built by private sector construction companies for private ownership. The rapid growth of the private housing sector resulted in a property bubble. House prices also increased rapidly, growing 292 per cent between 1996 and 2006. Banks facilitated this housing bubble by relaxing regulations around who could avail of a mortgage, while also offering 100 per cent mortgages. Home ownership reached its peak in the 1990s when around 80 per cent of households purchased their homes<sup>154</sup>. Following the 2008 financial crash, the property bubble burst and the impact of the global recession on the Irish economy led to a dramatic decline in the construction sector and the collapse of the private housing market. During this time, housing became more 'affordable'. Nevertheless, buying a house was only a possibility for those who remained in secure, well-paid employment.

### **Private rental sector**

Rates of home ownership has continued to decrease, and in 2016 it stood at 68 per cent nationwide. In contrast, the private rental sector has continued to grow, doubling in the last ten years from 9.9 per cent in 2006 to 18.2 per cent in 2016. This trend is illustrated in the following table:

**Table 6.1: Tenure types, 2006-2016**

	1971	1981	1991	2002	2006	2011	2016
Owner-occupied	68.8	74.4	79.3	77.4	74.7	69.7	67.6
Private rented	13.3	10.1	8.0	11.0	9.9	18.5	18.2
Social rented	15.5	12.5	9.7	6.9	10.7	8.7	9.4
Other	2.4	3.0	3.0	4.6	4.7	3.0	4.7
Free of rent	2.4	2.6	2.1	1.7	1.5	1.5	1.6
Not stated	-	0.4	0.9	2.9	3.2	1.5	3.1

Source: Burns et al. (2017) based on CSO, Census of Population

During the recession, rental prices decreased significantly. However, since the recovery, these patterns have completely reversed. Since 2012, there have been average rent increases of 60 per cent nationally (Nugent, 2018)<sup>155</sup>. By mid-2017, the average rents in existing tenancies across the country reached almost 1000 Euros per month. However, in Dublin, where a large proportion (38 per cent) of these tenancies were located, rents were much higher, and in the more affluent neighbourhoods exceeded 1500 a month (RTB, 2017). While the government has introduced a four per cent cap on rent increases in certain areas, this is difficult to prove for new tenancies. Currently there is no database in place that allows prospective tenants to see what the rent was for the previous tenant. Consequently, when a tenant moves out a landlord can increase their rent by more than four per cent without anyone knowing.

[com/2016/04/27/mick-we-are-selling-off-social-housing-and-it-is-madness/](http://www.neri.ie/newsroom/2016/04/27/mick-we-are-selling-off-social-housing-and-it-is-madness/)

<sup>154</sup> Sirr, L., (2013). *Recession and Renting: The Future of the Private Rented Sector in Ireland*. ENHR: European Network for Housing Research Conference, 10-22 June, Tarragona, Spain, <http://arrow.dit.ie/cgi/viewcontent.cgi?article=1062&context=beschrecon>.

<sup>155</sup> Nugent, C., (2018). *Wage sufficiency in the context of the Irish Housing Emergency - Rents and access to homeownership*. Dublin: NERI.

The regulation of the private rental sector remains relatively weak in Ireland. As a result, tenants have much less security than their European counterparts. In Ireland, tenancy provisions are covered by Part IV in the Residential Tenancies Act. This makes a provision for a tenancy period of six years. However, the landlord has the power to terminate a tenancy on a number of grounds, including for sale of the property, family use and refurbishment. According to Threshold, this is a major issue for tenants<sup>156</sup>. Consequently, Byrne (2018) found that 'unlike both home owners and social housing residents, tenants' capacity to create a place of safety and security, a sense of their identity and place-based practices and networks of social reproduction and care, is severely undermined by a policy context which systematically produces housing precarity<sup>157</sup>.

Enforcement should play a major role in the private rental sector. In Ireland, the Residential Tenancies Board (RTB) was set up in 2004 under the remit of the Government, and it has statutory powers. Accordingly, 'the central role of the RTB is to support the rental housing market and to resolve cheaply and speedily disputes between landlords and tenants, affording protection to both parties without having to resort to the Courts'<sup>158</sup>. The RTB's three major roles are: tenancy registration, information (such as statistics and reports) and dispute resolution<sup>159</sup>. Therefore, the RTB is limited in its ability to enforce legislation for numerous reasons: first, its main role is to mediate disputes, not to enforce legislation, and second, it is reliant on tenants to initiate a dispute against the landlord. Currently, there is no body in the Rental Sector that enforces legislation or carries out inspections, such as what the Workplace Relations Commission (WRC) does for the employment domain.

### **Social housing**

Local authorities (or housing authorities) are the main providers of social housing. Approved Housing Bodies (Housing associations and housing co-operatives) also provide social housing for people who cannot afford to buy their own homes. These are defined as independent and not-for-profit organisations. In Ireland, 27,000 social housing tenancies are provided by 500 housing associations<sup>160</sup>. Following the 2008 financial crash, provision of social housing also fell dramatically. As a consequence of austerity measures introduced during this time, funding for new social housing fell by 88.4 per cent between 2008 and 2014.

For local authority housing, allocation is based on a person's eligibility and need. Rents are based on the household's ability to pay. There are three maximum income thresholds that apply to different housing authorities. For example, in Dublin city (band 1), the maximum net income threshold for a single person to be eligible for local authority housing is 35,000 euros and the maximum income threshold for three adults and four children families is 42,000 euro. In Limerick city and county (band 2), the maximum net income threshold for a single person is 30,000 euro and for three adult and four child families the maximum threshold is 36,000 euro<sup>161</sup>. A person will only be considered eligible for social housing if the household income is less than the applicable threshold. If the local authority accepts an application, then the applicant is placed on its housing list. Once a person receives accommodation, they are required to pay rent to the local authority, which is a differential rent, calculated on the basis of income and household size.

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<sup>156</sup> Threshold (2017). Pre-budget submission 2018. Dublin: Threshold.

<sup>157</sup> Byrne, M., (2018). *Housing precarity and the private rental sector*, TASC Blog, 6/03/2018, <https://www.tasc.ie/blog/2018/03/06/housing-precariety-and-the-private-rental-sector/>

<sup>158</sup> <https://www.rtb.ie/about-rtb/who-we-are>

<sup>159</sup> <https://www.rtb.ie/docs/default-source/default-document-library/prtb-core-functions-of-the-board.pdf?sfvrsn=0>

<sup>160</sup> <https://www.cluid.ie/who-we-are/what-is-social-housing/>

<sup>161</sup> [https://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/table\\_with\\_2016\\_income\\_limits.pdf](https://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/table_with_2016_income_limits.pdf)

Local authorities also run schemes that come under the remit of a social housing support. The first of these schemes is the Housing Assistance Payment (HAP). Second, there is the Rental Accommodation Scheme (RAS) (which will eventually be replaced by HAP). This scheme is meant for anyone who the local authority deems as having a long-term housing need. Under this scheme, the local authority draws up contracts with private landlords for an agreed period and the rent is paid directly to the landlord. Those availing of this scheme are taken off the social housing waiting list. HAP was introduced under the Housing (Miscellaneous Provisions) Act 2014 and allows people with a long-term housing need to also access this support and to take up full-time employment. Landlords are paid directly by the local authorities, and tenants pay a contribution to the local authority based on their incomes. The tenant must find their own accommodation and the rent must fulfil the criteria set by the local authority in the area relating to household type. Although the local authority administers the scheme, the rental agreement is between the tenant and a private landlord. Furthermore, a person will no longer be on the local authority's housing waiting list if housed under HAP, because HAP is defined as a social housing support in Section 37 of the Housing (Miscellaneous Provisions) Act 2014.

The government's response to the housing crisis has been widely criticised on numerous fronts, including its response to the provision of social housing<sup>162</sup>. Rather than building more social housing, government social housing policy is directing public money to private landlords, primarily through the HAP scheme. And this is also adding to the pressure on the private rental sector. According to the government's recent Rebuilding Ireland progress report, just over 19,000<sup>163</sup> social housing properties were delivered in 2016. However, as the table below demonstrates, most of this figure is made up of HAP, RAS and leasing:

**Table 6.2: Final Social housing output 2016**

Type of social housing	Total number of accommodations delivered
HAP	12,075
RAS	1,256
Leasing	792
Refurbishments	2,308
Acquisitions	1,959
Builds	665
Total	19,055

Therefore, out of the 19,055 delivered accommodations, only 665 were new builds. In 2017, 780 local authority houses were built. While this is an increase of 247 on 2016 figures (this brings the figure to 1,027 since the Government's Rebuilding Ireland strategy was announced), it is still less than one-fifth what was promised in the action plan<sup>164</sup>.

