WORKING PAPER

Industrial relations and social dialogue

Ireland: Working life in the COVID-19 pandemic 2021

Author: Gerard McMahon (IRN Publishing)

Research manager: Christine Aumayr-Pintar (Eurofound)

Eurofound reference number: WPEF22016

Research carried out prior to the UK's withdrawal from the European Union on 31 January 2020, and published subsequently, may include data relating to the 28 EU Member States. Following this date, research only takes into account the 27 EU Member States (EU28 minus the UK), unless specified otherwise.

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.

European Foundation for the Improvement of Living and Working Conditions

Telephone: (+353 1) 204 31 00

Email: information@eurofound.europa.eu

Web: www.eurofound.europa.eu

Contents

Introduction

As in 2020, throughout 2021 the COVID-19 pandemic continued to be the most significant event to impact working life in Ireland. The scale and speed of change provoked by the pandemic remains unparalleled in the history of the state. The initiatives/incidents of particular note in this regard include:

On 15 January 2021, the Department of Enterprise published its national teleworking strategy, following consultation with stakeholders. The primary measures involved in this strategy entail the introduction of a legal right for employees to request teleworking and a ‘right to disconnect’. The strategy is part-reliant on the successful completion of the National Broadband Plan, which is a priority issue for teleworkers in rural areas (Gov.ie, 2021c).

In February 2021 the ‘Building Momentum’ new public service agreement was welcomed by the Minister for Public Expenditure & Reform, noting that the deal would offer stability for both public servants and the public who rely on the vital services they provide. Turning to the wider economy, in October 2021 it was reported that local pay bargaining activity in the private sector and commercial semi-states had made a partial recovery during the year However, it is also acknowledged that inflation and pandemic-related differences in performance between sectors make future pay movements harder to predict than at any time in the last decade. Likewise, in February 2021 it was reported that the Government’s belated publication of the Low Pay Commission’s work (on the subject of the 2020 national minimum wage) indicated the difficulty that the COVID-19 pandemic had caused (Prendergast, 2021g).

In March 2021 a potentially consequential ‘social dialogue’ development transpired, when the main employers’ body, Ibec agreed to participate in a special study undertaken under the auspices of the social partners’ Labour Employer Economic Forum (LEEF), including an examination of how collective bargaining might be developed in Ireland in a way that is consistent with Irish business competitiveness. Notably, the Government has acknowledged that LEEF has played an important role throughout the COVID-19 crisis and will be strengthened. With regard to its role, one of LEEF’s more notable contributions in 2021 was the issuance of a guidance note on a safe return to the workplace. With renewed concerns about COVID-19, in November 2021, the Government introduced measures designed to contain the fall-out therefrom and its announcement referred to an engagement that had taken place with employers and trade unions (via LEEF), to update guidance (on working from home and protective measures – as per the Work Safely Protocol - for those attending workplaces).

The introduction of a new code of conduct on 1 April, aimed at giving employees the right to switch off from work outside of normal working hours. The code provides for the right of an employee to not routinely perform work outside normal working hours; the right to not be penalised for refusing to attend to work matters outside of normal working hours; and the duty to respect another person’s right to disconnect (e.g., by not routinely emailing or calling outside normal working hours).

On 20 September thousands of workers across the country began returning to their offices and places of work, as the COVID-19 restrictions were eased. However, on12 November the National Public Health Emergency Team recommended to the Government that they re-introduce provisions pertaining to people working from home. This advice was given effect by the Government on 16 November.

On 3 December the Government announced that the Pandemic Unemployment Payment (PUP) would be re-introduced and shortly thereafter announced several changes to the major support schemes available to those businesses affected by public health restrictions.

Political context

The political climate in Ireland in 2021 was relatively stable. This follows on from 2020, when there was a general election, that was held shortly before the pandemic broke. The result of the 2020 election was inconclusive. This led to protracted negotiations. Before the election, there was a minority government in power (Fine Gael and several Independents). On 27 June, 2020, a coalition government between the centrist parties Fianna Fail and Fine Gael, together with the Green Party, was formed. This coalition has remained in power throughout 2021 and its term of office is of a 5-year duration.

This Government's initiatives were largely backed in 2021 by the other political parties, due to the ongoing pressing necessity to form a national response to deal with the pandemic. The national public health emergency team (NPHET) was involved from the start of the pandemic and maintained this involvement throughout 2021, giving frequent briefings on the trajectory of the virus and advising as to the appropriate responses thereto.

