



Submission to: Low Pay Commission
Re: National Minimum Wage
Date: April 2015

Introduction

MRCI welcomes the opportunity to make this submission to the Low Pay Commission (LPC). The submission will focus on low pay issues as they affect migrant workers: Our comments and recommendations are based on research conducted by MRCI with migrant workers and our 14 years of casework, representation, advocacy and outreach work with migrants across Ireland.

Who we are:

The Migrant Rights Centre Ireland (MRCI) established in 2001, is a non-governmental organisation working with migrant workers and their families in low paid employment and at risk of poverty, social exclusion and exploitation. MRCI provides a free and confidential Drop-in Service to migrant workers and has established a number of action groups to support vulnerable migrants. The Drop-in Centre provides information and advocacy to migrant workers on immigration and employment issues. In 2014, the service dealt with over 2,000 cases of migrants working in low pay. Current priorities include rights for undocumented migrants; addressing forced labour and human trafficking; rights for au pairs; carers, domestic workers and restaurants workers; an outreach programme into hard to reach sectors - seafarers, apple pickers and agricultural workers.

Context

Immigrants represent some 554,500 people in Ireland, 12.25% of the overall population. Net migration to Ireland remains negative mainly as a result of a slight decline in inwards migration and a sustained level of outwards migration. However more recent figures have shown that the numbers of immigrants have increased since 2013 and that the pace of emigration is slowing down. A return to positive net migration is most likely to happen in the coming years. About 10% of the population in OECD countries are immigrant and migration flows are close to four million annually¹.

Migration makes a positive and vital contribution in maintaining the size and dynamism of the labour force. The overall employment rate in Ireland is 59.8% and for the immigrant population and 66.2% for Irish nationals². Migrants represent 17.17% of the live register. The roles that many migrants fill, provide essential services to the functioning labour market, yet these jobs are undervalued and create the conditions for a highly exploitative environment.

¹ International Migration Outlook 2014, OECD

² CSO Quarterly National Household Survey Quarter 4 2014

Migrants in low paid jobs

Migrant workers' immigration status in Ireland influences the duration and types of jobs they can apply for:

- **Employment permit holders including spousal permits:** Migrant workers who are employed on an employment permit or spousal permit have restricted access to the labour market and hold a visa (stamp one). They can only work for the employer named on their employment permit and the employment is tied to their immigration status. Many jobs in low paid sectors are deemed ineligible for the purposes of applying for a work permit.
- **Irish citizens:** Since 2001, 85,000 migrants have become Irish citizens and have unrestricted access to the labour market.
- **EU citizens:** Are entitled to access the Irish labour market as per EC rules on freedom of movement.
- **Undocumented workers:** Migrant workers entered the country legally but become undocumented and have no route back into the system. Recent research conducted by MRCI with 540 undocumented workers showed that 87% are working.
- **Students:** are entitled to work part-time while studying and full-time in holiday periods. Their capacity to work is limited by these rules. 49,500 students were given permission to be in the state in 2014.

Low Pay Sectors

Eurostat estimate that one in five, 20.7% of workers in Ireland are concentrated in low-paid work³. The Central Statistics Office (CSO) estimate that 4.7% of the workforce is potentially living on the minimum wage. The Migrant Rights Centre Ireland, works predominantly with migrants in low paid employment. Work permit restrictions, discrimination at recruitment and limited social capital and networks means that overwhelmingly migrant workers are concentrated in minimum wage jobs. This group of workers have not seen a rise in their wages for over seven years.

The situation of many migrants in low waged work has become more precarious. From a worker's point of view, precarious work is related to uncertain, unpredictable and risky employment. This is characterized by low paid, insecure hours, zero hour contracts, irregular hours, lack of progression, discrimination, exploitation and the lack of compliance and enforcement of rights. Minimum wage jobs become long term careers with little or no movement for many within a given sector. For many migrants progression and discrimination paint a picture of poverty, stagnation and loss of potential.

MRCI works with migrants in non-unionised sectors of employment including

- Domestic Work and Au-pairs
- Restaurant and Catering
- Hotel Sector
- Agri-food
- Cleaning
- Retail - Small Shops and Nail Bars

³ Eurostat Low pay is classified as earning less than two-thirds of national median hourly earnings.