Having a social housing policy that depends on subsidising private landlords has a negative, knock-on effect for the private rental sector because people on the HAP scheme still have to find the rental property themselves. This responsibility makes such tenants private rather than local authority tenants. Furthermore, acquisitions also constituted more than new builds (1,959), and this also puts further

<sup>162</sup> Pollak, S., (2017). *State faces housing 'catastrophe'*, Fr Peter McVerry says, Irish Times, 29/08/2017, <https://www.irishtimes.com/news/social-affairs/state-faces-housing-catastrophe-fr-peter-mcverry-says-1.3202258>

<sup>163</sup> [www.housing.gov.ie/housing/social-housing/social-and-affordable/overall-social-housing-provision](http://www.housing.gov.ie/housing/social-housing/social-and-affordable/overall-social-housing-provision)

<sup>164</sup> Holland, K., (2018). *Total of 780 local authority houses built last year*, Irish Times, 25/04/2018, <https://www.irishtimes.com/news/social-affairs/total-of-780-local-authority-houses-built-last-year-1.3473178>

pressure on the housing stock by pushing up prices (because it does not add to the housing stock). As Professor PJ Drudy argued, this puts the 'State in competition with lots of young people who want to buy.'<sup>165</sup> Consequently, many people who should be living in local authority housing are being forced to rent in the private rental sector; the lengthy waiting list gives many no alternative but to apply for HAP, and then when they do they are removed from the waiting list. While such schemes are aimed to assist low-income families, not all of them guarantee a security of tenure<sup>166</sup>.

### ***6.3 Precarious workers' experience of finding accommodation***

Our findings discovered that precarious workers face a number of problems related to housing in Ireland.

#### *Precarious workers are precluded from home ownership*

Precarious workers are precluded from purchasing a property both for financial reasons and for not having secure job tenure. People working precariously are in a much more difficult position in relation to home ownership than secure workers. First of all, high rents and unstable incomes mean that saving up for the required deposit becomes challenging. Furthermore, banks are reluctant to offer mortgages to workers with non-standard contracts, as their wages are not secure. Oftentimes, the only time that precarious workers are able to purchase a home is if they have help from a partner who is on a permanent contract or from relatives.

#### ***Precarious workers forced to live at home***

Many precarious workers cannot afford to leave their family home even though they would like to be more independent. Precarious work, periods of unemployment and unpredictable (often low) incomes were the main drivers for either moving back with one's parents or never having left the parental home. Numerous participants lived with their parents; some also previously lived in their parental home at different stages of their adult lives. While some commentators suggest that young people move back home to save for a deposit to buy a house, in reality, many simply cannot afford to live independently<sup>167</sup>. Moving back into the family home, which is known as 'boomeranging'<sup>168</sup> is linked to increased economic uncertainty and "forced infantilisation"<sup>169</sup>.

#### ***Renting is the only option for precarious workers***

Most precarious workers who took part in this study rented. A major difficulty observed was that a combination of an insecure income and contract meant that they had difficulties with affording to pay the rent. Consequently, this was something that was discussed at great length in our focus group sessions. This also meant that sharing rented accommodation with large groups of people (often with strangers), was common. While this was not always seen in a negative light, those who wanted to live on their own were precluded from doing so. Furthermore, for precarious workers with children, it was even more problematic to find affordable rental accommodation because living in shared accommodation is not an option when there is a family to house. Therefore, there is limited accommodation options to choose from and whatever is available in the private rental sector is expensive.

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<sup>165</sup> McKinney, C.J., (2017). *Fact Check: Did the State build more social housing in the 1980s than in 2015?* Journal.ie, 12/09/2017, <http://www.thejournal.ie/factcheck-social-housing-ireland-then-and-now-3594254-Sep2017/>

<sup>166</sup> Hearne, R. and Murphy, M.P., (2017). *Investing in the Right to a Home: Housing, HAPs and Hubs*, National University of Maynooth.

<sup>167</sup> Mullally, U. (2017) *Bad Time for Ads about Moving Back in with Your Parents*, The Irish Times, <https://www.irishtimes.com/opinion/una-mullally-bad-time-for-ads-about-moving-back-in-with-your-parents-1.3197135>

<sup>168</sup> Stone, J., Berrington, A. and Falkingham, J. (2014) *Gender, turning points, and boomerangs: returning home in young adulthood in Great Britain*, *Demography*, 51(1): 257-276.

<sup>169</sup> Furlong, A. and Cartmel, F. (2007) *Young People and Social Change: New Perspectives*. Maidenhead, UK: Open University Press.

The lack of security associated with the private rental sector in Ireland was also a major concern, particularly through forced moves and evictions. As Tom said:

At the very least the government should recognise that people who rent are members of the community who can add to the value of the area... Remove these loopholes so that if your landlord has a son or daughter who wants to move in, then they've got to sort that out some other way. If you're renting, you're renting and that's it; a lease is a lease and a contract that you sign with your landlord for five years means five years.

The lack of security for tenants in the private rental sector has also resulted in long periods of "hidden homelessness" in which they must sleep on couches of friends and acquaintances while they search for a place to live and still attempt to maintain a "normal" life. This arrangement can last for months. As Leanne observed:

I'm happy enough sharing. The only issue is, why it took me so long I suppose to get off my mate's couch and actually get in somewhere, because the vast majority of places I could afford was four people in bunkbeds in a room! That's nightmare material.

Enforcement through a regulatory body was considered to be limited or largely absent in the private rental sector. For example, Peter said:

It comes down to the regulatory and fine system as well... The landlord out in Foxrock who had 30 or 40 in it – what happened to him? They get a slap on the wrist and maybe a small fine. So why aren't they in prison? Why isn't this a criminal offence?

Overall, renting in Ireland was considered to be an unsustainable option, however, any plans for home ownership often remained out of reach.

## ***6.4 Recommendations***

The housing crisis requires many solutions, as it affects many different types of people. However, for precarious workers most difficulties expressed lay with the private rental sector. Tenants in Ireland are negatively compounded by three issues: the lack of supply, a lack of regulation and an enforcement vacuum. Ireland has a situation whereby people in the rental sector are not getting access to tenure security, something that home owners and people in social housing avail of. As a consequence, renters are experiencing structural housing inequality. Security is associated with a sense of ownership, and particularly a sense of creating a home. The home ownership society is linked to a sense of growing up, to a sense of security, and also to a person's relationship with their community and neighbourhood. And now that homeownership is decreasing, there is a generation that is trapped, living in absurd housing situations and not feeling that they have 'arrived'.

### **1. Strengthen private rental sector legislation to provide for security of tenure**

It is important to recognise that the rental sector will always play an important part in housing policy. People can choose to rent for a number of reasons, including because they cannot get a mortgage or cannot afford to buy, but also as a lifestyle choice (for choice of location or mobility). Furthermore, homeownership is not necessarily the end-goal for everyone and policy should promote tenure-neutrality. Tenure-neutrality is 'based on the principle that governments should balance subsidies

between tenures and maximize comparability between the social-legal status of households in different tenures<sup>170</sup>. In Ireland, security of tenure is recommended for the rental sector to reach a comparable social-legal status with home ownership and local authority housing.

Currently the law provides for six-year tenancies. While we could argue for indefinite tenancies (characteristic in other rent-friendly countries like Germany), the main issue around security of tenure is that tenants in the private rental sector can have their tenancies terminated within those six years on numerous grounds. Therefore, we recommend that the grounds for termination of tenancy be removed from Part Four of the Residential Tenancies Act. The only grounds for lease termination should be for non-payment of rent. Like local authority tenants and owners, renters should be able to create a home, and not feel like they are transient and temporary.

## **2. Increase supply through capital investment in social housing**

Affordability was a major issue for precarious workers who rented in the private rental sector. As noted previously, this is also a wider issue affecting tenants in the private rental sector in Ireland. Therefore, we need an alternative, sustainable and affordable model for the private rental sector. This model should include more capital investment from local authorities in acquiring and building more social housing. Social housing schemes such as HAP and RAS divert social housing funding to an already over-burdened and unaffordable private rental sector and this is not sustainable. Local authorities play an important role in building social housing and affordable rental properties because, if we think about Irish organisations that have the resources to build, they are the only one.