Other 'incidents' of relevance transpiring in 2021, that may be deemed relevant to the political dimension are:

On 24 February 2021, the Tánaiste addressed a meeting of Fine Gael TDs, Senators and MEPs and stated that criticism of how the Government had been communicating was reasonable, had been heard loud and clear, and would be taken on board (The Irish Independent, 2021).

On 27 February 2021, 23 people were arrested, as around 500 protesters took part in an anti-lockdown protest in Dublin city centre. The protest was widely condemned (RTE 2021).

On 30 March 2021, the Government announced a phased easing of Level 5 restrictions from Monday 12 April, including the resumption of all residential construction projects from that date (Gov.ie, 2021).

On 29 April 2021, the Government announced a reopening plan for the country throughout May and June, with effect from 10 May, including the reopening of all hairdressers, libraries, museums and galleries (Gov.ie, 2021a). On 28 May 2021, the Government announced a further reopening plan for the country throughout June, July, and August, with the reopening of all hotels from 2 June, outdoor hospitality, cinemas, swimming pools and gyms from 7 June, and indoor hospitality from 5 July (The Irish Independent, 2021a).

On 1 June 2021, the Government launched a €3.5 billion Economic Recovery Plan to achieve rapid job creation and economic growth after the pandemic, with the COVID-19 Pandemic Unemployment Payment (PUP) and the Employment Wage Subsidy Scheme (EWSS) extended until September 2021, when gradual reductions would begin (The Irish Times, 2021).

On 4 August 2021, further to mounting political pressure on the former Minister for Children (in respect of an alleged breach of COVID-19 restrictions) she declined her United Nations' (UN) role (The Irish Independent, 2021b).

On 15 September 2021, the Government won its motion of confidence, tabled by Sinn Féin, in the Minister for Foreign Affairs by a majority of 92 to 59, with the support of TDs in the Independent Group and Regional Independent group. The motion was prompted by his role in the aforementioned UN appointment of the former Minister for Children (RTE, 2021a).

On 16 November 2021, the Government announced a series of measures in a bid to curb the spread of COVID-19, including the requirement that people work from home where possible (The Irish Independent, 2021c).

On 3 December 2021, further to NPHET's advice, the Government reintroduced a series of measures to commence with effect from 7 December (to 9 January 2022), amid concerns about the Omicron variant, including the reinstatement of the PUP (RTE, 2021b).

On 21 December the government announced several changes to the major support schemes available to businesses affected by public health restrictions taking effect in the same week (i.e., to the EWSS, the CRSS and the tax debt warehousing scheme) (Chartered Accountants Ireland, 2021).

Governments and social partners response to cushion the effects

The equivalent national report for 2020 details (and references) a host of measures that were introduced by the Government to 'cushion' the effects of the pandemic. Many of these remained in-situ and are summarised below, with appropriate supplementary information (for 2021) provided (and referenced) accordingly.

The first major employment-related measure the Government introduced was the COVID-19 Pandemic Unemployment Payment (PUP). At the outset this payment was €350 to people who could not work because of the restrictions. The welfare payment was paid at this rate regardless of the prior earnings of the worker. During the planned period of the pandemic, different rates were introduced, linked to pre-COVID-19 earnings. From October 16 2020 to at least March 31 2021, four rates applied (linked to prior earnings), at: €203, €250, €300 and €350.

In March 2021 it was reported that a new overview of the PUP payment had found that 111,000 individuals out of work because of COVID restrictions had been drawing the payment for nearly one year, with 51,000 continuously in receipt of PUP since it began in March 2020 (Prendergast, 2021). At mid-March 2021 there are 456,580 workers on PUP, with roughly half of these recipients drawing the higher rate of €350 per week. By mid-October 2021, recipients of the pandemic unemployment payment had fallen to 97,130, with more people returning to work and more ineligible claimants being removed from the payment. At this time, over €8.8 billion had been paid out through the PUP scheme since its inception. The Department of Social Protection's (DSP) statistical report on the operation of the PUP, from March 2020 to March 2021, cited research showing that the PUP has provided a cushioning effect for families whose jobs have been affected by the pandemic (Prendergast, 2021). It was subsequently reported (in June 2021) that the COVID-19 wage supports, the EWSS and the PUP, more than halved the potential average household income loss arising from the impact of the pandemic (Prendergast, 2021a).