- Entertainment – Circus
- Security

Pervasive Issues

Employment Permits

The main mechanism by which Non-EEA nationals take up employment in Ireland is through the Employment Permit System, a guest worker model that accords no explicit rights to migrant workers. Despite welcome reforms to the Employment Permit System by the government in 2014, it is still restrictive as a worker's immigration status in the country is dependent on their employment and a worker can only work for the employer specified on the work permit. If a worker seeks to leave this employer, within the first 12 months of employment, they are no longer eligible to work. This effectively ties a worker to the one employer. Spouses of work permit holders are eligible to apply for and an employment permit, in certain circumstances. Many such workers are women and work in part-time precarious jobs.

Current government policy provides an Employment Permit System that enables migration of highly skilled workers only, yet demand for a broad range of skills continues to exist within the economy such as care work and childcare. These jobs however are deemed ineligible by the government. It is necessary to provide safe and regular migration channels to respond to the demands in essential skill areas. Without the legal channels of migration some unscrupulous employers will inevitably exploit workers to meet their on-going need. Many examples of this exist in the childcare sector with the recruitment of au pairs into exploitive working conditions.

Non-Compliance and Exploitation

A recent survey conducted by MRCI with 104 migrant workers⁴, revealed that many migrant workers understand their employment rights. However, a number of factors prevent migrants from claiming and exercising these rights such as:

- There is little or no support for employees to challenge breaches of their employment rights;
- Workers who are still in the work permit system are fearful they will lose their job. If they lose their job they are at risk of losing their immigration status and becoming undocumented;
- In the current job market it is difficult to demand better conditions as there is competition for jobs in some sectors;
- No safety net of social welfare as many migrants will not claim any benefits as they are fearful it will affect their application for citizenship in the longer term.

While migrant workers are more knowledgeable about their rights few are able to assert these rights and improve their conditions. Unfair treatment of migrant workers undermines wages and working conditions in national labour markets.

Migrants in low income jobs have been consistently reporting a deterioration in their working conditions in the last five years.⁵ A survey conducted by the MRCI in 2012 with 120 migrant workers in

⁴ *Migrants in Low Pay Jobs* (Publication Pending MRCI - May 2015)

⁵ Impact of the Recession on Migrant workers, MRCI, Migrants Forum Consultation Meeting with 60 migrant workers May, 2012. Impact of low pay on Migrant workers, MRCI Migrant's Forum, 40 workers in attendance, March 2015.

the restaurant industry showed high levels of breaches of employment law and the lack of enforcement of employment standards. For example, 80% had no contract of employment and 88% of the work places had never been visited by a Labour inspector. The recent survey May 2015⁶, conducted by MRCI shows significant problems in the care, domestic, restaurant, security and retail sectors. For example: 45% had no contract with terms and conditions of employment; the majority receive €8.65 or less per hour; 48% are living on less than €300 per week and 44% are paid the minimum wage or lower. The main breaches occur under the

- National Minimum Wage Act 2000 – people paid below the minimum wage.
- Organisation of Working Time Act 1997 – working in excess of 48 hours and not having proper set breaks, not receiving public holiday or annual leave entitlements and lack of compensation or an increase in the rate of pay for Sunday work.
- Terms of Employment (Information Act) 1994 – not provided with written statement of terms of conditions of employment and changes occurs without any notification.
- Payment of Wages Act 1991 – wages not properly paid or illegal deductions – for example food and board, breakages, uniforms which was not previously agreed in writing.

Discrimination and Progression

As stated earlier migrants reliant on the Employment Permits system or other immigration status are fearful of changing jobs or accessing social welfare benefits due to the impact this may have on applying for citizenship in the longer-term. Yet for many migrant workers, who are now Irish citizens, this has not made any impact on their experiences of seeking work or transitioning to a job with greater employment prospects.

Overall ‘migrants both men and women have a better educational profile than the Irish population as a whole but despite their relatively higher qualifications, migrant occupational profile is similar to the Irish population.’⁷ In the OECD, 70% of migrants are overqualified for the jobs they are employed in⁸. This is reflected in Ireland with many migrants concentrated in low pay work and living on the minimum wage. In the May 2015 survey, 62% of the migrant workers interviewed had third level qualifications yet the majority remained at entry level jobs despite having worked for the same employer for over 2 years. There is evidence to suggest that many migrants are underemployed and not in a position to progress in their chosen careers.