Second, there should be support for the emergence of businesses or agencies that could build housing for rent at a reasonable price, and be in a position to control their costs and to support their access to finance at a reasonable cost. Fundamentally, a carrot-and-stick approach is needed so that the decisions on the type of housing that are provided are not left to developers. At present, the decision remains with the developers who choose to build the most profitable type of housing, such as student accommodation, three-bedroom semi-detached houses or luxury apartments. Countries such as Denmark and Austria have realistically assessed how the market functions and have realised that subsidising private developers without restrictions results in poor outcomes.

## **3. Adopt the European Cost Rental Model (ECRM) as a long-term solution for a more affordable rental sector**

Central to any long-term rental supply strategy is the insertion of a European Cost Rental Model (ECRM). NERI have highlighted this model as a key feature and solution in their paper on the housing crisis<sup>171</sup>. The government has also set up a working group on Cost Rental. Cost Rental means that rent is set to cover the cost of building and managing the accommodation, which is usually calculated over a period of 30 years. This model lowers rental prices by taking profit out of the equation. The cost rental system in Austria, for example, 'has delivered between 14,000 and 19,000 units every year since 1994, making up 1/3 of all housing output over the period'<sup>172</sup>.

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<sup>170</sup> Kemeny, J., (1981). *The myth of home ownership. Private versus public choices in housing tenure*. London: Routledge & Kegan Paul Ltd, p. 146.

<sup>171</sup> Healy, T. and Goldrick-Kelly, P., (2017). *Ireland's Housing Emergency - Time for a Game Changer*, NERI working paper series.

<sup>172</sup> Byrne, M., (2017). *A rental revolution*, Broadsheet.ie, 24/03/2017, <http://www.broadsheet.ie/2017/03/24/a-rental-revolution/>

**4. Fill the enforcement vacuum; strengthen the RTB to become a regulator of the private rental sector**

Enforcement in the private rental sector is a major issue. Currently, the Residential Tenancy Board has no powers to enforce legislation. For example, there is a 4 per cent annual cap on rent increases. Although rent controls are nominally positive for tenants, there is often a lack of regulation and enforcement of these mechanisms. The private rental sector depends on tenants regulating their landlords and this is not an ideal situation because of many tenants' precarious situations, particularly their fear of being made homeless. The Residential Tenancy Board's role is primarily to register landlords and tenants and to mediate disputes. However, there is no oversight on the landlord to comply with this legislation. Therefore, the RTB needs to be given more legislative power of enforcement, similar to the Workplace Relations Commission (WRC). As part of enforcement, the RTB should be given powers to impose heftier punishments on landlords who do not comply with legislation, including banning them from renting properties.





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# 7. Precarious work and childcare policy in Ireland

# 7. Precarious work and childcare policy in Ireland

## 7.1 Introduction

Ireland's childcare provision came under scrutiny by the European Commission in 2016. The European Commission recommended improvements in the provision of quality, affordable, full-time childcare<sup>173</sup>. The European Pillar of Social Rights has included the provision of childcare services as one of its 20 principles. It should be noted that childcare difficulties are not only faced by precarious workers, but low and middle-income earners throughout Ireland. However, precarious workers are in a more vulnerable predicament because of the insecurity of their income.

During the course of our focus groups, childcare provision was cited as a major concern for precarious workers. The following section will look at childcare policy in Ireland, followed by an analysis of the issues precarious workers face, such as putting off having children, the unaffordability of childcare services, and the uncertainty around maternity leave. Finally, policy recommendations will be made on the basis of the information gathered from the participants, alongside an assessment of current childcare policy.

## 7.2 Childcare in Ireland

Comparative to other regions of Europe, Ireland's childcare system is quite new. For example, childcare provisions have existed in Scandinavian countries since the turn of the nineteenth century. In contrast, Ireland's policies on formal childcare provision remained under-developed until the 1980s, as a result of strong links between the Catholic Church and state-influenced tax and welfare policies. This was largely rooted in private patriarchy through the "breadwinner: housewife" model<sup>174</sup>. As part of this traditional view, male rather than female employment was favoured, particularly after marriage. The traditional role of women was interpreted as being in the family home and was enshrined in the Irish Constitution (Article 41, Government of Ireland). Consequently, formal childcare provision and legislation was deemed to be unnecessary<sup>175</sup>, as the mother stayed at home, thus fulfilling childcare provision.

Until 1973, a 'marriage bar' existed, which prevented married women from remaining in employment in the public sector, as well as some private workplaces. As a consequence of this policy, in 1971 only 7 per cent of married women in Ireland were in paid employment<sup>176</sup>. This was subsequently lifted after Ireland joined the EEC as part of the implementation of legislation to meet EU directives. Female participation in the labour market increased and with this came the need for formal childcare provisions and policies.

Ireland has 'no history of comprehensive or universal State provision other than through infant classes in the primary schooling system'<sup>177</sup>. Consequently, until the 1990s, service development for young people

<sup>173</sup> <https://www.earlychildhoodireland.ie/eu-commission-measures-irelands-performance-childcare/>

<sup>174</sup> Mahon, E. and Bailey, J., (2015). *The incomplete revolution: development of childcare policies in Ireland*, in: D. Kutsar and M. Kuronen (eds.) *Local Welfare Policy Making in European Cities*. Social Indicators Research Series 59.

<sup>175</sup> Murray, A., McGinnity, F and Russell, H., (2016). *Inequalities in access to early care and education in Ireland*, in: T. Fahey and M. Curran (eds.), *Cherishing All the Children Equally? Ireland 100 Years on the Easter Rising*, Oak Tree Press.

<sup>176</sup> *Ibid.*

<sup>177</sup> Corrigan, C., (2004). *OECD Thematic Review of Early Childhood Education and Care Background Report: Ireland*, (prepared for the Department of Education and Science), p.13.

under six years of age was largely driven by the voluntary sector, and some state support was also available through the Department of Health. This support took the form of small grants available to community-based providers. The gap in childcare and education provision for pre-school children was also filled by childminders and family members, most notably grandparents. While there had been discussions around developing early childhood education and care in the 1980s, it was not until the mid-1990s that these discussions moved forward amongst Irish policy makers.

In 1999, the National Childcare Strategy was launched, which represented 'the first concerted attempt to develop a coherent and comprehensive government policy that specifically addressed childcare'<sup>178</sup>. The Childcare Strategy was inextricably linked to providing the needs of working parents, or parents attempting to enter the labour market. The Strategy was implemented through the Equal Opportunities Childcare programme (EOCP) 2000-2006, in which 500 million euros were invested and 40,000 childcare places were created. European Union funding initially played a big role in this scheme, but now it is almost entirely funded by the Irish government. The National Children's office was established in 2000 and this was followed by the launching of a new National Childcare Strategy (2006-2010), which had a budget of 575 million euros. The last policy framework to be published came in 2014: *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*. The 2014 framework is the first for children and young people aged from birth to 24 years and provides the framework for the development and implementation of policy and services for children and young people. The document particularly focused on 'children's early years' by investing 'in early years care and education...and implementing measures to support and regulate improvements to the quality of Early Years and childcare services'<sup>179</sup>. From this, came a commitment to publish Ireland's first ever National Early Years' Strategy, which would address issues such as childcare subsidies, service quality levels and parental leave<sup>180</sup>. However, this is yet to be delivered.

Therefore, Ireland's approach to childcare services was different compared to many European countries; it began with the private sector in an ad hoc and unregulated way, whereas in many European countries that have a more evolved childcare system, it was or is still provided by the state. As a result, there is a lack of planning and development in childcare and early years' education.

Childcare and early years' education is privatised; approximately 70 per cent are for profit and approximately 30 per cent are community crèches that are governed by a private Board of Directors. Childcare providers tend to be small. Many are operated by one person and only 33 per cent (1,224) provide full-time services<sup>181</sup>. These centres are staffed by people who receive low wages, unpaid hours of work and high levels of precarious employment, as many have 'seasonal contracts' and rely on social welfare during the summer months. While large chains do exist, they occupy a small percentage of the childcare sector<sup>182</sup>.

Childcare fees in these centres and crèches are not controlled<sup>183</sup>, making costs very expensive for parents. According to Pobal, 'the cost of full-time childcare has increased. The average cost of full-time childcare (per week) has increased from 167.03 euros to 174.16 (4.3%)'. Furthermore, a report published by

<sup>178</sup> Ibid, p. 15.

<sup>179</sup> Department of Children and Youth Affairs, (2014). *Better outcomes, brighter futures: Report of The National Policy Framework for Children & Young People 2014-2020*, Dublin: Stationary Office, p. x.