In June 2021 it was announced that the PUP would continue to 7 September, but close to new entrants from 1 July. It was also announced that the weekly rates of support would be gradually reduced over three phases (in €50 increments). The first phase of rate changes would apply from 7 September, with two further phases of change taking place on 16 November and 8 February 2022. It was envisaged that this would effectively end the PUP, as it levelled off with the standard jobseekers' rate for all in receipt of the payment (Prendergast, 2021b). On 3 December the Government announced that the PUP would re-open for applications from those affected by new (COVID-19 related) restrictions (i.e., in the entertainment and hospitality sectors) (Special Correspondent, 2021). These restrictions – applicable from 7 December to 9 January 2022 – included the stipulations that nightclubs would close, and strict social distancing would be required in all bars and restaurants, including hotels.

Another major employment-related measure prompted by the pandemic was the Temporary Wage Subsidy Scheme (TWSS), introduced in March 2020[i] (Eurofound, 2020c). This was a State subsidy for employers who were likely to experience at least a 25% reduction in turnover/business and was applied for the period from the end of March to the end of August 2020. This subsidy was subsequently replaced by a lower-subsidy support called the Employment Wage Subsidy Scheme

(EWSS), with effect from September 2020[ii]. This applied a subsidy of €151 and €203, depending on earnings. Since October 2020 – around the time of the second national lockdown – new EWSS rates were introduced to match the payments of the PUP scheme (€203, €250, €300, €350). In June 2021 it was announced that this (EWSS) scheme would run to the end of 2021, with some planned tweaks as to how it supports employers (e.g., with a broader reference period of 12 months, when calculating the reduction in turnover i.e., all of 2021 compared to all of 2019) (Prendergast, 2021b).

In mid-October 2021 it was announced that the EWSS would be phased out completely by April 2022, but the subsidy amounts would be gradually reduced before then (Prendergast, 2021c). By the end of September 2021, just over 300,000 employees were being supported by the EWSS. In December 2021 the Government announced that the scheme would re-open for applications from businesses impacted by the latest COVID-19 restrictions and would receive applications from other businesses in certain circumstances (Chartered Accountants Ireland, 2021).

For workers who tested positive for COVID-19 or who had to self-isolate, in 2020 the Government introduced an enhanced illness benefit of €350 per week (the normal illness benefit rate is €203 per week)[iii]. In June 2021 it was announced that the enhanced COVID-19 illness payment remains available and the special arrangements in place to provide enhanced access to rent supplement, including for victims of domestic abuse, will remain in place at least until the end of 2021 (Prendergast, 2021b).

In 2020, to deter COVID-19 induced redundancies and to alleviate the cash crisis being experienced by employers, the Government introduced a temporary ban on an employee's right to claim redundancy from an employer[iv] (Eurofound, 2020b). This prohibition was renewed several times. For example, in February 2021 the suspension of the right to activate statutory redundancy - for an employee on layoff or short-time working - was extended for a fifth time to 30 June 30 (Higgins, 2021). This measure was announced as part of the Government's attempt to help avoid permanent job losses (at a time when approximately 480,000 people were in receipt of the PUP). (Higgins, 2021). The ban had originally applied from the outset of the COVID-19 crisis on 13 March, until 31 May, and was later extended to 10 August, 17 September, 30 November 2020 and to 31 March 2021. The repeated extensions were regularly criticised by the Irish Congress of Trade Unions (ICTU), as creating an imbalance between employer and employee rights, with Congress also calling for the COVID-19 layoff period to be reckonable service for redundancy payments (Higgins, 2021). As alluded above, the aim of the suspension was to keep employees connected to their employers and on this criterion, the number of statutory redundancy payments from the Social Insurance Fund (SIF) has been much lower than one would expect, given the rise in layoffs due to the pandemic. The ban was subsequently extended to the end of September 2021 (Whooley, 2021).

As detailed in the 2020 national report, in July 2020, the Government outlined a jobs' stimulus package, with a range of business support measures costing up to €7.4 billion[v]. A host of other business supports were initiated by the Government in 2020 to offset liquidations and job losses, including: the credit guarantee scheme for SMEs, the microfinance business loan and the COVID-19 working capital scheme. In June 2020 the Government announced that the COVID Restrictions Support Scheme (CRSS) would continue for businesses still directly affected by public health restrictions and a new business support scheme (Business Resumption Support Scheme or BRSS) for businesses with reduced turnover because of public health restrictions would be introduced in September 2021 (Prendergast, 2021b).