High levels of discrimination and racism against migrants are evident in the labour market. Non-Irish nationals are three times more likely to experience discrimination while looking for work, while Black people are seven times more likely. Moreover, in the workplace non-Irish nationals are twice as likely to experience discrimination as Irish nationals.⁹ In May 2015 survey, 38% felt they had been treated differently than other staff because of race, colour, nationality, ethnic origin or religion. In focus groups conducted by MRCI with migrant workers discrimination at recruitment and in the workplace was identified as a priority issue that needs to be addressed.¹⁰ The majority described

⁶ Migrants in Low Pay Jobs (Publication Pending MRCI - May 2015)

⁷ An introduction to the situation and experience of women migrant workers in Ireland, Jane Pillinger, Equality Authority, 2006.

⁸ International Migration Outlook 2014, OECD.

⁹ Immigrants at Work: Ethnicity and Nationality in the Irish Labour Market, ESRI and Equality Authority, 2008.

¹⁰ Focus group held with Migrant workers on the 2nd & 17th February and the 28th March 2015.

being offered minimum wage while their Irish counterparts were offered €10 plus for the same job. Some employers are aware that migrant workers have few options but to accept the job at minimum wage or less.

Undocumented workers

Research carried out by MRCI in November 2014, found that the majority of undocumented migrants are in employment, typically (though not always) in lower-paid work. Undocumented migrants are employed in a range of jobs across a number of sectors, concentrated in minimum- to low-wage work. The top five sectors of employment are Restaurant & Catering (37.5%), Domestic Work (32.5%), and Cleaning and Maintenance (10.5%). Other sectors include retail, hotel, medical, healthcare and agriculture. This survey revealed that a huge majority (87%) are in employment. A high proportion of these (66.5%) have been in their current job for over 2 years and of this 27.5% have been in the same job for over 5 years. 70% indicated that they are working over 30 hours, with more than half earning over €300 a week. Of those not currently in paid employment – a group which includes stay-at-home parents - most have only been out of work for less than 6 months. Similar to the Irish undocumented in the USA, undocumented migrants have a variety of educational backgrounds. The survey reveals that many undocumented migrants in Ireland are well-educated, with 97% possessing secondary school education and 53% educated at third level.¹¹

Factors Impacting Minimum Wage Workers

Cost of living

The cost of living has a significant impact on low waged workers. Income must reflect the cost of living to mitigate against inequality. The minimum wage has not increased since 2007, yet the cost of living has. According to the Harmonised Index of Consumer Prices (HICP), in 2013, Ireland has the 5th highest price levels in the EU after Denmark, Sweden, Finland and Luxembourg.¹² Through focus groups conducted for MRCI's May 2015 survey the cost of living increases were identified as a key issue that needs to be considered by the LPC in its deliberations on the level of increase in minimum wage.¹³ In Ireland, in particular, rental costs, heating, transport costs and increases in VAT on essential goods are particularly felt by people living on low incomes.

Social Transfers

Social transfers help to redistribute resources and lift people out of poverty. Low wages, however reduce tax revenues and increase costs in terms of social protection. According to the OECD, public transfers increased in all but four countries between 2007 and 2011, however relatively small changes in inequality of household disposable income was recorded.¹⁴ In 2013, the number of working families in receipt of Family Income Supplement (FIS) increased by almost 30% to 42,000 families, supporting over 90,000 children. Social transfers are a direct subsidy for employers, they are not acknowledged as significant and provide little incentive to employers to increase wages. This type of approach is unsustainable. The EU SILC data revealed that "in 2013, if all social transfers were excluded from income, the 'at risk of poverty' rate would have been 49.8%. The corresponding figure for 2004 was

¹¹ Ireland is Home: An analysis of the current situation of undocumented migrants in Ireland, MRCI 2014.

¹² CSO: Measuring Ireland's Progress 2013

¹³ Impact of low pay, in Migrant workers, MRCI Migrant's Forum, 40 workers in attendance, March 2015.