<sup>180</sup> It is important to note that commitment to an Early Years' Strategy preceded *Better Outcomes Brighter Futures*: [https://www.dcy.gov.ie/docs/25.01.12\\_Minister\\_Fitzgerald\\_announces\\_preparation\\_of\\_Ireland/1751.htm](https://www.dcy.gov.ie/docs/25.01.12_Minister_Fitzgerald_announces_preparation_of_Ireland/1751.htm)

<sup>181</sup> Pobal, (2017). *Early years' sector profile 2016-2017*, p.35.

<sup>182</sup> Ibid pp. 88-91.

<sup>183</sup> The ECCE Programme from the DCYA does control fees in that children receive three hours per day, five days per week, 38 weeks per year, aligned with the school year, free of charge to their parents. It is the time outside of these hours that are not controlled. That includes school-age childcare for those in primary and secondary school.

Pobal found that, 'fees are higher in affluent areas than in deprived areas (205.56 and 153.32 respectively), higher in urban areas than rural areas (182.76 and 158.84) and higher in private services than community services (181.52 and 154.89)'<sup>184</sup>.

Throughout the years, state funding for childcare services has been administered through funding schemes. Until recently, there were two targeted funding schemes: The Community Childcare Subvention Programme (CCS)<sup>185</sup> and the Training and Employment Childcare scheme (TEC)<sup>186</sup>. These targeted schemes have now been replaced by a new childcare subsidy model known as the Affordable Childcare Scheme (ACS)<sup>187</sup>. This new model is intended to streamline the administering of childcare funding into a single subsidy. The Early Childhood Care and Education programme (ECCE) runs separately from the ACS (the free pre-school scheme was introduced in 2010)<sup>188</sup>.

The ACS is underpinned by the Childcare Support Act 2018, which legislates for 'the establishment of automated income assessment', but also sets out 'regulations to determine the amount of financial support for which a parent qualifies'<sup>189</sup>. The legislation also requires that only childcare providers registered with Tusla<sup>190</sup> can participate in the scheme. The Children's Right's Alliance's Annual Report (2018) observed that 'the new scheme will provide Ireland's first universal childcare subsidy to parents of children under three years and the first single income-based targeted childcare subsidy for parents of children aged six months to 15 years'<sup>191</sup>. The subsidy is available for 52 weeks per year. Under this new scheme, the payment is made directly to the childcare provider rather than directly to the parent, thus the childcare fee is reduced depending on the amount of subsidy awarded. Neither the legislation nor the proposed IT system to administer the scheme were finalised by September 2017 (the original month by which it was supposed to be operating). Consequently, as a temporary measure, the Government introduced the 'September measures' to provide 'a level of subsidy' until the ACS is fully operational<sup>192</sup>.

It will also be the first time that a childcare income subsidy can be availed for after-school services; these will also be funded through the ACS. Furthermore, the Government have published the School Age Childcare Action Plan for children from ages 4 to 15 who are attending childcare services<sup>193</sup>. The action plan concludes that the essential components for the School Age Childcare (SAC) model are, 'Quality, Access and Affordability', and when introduced,

Children who need non-parental/non-relative care after school and outside of term time will be able to access it, in their local community where possible, from a range of service providers. The care provided to them will be quality assured and will in many ways simulate a healthy home environment. Staff providing their care will be trained and supported in their work. The care will be affordable to parents<sup>194</sup>.

<sup>184</sup> Pobal, (2017). *Early years' sector profile 2016-2017*, p.7.

<sup>185</sup> A childcare programme that was targeted to support parents on a low income in order to avail of reduced childcare costs at participating community childcare services. The Department of Children and Youth Affairs paid for a portion of the childcare costs for eligible children, with the parent paying the remainder. The CCS subvention was available for 52 weeks of the year.

<sup>186</sup> To support parents on eligible training courses and eligible categories of parents returning to work, by providing subsidised childcare places.

<sup>187</sup> <http://affordablechildcare.ie/>

<sup>188</sup> All children aged from two years and eight months are eligible for this scheme, and continue until they transfer to primary school. The scheme provides free pre-school for 3 hours per day for 38 weeks a year. The programme is provided by both community and private crèches.

<sup>189</sup> Children's Right Alliance, (2018). *Report Card: is government keeping its promises to children?* p. 101.

<sup>190</sup> The Child and Family Agency.

<sup>191</sup> Children's Right Alliance, (2018). *Report Card: is government keeping its promises to children?* p. 99.

<sup>192</sup> Department of Children and Youth Affairs, 'Government announces plans for the delivery of more affordable childcare this September, Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone and Minister for Social Protection, Leo Varadkar', 12 April 2017, <https://www.dcy.gov.ie/viewdoc.asp?DocID=4180%20>

<sup>193</sup> <https://www.dcy.gov.ie/documents/publications/20170306SchoolAgeChildrenActionPlan.pdf>

<sup>194</sup> *Ibid* p. 62.

Regulation is an important component in the SAC model because currently only services from zero to six years of age are regulated in Ireland.

Another form of childcare that exists in Ireland are childminders. These carers provide services to children from infancy to 13 or 14 years of age. These arrangements are largely unregulated, except for those who are registered with Tusla. The legal definition of a childminder is a person who provides childcare for four or more children who are not related, in the childminder's home, and on a regular basis. In reality, a lot of childminders do not fit this definition because they may only look after one or two children, so legally they do not have to register. Eurofound highlighted that below 20 per cent of Irish families use formal childcare facilities, compared to 80 per cent in Sweden and Denmark<sup>195</sup>.

Another type of unregulated childcare are nannies, who can either be living in the family home or not. Parents are becoming increasingly reliant on informal childcare services due to the increasing costs of crèches, but also because crèche operating hours may not serve the needs of all working parents. Minister Zappone formed a working group on Reforms and Supports for the Childminding Sector. Earlier this year, the working group reported back and this report will inform the Government's childminding action plan, which is due later this year. Amongst the recommendations, the report:

Is strongly in favour of establishing the sector professionally, with a long-term view to inclusion in the Government financial support schemes, in particular the Affordable Childcare Scheme that is being developed. The group highlighted the need for the next steps to feed into the forthcoming National Early Years Strategy<sup>196</sup>.

Childcare policies involve more than just the provision of formal childcare services; they also involve policies on parental leave. Currently, all women are entitled to 26 weeks of paid and 16 weeks of unpaid maternity leave. Since September 2016, fathers and same-sex partners, can avail of up to two weeks leave following the birth of their child, which must commence within the first six months after birth. Women can avail of maternity benefit, which is paid by the state at a rate of 240 euros per week. Paternity benefit is also paid at a rate of 240 euros per week. Entitlement to maternity and paternity leave are based on PRSI contributions. There are an additional 16 weeks maternity leave that women can avail of, however, there is no maternity benefit to cover this period.

Employers are not obliged to pay maternity or paternity leave, although some do. Along with maternity and paternity leave, there is also an entitlement to unpaid parental leave. According to the Parental Leave Act (Amendment) 2006, parents are entitled to 18 weeks parental leave per child. This applies to children up to eight years old and both parents are entitled to their own separate leave. Leave must be taken all at once or in two blocks (six-week minimum each), and there must be a gap of at least 10 weeks between blocks. If the employer agrees, parental leave can be separated into periods of days or hours, for example, into a four-day week or a reduction of working hours to complement the school schedule<sup>197</sup>.

<sup>195</sup> Eurofound, *Living and working in Europe*, 2017: p. 53.

<sup>196</sup> <https://www.dcy.gov.ie/docs/EN/Speeches-copy-dcy-gov-ie-2018/82/4632.htm>

<sup>197</sup> The Parental Leave (Amendment) Bill 2017, introduced by the Social Democrats in February 2018 aims to increase unpaid Parental Leave from 18 to 26 weeks, to be taken by the time the child reaches 12 years. The Bill was passed by the Dáil in June and will be debated by the Seanad next.

### ***7.3 Precarious workers, childcare and having children***

Our findings discovered that precarious workers face a number of issues relating to childcare and family formation.

#### ***Putting off having children***

First, precarious workers who expressed a desire to have children were put off from doing so unless they had the prospects of finding more secure and/or better paid employment. Barbara spoke about this dilemma:

I've never been able to consider it. But it's just really challenging because I don't know where I'm going to be in two years' time, and I don't know – if things continue the way they are job wise it means I won't be able to have a child.