In mid-November 2021 the Government reminded parties that it continues to offer a range of supports to assist businesses and individuals, including the EWSS, tax warehousing, a targeted commercial rates waiver, along with low-cost loan schemes to businesses, such as the COVID-19 Credit Guarantee Scheme, mentoring programmes, and direct grant programmes (Sheehan, 2021). In early December 2021 the Government re-introduced some restrictions, in response to renewed concern about the pandemic's trajectory. As a result of this, with particular reference to the aforementioned CRSS and the PUP, it agreed to review support schemes for the hospitality and live entertainment sectors (The Irish Times, 2021a). Arising therefrom, on 9 December 2021 the Government announced enhanced supports for businesses who qualify for the EWSS, applicable for December and January (2022), for the purpose of assisting businesses impacted by renewed COVID-19 restrictions (i.e., mainly the late night and live entertainment industries) (Chartered Accountants Ireland, 2021). For the same reason, it was also announced that the end-date for the CRSS was to be deferred to 31 January 2022 (Duffy, 2021). As noted above, on 21 December 2021 the government announced several changes to the major support schemes available to businesses affected by public health restrictions taking effect in the same week (i.e., to the EWSS, the CRSS and the tax debt warehousing scheme) (Chartered Accountants Ireland, 2021).

---

[i] Eurofound (2020), Temporary COVID-19 wage subsidy scheme, case IE-2020-13/777 (measures in Ireland), COVID-19 EU PolicyWatch, Dublin.

[ii] Eurofound (2020d), New wage subsidy scheme (EWSS) is less generous, fiscally more sustainable, case IE-2020-36/1157 (measures in Ireland), COVID-19 EU PolicyWatch, Dublin.

[iii] Eurofound (2020), Increased Illness Benefit for COVID-19 absences, case IE-2020-11/783 (measures in Ireland), COVID-19 EU PolicyWatch, Dublin.

[iv] Eurofound (2020), Suspension of the obligation of employers to pay redundancy payment, case IE-2020-11/820 (measures in Ireland), COVID-19 EU PolicyWatch, Dublin.

[v] Eurofound (2020d), July stimulus aims to assist businesses and people get back to work, case IE-2020-30/1422 (measures in Ireland), COVID-19 EU PolicyWatch, Dublin.

Adapting to the pandemic and the return to work: Policies and debates

New occupational health and safety rules

In the 2020 national report it was recorded that the pandemic had reignited the issue of statutory sick pay in Ireland, noting that Ireland is unique in the EU as there is no legal requirement on employers to pay employees sick pay (though many do in practice). Due to the pandemic's effects, the Department of Enterprise conducted a public consultation between November and December 2020, about statutory sick pay. In June 2021 the Tánaiste confirmed that there will be a new employee right to sick pay of up to 10 days, by 2025, after a phased roll out of sick leave which will be paid by employers. It was noted that the new statutory sick pay scheme would be phased in over a four-year period, starting with three paid days per year in 2022; rising to five days in 2023; then to seven days in 2024; and 10 sick days per year in 2025 (Prendergast, 2021d).

In mid-June 2021, the Irish Small and Medium Enterprises Association (ISME) chief executive told an Oireachtas Committee that the ten sick days proposed by the Government would, if fully used, mean an absence rate of 4.2%, which would be regarded as problematic absenteeism in most quarters of the private sector (Higgins, 2021a). He also described it as a double hit for employers, in that not only would they have to pay sick pay to the absent worker, but they would also have to replace that worker. He also noted the increased labour cost associated with proposed legislation for leave in cases of miscarriage or domestic violence. The ICTU responded, arguing that the Government's new sick pay scheme was too modest, and would add no more than 2.5% to labour costs over a 4-year period (Higgins, 2021a).

The same ISME source also argued that there was a lack of clarity on the rights of employers and employees to know the vaccination status of co-workers. He pointed out that whilst legal experts were arguing that employers cannot insist on an employee being vaccinated, they are still obliged under health and safety legislation to provide a safe place of work, placing them in an invidious position. Related thereto, he also argued that GDPR provisions are being misleadingly used as a blockage to information on employee vaccination status and that some members have said some employees refuse to work alongside unvaccinated colleagues (Higgins, 2021a).