¹⁴ INCOME INEQUALITY UPDATE Rising inequality: youth and poor fall further behind Insights from the OECD Income Distribution Database, June 2014

39.8%. This increase over time demonstrates the increased dependence of individuals on social transfers to remain above the 'at risk of poverty' threshold".¹⁵

Income Inequality

The latest CSO poverty figures show that of all people living in poverty 95,000 workers are at work. EU SILC data shows a dramatic increase 1.4 million people; almost 31% of the population suffers from deprivation¹⁶. Relative income poverty – the share of people with less than half of median income of their country, was broadly unchanged between 2007 and 2011. Ireland is the fifth most unequal country in the EU¹⁷. The top 20% take 50% of all earned income and the top 30% take more than 66%.¹⁸ The Gini coefficient which measures income inequality was at 53.5 for Ireland as opposed to an EU average of 51.3. After transfers and pensions, Ireland's level is 29.9, below the EU average of 30.6

¹⁹

Rising Wages

In the discussion on raising the minimum wage it is critical to balance workers' wages and high profits. In Quarter 4 of 2014 average hourly pay was at €22.11²⁰. An inability to pay clause has been built into the National Minimum Wage Act 2000. Any increase can mitigate against fro up to year if necessary. This can be applied by employers should an increase provide difficulties in this time period.

Social Insurance

Social contributions in Ireland are the second lowest in the EU at just 4.4% of GDP compared to the average of 11%. Employers in Ireland pay one of the lowest social insurance contributions in the EU. The majority of work carried out by low paid migrants is with firms dependent on domestic demand and not competing on the international market.

Taxes

Ireland has a strong reliance on taxes rather than social contributions. Direct taxation, indirect taxation and social contributions made up 45.6%, 39.1% and 15.3% of the total revenue in 2012 respectively.²¹ People on lower incomes spend a much higher percentage of their income on consumption taxes²². Indirect taxes have a significant impact on disposal income and rates of poverty.

Public Services

Ireland can be characterized as a low tax, low service provision and high cost of living country. Transport, housing, education and health all lack the necessary investment for low wage workers to fully benefit from. The lack of investment in public services as a form of redistribution disproportionately affects low wage and minimum wage workers. Ireland's health system for example is

¹⁵ CSO Survey on Income and Living Conditions (SILC) 2013; Pub January 2015

¹⁶ *ibid*

¹⁷ Eurostat, *Taxation trends in the European Union*, 2014 edition

¹⁸ Cherishing all Equally: Economic Inequality in Ireland. O'Connor. N, Staunton. C TASC Feb 2015

¹⁹ *ibid*

²⁰ CSO Earnings and Labour Costs: Employment, Hours and Earnings by Type of Employee, Statistic, Industry Sector NACE Rev 2 and Quarter

²¹ Eurostat, *Taxation trends in the European Union*, 2014 edition

²² Cherishing all Equally: Economic Inequality in Ireland. O'Connor. N, Staunton. C TASC Feb 2015

heavily reliant on fees and charges. This can impact on affordability which has long term detrimental effects on the health and wellbeing of low waged workers.

Equality Issues

Given the widening gender pay gap and the positive duty on public bodies to mainstream measures to promote equality, a specific measure is required to equality proof the minimum wage and related measures to ensure that income inequalities are reduced. This is compounded for migrant women who are at greater risk of discrimination and disproportionately affected in the labour market due to their status as a woman and as a migrants.

Gaps in Data Collection on Migrants

Little data exists on those living on the minimum wage and as such is difficult to get a clear picture of the characteristics of this group. Similar issues are true for migrants in low pay. There is a need for a specific focus on migrants, and naturalised Irish people to examine their participation in the labor market, the living conditions in which they live and their earnings.

Recommendations

1. The LPC should increase the minimum wage rate €1.00 an hour in July 2015
2. The LPC should then benchmark the minimum wage to bring it to 66% of the median wage
3. The LPC should address issues of non-compliance other instruments used to create exploitative working conditions
4. The LPC should advance a programme of work to set targets for the reduction nationally of low pay and in-work poverty
5. The LPC should devise and introduce equality proofing measures to address income inequality
6. The LPC should make recommendations to Government to fully incorporate the EU Part Time Worker Directive (97/81/EC)
7. The LPC to carry out specific research on the impact of minimum wages on migrants, young people and women.