#### ***Formal childcare is unaffordable***

Second, there was consensus that formal childcare was unaffordable. This was an issue even for those who had relatively well-paid temporary jobs. In some instances, participants recounted how they were able to ask their parents (or their partner's parents) to help with some of the childcare duties. This was, however, only possible if they were geographically close. For those who had a partner in more secure or better-paid employment, it meant that the least secure person was forced to give up their job because they could not afford childcare. Peter, who has three children, gave up work:

When my first one was born I gave up working because it was just cheaper to do it that way. My wife is on maternity leave at the moment so I'm back working full-time. But next January I'll have to give up working again to pay because it's just not worth my while; we can't afford it. My wages don't cover childcare.

#### ***Formal childcare services do not suit parents who work outside of 9-5***

Third, for those who had children, it was challenging to arrange formal childcare around their working hours. Zoe, who worked on an if-and-when contract, explained:

I'm ten years there and I have literally never worked the same hours, the same days, week-on, week-off. You could be on two late nights 4:00 to 8:00, or you could be on, half 12:00 to half 4:00. My children, especially when they were younger (...) you'd have to get somebody to collect them from school. That's the way it was. It is like that for a lot of people. It is very, very wrong.

### ***7.4 Recommendations***

Precarious working conditions, coupled with unaffordable and inadequate childcare provision in Ireland, has created a situation where precarious workers are thinking twice about having children. And those that do have children are struggling to keep afloat financially, with some parents facing the prospects of giving up their jobs altogether because it's cheaper in the long run. Therefore, we need childcare policies that provide increased security for precarious workers.

While policy makers tend to see childcare as a service to parents, children are also affected, and we should remind ourselves that it is a service for children as well as for parents. As the Children's Rights Alliance stated in their submission to the Joint Oireachtas Committee on Children and Youth affairs on the Childcare support Bill (2017), 'childcare is more complex: it is primarily a children's service. Children are the actual beneficiaries of the service. Yet parents' ability to afford childcare services is central to ensuring a child's access to childcare services'<sup>198</sup>. It is important to begin by pointing out that there are policies that are beneficial. These are:

1. The entitlement to six months maternity leave benefit.
2. The introduction of two weeks paternity leave.
3. The entitlement to unpaid parental leave.
4. The Early Childhood Care and Education (ECCE) programme.
5. The universal subsidy in respect of children from birth to entry to ECCE programme<sup>199</sup>
6. The Affordable Childcare Scheme (ACS).

We acknowledge that the childcare and early years' sector is undergoing major changes and that the Department of Children and Youth Affairs (DCYA) is reforming<sup>200</sup> the childcare system in Ireland. While this report welcomes changes to formal childcare services that improves access for all, the overall policy framework needs to progress towards a sustainable and holistic approach. Currently, policy makers in Ireland understand parental leave, childcare and early years' education as separate entities. Instead, there needs to be a more rounded and coordinated approach with regards to childcare policy, in which the goal is to support families.

Nordic countries, like Sweden, look at what children and families need at particular points in their life cycles. Likewise, childcare policy in Ireland needs to involve more than the provision of formal childcare services, but also the provision of flexible leave for parents throughout their children's formative years. Currently, policy addresses childcare services in order to facilitate work, whereas it should be geared towards achieving a work-life balance. This is of particular current interest at an EU level, with the European Commission proposing a Work-Life balance Directive<sup>201</sup>.

Below is a list of recommendations to make childcare affordable and secure, which will benefit precarious workers, but also all workers in Ireland.

<sup>198</sup> Children's Rights Alliance, (2018). *Submission to the Joint Oireachtas Committee on Children and Youth Affairs on the Childcare Support Bill 2017*, p. 3.

<sup>199</sup> <http://affordablechildcare.ie/i-am-a-parent-with-a-child-under-three-years-of-age/>.

<sup>200</sup> Minister Zappone, K., (2017). *Statement by the Minister for Children and Youth Affairs, Dr Katherine Zappone, 29/09/2017*, <https://www.dcy.gov.ie/viewdoc.asp?DocID=4426>

<sup>201</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52017PC0253&from=EN>

### **1. Increase investment for childcare and early years' sector**

Public investment in early childhood education was 0.1 per cent of GDP in 2013, and the OECD average was 0.8 per cent of GDP. The government should aim to increase investment up to UNICEF's international target of 1 per cent of GDP. The Early Years' Strategy Report, *Right from the Start*, published by the Department of Children and Youth Affairs in 2013 identified 'enhancing and extending quality early childhood care and education services' as one of its five priorities. The report made a number of recommendations one of which was to:

increase investment in early care and education services, with investment rising incrementally each year to achieve the international benchmark of 1% of GDP by the end of the strategy<sup>202</sup>.

This was a five-year strategy, and while some elements of the report have been implemented, this recommendation is currently not on target. Currently, the level stands at 0.5% of GDP. As well as the social benefits, increasing access to affordable childcare would also have desirable economic effects. Most directly, this would help raise the employment rate of women, a disproportionate number of whom are low-paid or do not participate at all in the labour process. The National Economic Social Council (NESc), for instance, lists a lack of affordable childcare as among the central impediments to raising the employment rate<sup>203</sup>.

### **2. Develop and publish an early years' strategy**

The national policy framework, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and Young People 2014-2020*, was committed to delivering a National Early Years' Strategy. However, this strategy still has not been published. The absence of which is a gaping hole when it comes to future planning, investment and development of the sector. Local planning and development are in place for the primary and secondary education sectors<sup>204</sup>, and this should be extended to early years'. An early years' strategy is the first step towards creating a sustainable, affordable and quality-focused sector. It would also be hugely beneficial to precarious workers. We join the Children's Right Alliance in calling for this to be prioritised and published<sup>205</sup>.

### **3. Move towards publicly funding regulated childcare services through direct capitation grants.**

Sustainability in the sector is an important issue. And while there is now a universal subsidy in place for children 0-3/ entry to ECCE programme, it is very low relative to the costs of childcare. A major concern for precarious workers is affordability. Part of the issue is the fact that the sector is completely privatised, meaning there are no controls on the fees that childcare providers can charge to parents. Subsidies will not make childcare costs affordable if fees can be increased at the crèche providers' discretion.

Therefore, this report recommends a more sustainable approach to the provision of childcare in Ireland, whereby public funding of childcare services moves towards direct capitation grants, as is the case currently with the Early Childhood Care and Education (ECCE) programme that is operated by the Department of Children and Youth Affairs, and in primary and secondary schools by the Department of Education and Skills.

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<sup>202</sup> Department of Children and Youth Affairs, (2013). *Right from the start: report of the expert advisory group on the early year's strategy*, Stationary Office: Dublin, p.5.

<sup>203</sup> NESc, (2015). *Jobless households: an exploration of the issues*, National Economic and Social Council.

<sup>204</sup> This includes planning the number of school places and school premises needed.

<sup>205</sup> Children's Right Alliance (2018), *Report Card: is government keeping its promises to children?* p. 97



The move towards early education and care policy and funding being treated similarly to that of primary and secondary schools, requires that services receive a capitation grant for each attending child rather than hourly subsidies for parents (as is the case in the affordable childcare scheme). This approach would also require educators' wages/salaries to be paid directly by the State.

#### **4. Regulations for income assessment under the Affordable Childcare Scheme (ACS) need to take into consideration uncertain income and rental/mortgage expenses.**

The Childcare Support Act 2018 is now law. The Department of Children and Youth Affairs is currently developing the regulations to determine eligibility and the means-tested assessment. There will be two subsidies: one universal and one targeted. It is acknowledged that the ACS income-based assessment is an improvement on the current one, but when it comes to the targeted subsidy, it is important that precarious workers can avail of it.

When it comes to assessing levels of payment, means-testing is hugely problematic from the point of view of precarious workers because it is not an accurate calculation of income and material deprivation. A number of factors contribute to precariousness, including low wages, uncertainty, and limited social benefits. Means-testing income does not consider all these factors, which is why a universal capitation grant for parents and children is necessary.

Minister Zappone explained that 'the Childcare Support Bill 2017, as published, will give the Minister for Children and Youth Affairs a regulation-making power in relation to the definitions of "work" and "study" for the purposes of the Affordable Childcare Scheme and for determining the method for assessing income.<sup>206</sup> Firstly, the definition of work must include all types of non-standard employment, such as self-employment, part-time, marginal part-time, temporary and contracts without guaranteed hours.

Secondly, the assessment for the level of subsidy will be an annual income-means test. This requirement poses a barrier for precarious workers because income can vary significantly (this is the case for self-employed, zero-hours/ if- and- when and workers who have a combination of secure hours alongside insecure hours). When it comes to assessing peoples' levels of targeted subsidy, the Minister needs to take this into consideration and apply a fairer measure to adequately deal with variable incomes.

Furthermore, other "allowable deductions" should include rental/mortgage costs and travel costs (arising from work) because these are significant costs that can greatly impact a family's net income. For example, renters are spending as much as 55 per cent of their income on rent<sup>207</sup>.

#### **5. Working conditions in the early years and childcare services sector need to be improved.**

We welcome the acknowledgement in the report of the Inter-Departmental Working Group (IDWG), *Future Investment in Childcare*, which stated that 'professionalisation of the workforce is a key proxy for quality in terms of international evidence'<sup>208</sup>. However, this needs to go further than continuous professional development (CPD).

As part of wider professionalization of the sector, working conditions need to be improved. Professionalisation cannot just be about moving towards a graduate-led workforce, but about simultaneously ensuring that their pay and conditions match their qualifications. There should be a National Pay Scale for staff, an Early Years' Teachers' Council, and a Code of Ethics and Conduct, in

<sup>206</sup> <https://www.oireachtas.ie/ga/debates/question/2018-02-01/300/>

<sup>207</sup> <https://www.irishtimes.com/business/personal-finance/dubliners-spend-55-of-take-home-pay-on-rent-1.3267093>

<sup>208</sup> Inter-Departmental Working Group (IDWG), (2015). *Future Investment in Childcare*, p.9.

line with primary, secondary and tertiary education regulations. The Big Start Early Years' Campaign<sup>209</sup> made a pre-budget submission (2018) 'to develop a pay scale that recognises the qualifications, responsibilities, dedication and expertise of Early Years' educators... that is supported by ring-fenced state investment'<sup>210</sup>. We also join the Big Start in making this key recommendation.

## **6. Support and regulate other forms of childcare such as childminders**

To avail of formal childcare services, parents must work regular hours (consistent with a nine-to-five working day) and children must be placed in a regular routine in a centre. However, precarious employment does not always suit this arrangement. When this is the case, informal childcare is availed of to provide childcare around parents' working hours.

The Affordable Childcare Scheme is only applicable to Tusla-registered centres and childminders. Yet, the majority of childminders are not regulated and are exempt from inspection by Tusla and Garda vetting. In reality, there are a lot of childminders who do not fit the legal definition of a childminder because they mind three or less children, in which case they do not have to register.

We recommend the regulation of all childminders to ensure quality is maintained outside of formal childcare settings. This would mean making changes to the legal definition of childminders to incorporate those who take care of less than four children. This is also a recommendation that the Big Start campaign made in their submission to the Affordable Childcare Programme<sup>211</sup>.

## **7. Paid parental leave**

The introduction of two weeks' paternity leave is welcome progress when it comes to the subject of paid family leave. We also welcome the planned extension of unpaid parental leave from 18 to 26 weeks, (currently at review committee stage after being approved in the Dail)<sup>212</sup>. We recommend that parental leave should not only be extended, but that it should also be paid. This recommendation is in-line with current practices in Nordic countries, such as Sweden where parents are entitled to 480 days of paid parental leave when a child is born or adopted. There, 390 days are paid at 80 per cent of their normal pay and the remaining 90 days on a flat rate. Parental leave is also an important aspect of the EU commission's focus on a work-life balance and a commitment in the *National Strategy for women and girls (2017-2020)*<sup>213</sup>.

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<sup>209</sup> The Big Start campaign is a coalition of national organisations seeking to transform the Early Years' childcare sector.

<sup>210</sup> SIPTU, (2018). *Big start pre-budget submission*, p.1.

<sup>211</sup> SIPTU, (2016) *Big Start Campaign Submission on the Single Affordable Childcare Programme*, p. 7.

<sup>212</sup> O'Connor, W., (2018). *Proposal to extend parental leave approved by the Dail*. [Independent.ie, 1/08/2018, https://www.independent.ie/irish-news/politics/proposal-to-extend-parental-leave-approved-by-the-dail-36583782.html](https://www.independent.ie/irish-news/politics/proposal-to-extend-parental-leave-approved-by-the-dail-36583782.html)

<sup>213</sup> [http://www.justice.ie/en/JELR/National\\_Strategy\\_for\\_Women\\_and\\_Girls\\_2017\\_-\\_2020.pdf/Files/National\\_Strategy\\_for\\_Women\\_and\\_Girls\\_2017\\_-\\_2020.pdf](http://www.justice.ie/en/JELR/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf/Files/National_Strategy_for_Women_and_Girls_2017_-_2020.pdf)

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# 8. Conclusion

## 8. Conclusion

This report set out to understand the scope for policy interventions in addressing precarious work practices in Ireland. Using four focus group sessions with precarious workers and twenty interviews with policy experts, a number of policy areas were identified that are adversely impacted by precarious work. Five precarity themes have also been identified: employment protection and representation, welfare supports, health, housing and childcare. From this research, policy recommendations were made to address these shortcomings in Ireland.

Precarious work is a complex concept; it is not just about low-waged work (as not all types of precarious work are low-waged), but includes other factors such as the uncertainty of tenure, working hours, and the frequency of pay. In short, it is the unpredictability of income, the instability of employment and the lack of or limited access to social security that makes precarious work 'precarious'. Therefore, policy interventions must address these issues. Policy must also look outside of the employment legislative sphere to public services; the current means-tested approach in many of our public services is creating a situation of double or triple precarity for people on precarious contracts.

While the Standard Employment Relationship (SER) is still the predominant form of employment in both Ireland and Europe, precarious work remains a permanent fixture in the Irish and European labour market landscape. This trend has extended to other sectors that were traditionally secure and well paid, such as education and human health. Increasingly, people of all ages are becoming trapped in precarity for longer periods during their careers. There are three worrying trends: that precarious work has remained a permanent fixture in the labour market, that it has appeared and increased in sectors that have traditionally used the Standard Employment Relationship model, and that people are trapped in precarious work for much longer<sup>214</sup>, a phenomenon that confirms precarious work is not reserved for new entrants and young people (as commentators often assume).

Often, State policies in Ireland and the rest of Europe are geared towards tackling poverty experienced by unemployment, but there is little focus on in-work poverty, of which precarious work is a major contributing factor. Consequently, poverty is often defined in terms of wages (or the lack there of), but contractual insecurity and wage insecurity are also measurements of poverty. Even if a person earns above the living wage, their hours may fluctuate from week to week and they may not know whether they will have a job at the end of the month.

At a societal level, we need to confront and address economic insecurity<sup>215</sup>, of which precariousness is a contributing factor. According to the RSA's report (2018) on *Addressing Economic Insecurity*, economic security is defined as 'the degree of confidence that a person can have in maintaining a decent quality of life, now and in the future, given their economic and financial circumstances'. Consequently, unless there is security, progression in work and life become difficult, and this in turn has a cost in terms of economic growth and productivity<sup>216</sup>. Policy makers have a fundamental role to play in addressing economic insecurity.

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<sup>214</sup> Gash, V., (2008) *Bridge or trap? Temporary workers' transitions to unemployment and to the standard employment contract*. *European Sociological Review*, 24 (5): 651-688.

<sup>215</sup> Shafique, A., (2018) *Addressing economic insecurity*, RSA and Nottingham Civic Exchange.

<sup>216</sup> <https://www.thersa.org/discover/publications-and-articles/reports/addressing-economic-insecurity>

### ***8.1 Precarious work leads to precarious lives***

Similar to the rest of Europe, precarious work exists in Ireland, but where Ireland differs is in the experience of its precarious workers. This variance is based on the lack of universal access to state services in Ireland, namely access to universal healthcare and childcare services, but also a lack of housing security, such as social housing and an affordable rental model. In this report, we described how Ireland's lack of such services has negatively impacted precarious workers and contributed to further economic insecurity. While permanent workers also experience many of the issues identified, the insecurity of contracts and unpredictability of wages puts precarious workers at a greater risk of material deprivation. Ultimately, this creates a situation where precarious work leads to a precarious life.

Often, when precarious work practices are discussed at the policy level, we hear of the need for flexibility for employers. But, this discussion does not consider the detrimental effects these insecure and unpredictable working conditions have on peoples' lives. Consequently, both reports have revealed that precarious work is not conducive to having a family nor securing a home. Furthermore, these reports have revealed negative consequences for mental and physical health, such as workers' difficulties in accessing healthcare services. Precarious work can take away a person's independence and, for young people, can force them to continue to be dependent on a parent or family member for much longer than they would wish.

When it came to health and accessing healthcare services, we found that precarious work had a negative effect on mental health and physical health because of the triple financial burden of ill-health (unpaid sick leave, GP fee and the cost of medication or follow up appointments). The GP fee was unaffordable and often resulted in making difficult choices, such as cutting down on food to be able to pay the fee. The majority of interviewees could not afford private health insurance (unless a family member paid for them). This means that many precarious workers are neither covered by public nor private healthcare services (many are just above the threshold for a medical or GP card). When it comes to securing a home, precarious workers are precluded from purchasing a property (again, unless a family member or partner is full-time and permanent and able to afford to) many are forced to live in their family home as they cannot afford to rent or buy. And renting, was described as unaffordable, unsustainable and insecure, because of rising rents and forced evictions. All of this sometimes led to extensive periods of hidden homelessness. Finally, when it came to having children, many described putting off having children as a result of their precarious work situation. Childcare costs were described as unaffordable, sometimes resulting in a parent being forced to give up their job to look after their children full-time, formal childcare services also did not suit some of their work routines. So, what measures are necessary to deal with this?

### ***8.2 An EU-level response?***

While there is consensus in the EU that something needs to be done about it, each country has different types of precarious work to tackle, different legislative systems, different laws and different social supports systems. While the EU has tried to regulate such work practices through directives, it is up to each EU Member State to implement them. Therefore, the legislative response lies at a national level. While directives have been somewhat useful, precarious work requires more than just changes to employment legislation; we also need to ensure a system of universal supports. There is a role for directives; a further two recommendations could be made for directives that deal with false self-employment and zero-hour work. However, enforcement is limited and at the end of the day, change must come from within the national legislative system in each country.

### ***8.3 Secure and predictable employment***

The Standard Employment Relationship (SER) continues to play an important role in both Irish society and the rest of Europe. SER creates security in many ways; it is linked to a sense of coming of age and growing up; it is linked to a sense of independence as an individual; it is linked to one's eligibility to take out a mortgage and purchase a home, to start a family, and to have a pension. For those who do not have a SER and work precariously, these indicators of security will not exist.

Therefore, this report acknowledges that while there are alternative employment models that some people prefer, such as self-employment and part-time work, these alternative work models must not be forced on anybody, and they must be secure, predictable and ensure that wages contribute to a good standard of living. For this to happen, legislation is needed, as well as increased powers of enforcement. As noted at the start of this report, precarious work is complex and therefore there is not one solution to address it; at an employment protection level, multiple legislative changes are needed. This report recommends to:

- Protect the standard employment contract
- Legislate to ban if-and-when contracts.
- Honest contracts: a contract must reflect an employees' real hours of work.
- Introduce a "precarity indemnity" for companies who are over-reliant on temporary contracts.
- A strict legal definition of self-employment is needed.
- The minimum wage should be replaced with the living wage rate.
- More resources be made available to enforce and regulate employment legislation.
- Introduce collective bargaining legislation to give trade unions a right to recognition and a right to access.

### ***8.4 In-work supports – do they work?***

The social welfare system has played an important role in supporting workers who are underemployed or who choose to work part-time. However, this report does not recommend more in-work supports. The main reason for this is that policy needs to veer away from social welfare payments, which act as subsidies for employers to hire people on low-hour contracts and part-time work with no guaranteed hours. As TASC's recent submission to the budgetary oversight committee revealed:

For the bottom 40%, Ireland is an outlier. For most countries labour income comprises a significant share of income. Labour income is close to half of pre-tax income in many cases. In Ireland it is only a quarter... The flipside of weak earning power through the labour market is high levels of transfers received, and also low levels of transfers (taxes) paid. Again, this is what we see in Ireland. The bottom 40% receive almost three quarters of their income in transfers from the state and pay just 4% of their income in transfers. The unusually weak earning power of workers in the lower parts of the income distribution means that they are dependent on the state for transfers and can only contribute little to the public coffer lest they live in poverty<sup>217</sup>.

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<sup>217</sup> TASC, (2018). *Briefing for the Budgetary Oversight Committee*, p.3.

The participants interviewed for this study who were in receipt of in-work supports often cited how much they would prefer not to be. They voiced that they would either like their employer to give them more hours or increase their wages so they would not have to claim social welfare payments. The recommendations made in this report considered the wishes of the participants but it is also acknowledged that in-work supports are necessary for others, including one-parent and two parent families, who need to work part-time hours in order to be flexible for their childrens' needs and wellbeing.

Therefore, more needs to be done to tackle employment legislation to make work secure and predictable, and also to tackle the low-wage economy in Ireland. However, social protection also has a significant role to play. The Department of Employment and Social Protection should be promoting job quality and veering away from work first activation policies that only serve to encourage forced uptake of precarious work in the labour market. A social welfare system should be there for two reasons: to support people in times of need and to support workers to find quality jobs. Therefore, it is recommended that:

- Income supports should be extended to people without families.
- Re-instate social welfare for people under 25 back to the normal rate.
- Provide a social security safety net for self-employed workers.
- A "job quality" rather than a "job first" activation policy.
- Modernise and update the administration of in-work supports
- For the Working Family Payment, working hours should be tracked over a six-month period to calculate the average working hours.
- Extend Job Seekers' Transition payment to parents who have children up to eighteen years old.
- Focus on fixing the state pension, whilst making it more accessible for precarious workers on the lower end.

### ***8.5 A universal rather than means-tested healthcare service***

Ireland does not have a universal healthcare system, free at the point of access. Instead, individuals are means-tested, and if they fit the eligibility criteria, will receive a medical card or a GP-only card. This means that those who are evaluated as not eligible for state subsidies must pay for primary care services, which are expensive. Both reports have documented how unaffordable vital services such as GP appointments are. A major problem lies in the fact that means-testing only considers income and does not consider a person's contractual circumstances. Furthermore, as long as a means-tested system exists, there will always be people who will not be covered and who cannot afford these services because they are just above the threshold. Economic security is not considered in the means-test assessment criteria, and this is a more accurate measurement of material deprivation because this does not just measure income, but looks at a person's ability to maintain a good standard of living in the future.

For reasons described above, it is not recommended to increase the threshold for medical cards or GP-only cards. Instead, we recommend a universal healthcare system to ensure that no one goes without vital healthcare services. Sláinte Care is an excellent blueprint for such a service, one that would go some way in ensuring that everyone could afford to see a GP and access the healthcare system in Ireland on an income-blind basis. As the only European country that does not offer universal primary care, Ireland is lagging behind the European norm. This is having detrimental consequences for many precarious workers and their health. Therefore, this report recommends:

- Legislate for paid sick leave scheme to be provided by all employers.
- Legislate for universal GP care for all.
- Invest in and develop public mental health services.
- There needs to be political will to bring about universal healthcare.

## ***8.6 Tackling housing precarity***

As noted in our report, the housing crisis in Ireland is affecting many people and not just precarious workers. However, due to the temporary and insecure nature of precarious work, this puts them at an even more vulnerable situation. Firstly, they are precluded from purchasing property due to their insecure contracts and finances. Secondly, this inability to purchase makes them reliant on the private rental sector, in which rents have risen dramatically there is a limited supply of vacant properties for rent. Third, we have a situation where capital investment in social housing is too low for the demand. Finally, government policy, which invests in means-tested schemes like HAP rather than social housing, is putting further pressure on the private rental sector. Rather than placing people who are eligible for social housing into purposely build properties, the state is subsidising private landlords. This report recommends:

- Strengthen private rental sector legislation to provide for security of tenure.
- Increase supply through capital investment in social housing.
- Adopt the European Cost Rental Model (ECRM) as a long-term solution for a more affordable rental sector.
- Fill the enforcement vacuum; strengthen the RTB to become a regulator of the private rental sector.

## ***8.7 An overhaul in how we provide childcare services in Ireland***

Having children should be a personal decision. Yet, many precarious workers we spoke with told us they were put off from having children because of their precarious employment situations. Often, this decision was directly related to insecurity in interviewees' contractual and financial work situations, as well as the fact that Ireland has one of the highest childcare costs in Europe and one of the lowest levels of public investment in the sector. For those who did have children, sometimes one parent was forced to give up their job to look after their children because they could not afford the crèche fees.



We need to remember that early years' education and childcare are services for children and not just for parents. And we must also remember that precarious working conditions do not only just affect an individual, but very often a family. As a sector, early years' education and childcare services is still in its infancy, which this report acknowledges. The overall childcare policy framework needs to progress towards a sustainable and holistic approach. Currently, policy makers in Ireland understand parental leave, childcare and early years' education as separate entities. There needs to be a more rounded and coordinated approach with regards to childcare policy, one in which the goal is to support families. Current policy addresses childcare services as a means to facilitate work. Instead, future policy should be geared towards achieving a work-life balance.

Therefore, this report recommends a public, sustainable funding of childcare services by providing Direct Capitation Grants, similar to that of the Early Childhood Care and Education (ECCE) programme operated by the Department of Children and Youth Affairs, and in primary and secondary schools by the Department of Education and Skills. This scheme would also entail educators' wages/salaries being paid directly by the State. Means-testing is hugely problematic from the point of view of precarious workers because it is not an accurate calculation of income and material deprivation. And this is why a Universal Capitation Grant for parents and children is needed. Therefore, this report recommends:

- Increase investment for childcare and early years' sector.
- Develop and publish an early years' strategy.
- Move towards publicly funding regulated childcare services through direct capitation grants.
- Regulations for income assessment under the Affordable Childcare Scheme (ACS) need to take into consideration uncertain income and rental/mortgage expenses.
- Working conditions in the early years and childcare services sector need to be improved.
- Support and regulate other forms of childcare such as childminders.
- Paid parental leave.

### ***8.8 Trade unions have a major role to play in organising precarious workers***

Trade unions play an important role in workers' rights and the maintenance of economic security for individuals and households across the globe. Recent research by the IMF showed that around 40 per cent of the increase in the average income share of the top 10 per cent in advanced economies is the result of declining union membership<sup>218</sup>. Therefore, the trade union movement also has an important role in addressing precarious work.

Generally, participants were positive and unanimous in their views on trade unions; they responded that unions are the most effective vehicle for representation in the workplace. They also believed in the power of collective organising, that it is the only way forward to improve their working and living conditions. However, a number of criticisms were made concerning worker's interactions with Trade Unions. Quite poignantly, participants spoke of generational differences between members and some officials, and that a dualism existed between the interests of permanent workers and temporary workers, even within the same trade union. Consequently, for the future of trade unionism, unions need to adapt

<sup>218</sup> Jaumotte, F., Osorio-Buitron C., (2015). *Inequality and Labor Market Institutions*, IMF Staff Discussion Note 15/14.

to a changing workforce. Not only do trade unions need to change the ways they organise workers, but they also need to use the industrial relations mechanisms that are so often used to set pay, in order to make contracts more secure.

At a policy level, Ireland has the most restrictive collective bargaining legislation compared to other European countries and even further afield. These regulations can pose limitations in what trade unions are able to achieve. In Ireland, an employer does not have to recognise a trade union, and unions do not have the right to access their members. It should be noted that there are multinationals operating in Ireland who recognise unions in their operations abroad, but refuse to do so in Ireland. This discrepancy is a result of Ireland's collective bargaining legislation. This means that workers working in the same company abroad are represented by a trade union and the same workers are not represented by a trade union in Ireland. Collective bargaining is another effective vehicle for limiting precarious working conditions. Policy makers can support this by changing collective bargaining legislation to give trade unions a right to recognition and a right to access members in the workplace.

## ***8.9 Concluding comments***

There needs to be a combination of measures to address precarious work. The first facet of this is to introduce legislation that protects the Standard Employment Relationship and confronts insecurity and unpredictability associated with non-standard employment (employment with the highest risk of precariousness), low-pay and low-hour work. The second facet is to address the deficit in universal coverage of vital healthcare and childcare services in Ireland, as well as to enact policy responses to tackle the housing crisis. Ireland has a 'two-tier' system of social supports. On the one hand, there are those who meet the eligibility criteria to be subsidised by the state and those who do not meet the means-tested eligibility criteria are assumed to be able to afford to live. However, our report reveals this is not the case and many precarious workers fall through the social support net. The third facet is the social protection system; rather than subsidising low pay, the Department should promote a job-quality rather than a job-first activation policy that only further promotes precarious work. Finally, industrial relations and trade unions have a major role to play in mitigating precarious work. Therefore, legislation needs to be enacted to strengthen the power and resources of enforcement agencies and in consolidating the bargaining power of workers and trade unions.

The recommendations made in this report are not out of reach and already exist in many European countries. However, any such changes require the political will to be implemented. At a societal level, we need to change the way we see the work sphere; the decisions employers take have a major impact on peoples' lives outside of work. This can be for the good and it can be for the bad (as precarious work highlights). Business needs should not come before the workers' needs. The onus is on policy makers and employers to ensure that work does pay, but also that work is conducive to family life and that the mental and physical well-being of every worker is met.

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# APPENDIX 1

## *Definition of types of precarious employment identified*

Type of precarious work	Definition
Zero-hour contracts	This is a type of contract where the employer does not provide minimum working hours. Typically, a zero-hour contract would say for example, "works 0 to 30 hours per week".
Fixed term/ specific purpose contracts	This type of contract hires an employee for a specific period of time. This contract can end on a specific date that is specified in the contract, or when a specific task is completed. Again, this would be stipulated in the contract.
Part-time work	A part-time employee in Ireland is defined in the Protection of Employees (Part Time Work) Act 2001 as an employee whose normal hours of work are less than the normal hours of work of an employee who is a comparable employee in relation to him or her.
Marginal part-time	This type of employment relationship consists of a low level of earnings and of low working hours/ short duration.
Involuntary part-time	Involuntary part-time work consists of people who work part-time but who did not choose to work in this way. Involuntary part-time work comprises three groups: i) those who usually work full-time but whose hours have been reduced; ii) those who usually work part-time but whose working hours have been further reduced, usually due to economic reasons; and iii) those working part-time because they could not find full-time work.
Temporary employment	An employment situation where an employee is contracted to work for a certain period of time. Temporary workers may also be referred to as seasonal employees or temps. Employment term may be based on circumstances such as the availability of funding, or the completion of a project.
Temporary agency work	The Protection of Employees (Temporary Agency Work) Act, 2012 defines a temporary agency worker as persons employed by an agency under a contract of employment who is then assigned to work for another company.
Self-employment	This type of work is where an individual works for her/himself as a freelancer or the owner of a business rather than for an employer who pays a wage. There are two categories of self-employed workers: those who are self-employed with employees and those who are self-employed without employees.
False/bogus self-employment	False self-employment is where somebody registered as self-employed, is de facto an employee under the authority and subordination of an employer.



# APPENDIX 2

## ***Scientific Advisory Board***

The Scientific Advisory Board (SAB) helps to safeguard the scientific quality of the research project. Members have been invited to join on the basis of their expertise in employment studies. Throughout the duration of the project the SAB received updates on the progress of the project. In particular, members have reviewed a first draft of this final report of the project.

## ***Members***

Dr Michelle O'Sullivan, Senior lecturer in Industrial Relations, University of Limerick

Dr Mary Murphy, Senior Lecturer in Irish Politics and Society, University of Maynooth

Professor Joan Miquel Verd, Associate Professor at the Universitat Autònoma of Barcelona

Liz Kerrins, Early Years Manager, Children's Rights Alliance

## ***User group members***

Brian Forbes, National Coordinator for organising, campaigning and recruitment, Mandate

Ethel Buckley, Deputy General Secretary, SIPTU

Brid O'Brien, Head of policy and media, Irish National Organisation for the Unemployed (INOU)

James Doorley, Deputy Director, National Youth Council of Ireland (NYCI)

Paul Ginnell, Director, European Anti Poverty Network Ireland (EAPN)

Tricia Keilty, Policy officer, St Vincent de Paul (SVP)





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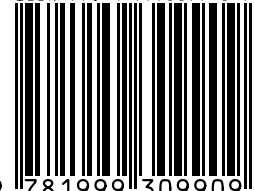
Employment in Ireland is often spoken about in terms of the economic recovery and falling unemployment rates. However, job quality and the types of jobs being created are also critical issues.

This report investigates the scope for policy interventions to address the negative impact of precarious work. Drawing on focus groups and interviews, the report identifies five major policy areas in need of reform in order to ensure greater economic and social security for workers. These include employment protection, social protection, health, housing, and childcare.

FEPS (Foundation for European Progressive Studies) works in close collaboration with social democratic organisations, and in particular national foundations and think tanks across Europe, to tackle the challenges that Europe faces today.

TASC (Think tank for Action on Social Change) is an independent progressive think-tank whose core focus is addressing inequality and sustaining democracy.

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