As detailed in the 2020 national report, in 2020 the social partners agreed a Return to Work Safely Protocol to apply across the entire economy, outlining safety principles for workplaces and allowing for specific arrangements for some sectors. The Protocol also specifies hygiene etiquette, procedures for dealing with a suspected case of COVID-19 in the workplace, and other operational issues associated with COVID-19. In May 2021 an updated Work Safety Protocol was issued, setting out guidance on ventilation, vaccinations and antigen testing – as the Tánaiste encouraged employers to use antigen testing, noting that many employers are using such testing already, as he encouraged more to do so (Mulligan, 2021). This updated Protocol can be described as the third edition of the Return-to-Work Safety Protocol (which was first published in May 2020 and updated in November 2020). It contains new sections on antigen testing and vaccination, and considerably more detailed guidance on ventilation (Mulligan, 2021).

In October 2021 a ‘Guidance Note’ on a safe return to the workplace, was published by the Labour Employer Economic Forum (LEEF) Consultative Group (which comes under the aegis of the social partner-led Labour Employer Economic Forum). This Guidance Note followed the ‘Reframing the Challenge’ roadmap published by the Government on 31 August (Gov.ie, 2021b), with the overall tone of the approach marked by health and safety concerns designed to accommodate a staged return to work for office workers (Sheehan, 2021a). This guidance note set out several factors that should be taken into account if/when returning to the workplace and was issued by the LEEF Consultative Group (that was established to oversee implementation of the Work Safely Protocol and includes Ibec, the Construction Industry Federation (CIF), the ICTU, SIPTU, the Health and Safety Authority (HSA), the Health Service Executive and the Government Departments of: Health; Enterprise, Trade and Employment; Agriculture, Food and Marine; and Taoiseach) (Higgins, 2021b).

The guidance note specifies that a cautious and careful return to workplaces should take account of such issues as:

- appropriate attendance levels, cognisant of public health guidance as reflected in the Work Safely Protocol and associated checklist(s).
- the use of staggered arrangements, such as non-fulltime attendance and flexible working hours.
- attendance be for specific business requirements.

Regarding the interpretation of the guidance, LEEF noted that this will depend on the specific circumstances of each workplace and should be informed by consultations with workers (Higgins, 2021b). Related thereto, at the same time as this revision was announced, it was recorded that 45,000 COVID-19 inspections had taken place (via the Department of Enterprise, Trade and Employment) since May 2020, by the Health and Safety Authority and other agencies (Higgins, 2021b).

Arguably the most significant development in 2021 prompted by health and safety considerations took effect from 18 November 2021 when the Government asked that everyone should revert to working from home unless it is necessary to attend the workplace in person (Sheehan, 2021). Both Ibec and the ICTU, both social partner members of LEEF, welcomed the Government’s measure, to reduce levels of social contact and interrupt the spread of COVID-19. In its statement, the Government said that an engagement took place with employers and trade unions, through the LEEF, on updating guidance on working from home unless it was necessary to attend in person, as well as strengthening communication on protective measures, as outlined in the Work Safely Protocol, for those who continue to attend workplaces.

Finally, it may also be deemed relevant (from a health and safety perspective) that in January 2021 a COVID-19 teleworking dispute necessitated an adjudication decision from a Workplace Relations Commission Adjudicator. In this case the Adjudicator explained why the resignation of an operations coordinator amounted to a constructive dismissal (as he awarded her €3,712 compensation) (Fitzgerald, 2021). The complainant was employed by a facilities management company providing services to a university. The dispute between the parties developed in March 2020 with the onset of the COVID-19 pandemic. The complainant requested that she be allowed to work mainly from home under a rotation arrangement entered with two colleagues. She pointed out that she was living with two family members who are medically vulnerable. The Adjudication Officer found that the requirement for the complainant to attend in the workplace without adequate consideration of the elimination of risk amounted to a repudiation of her contract, whilst pointing out that the provision of a safe place of work is a fundamental term of a contract of employment. The complainant resigned from her post in May 2020 following a period of certified sick leave that followed the refusal of the employer to address COVID-19 related health and safety concerns (Fitzgerald, 2021).

New working arrangement policies

The 2020 national report provided extensive and detailed information on the effect of the COVID-19 pandemic on the acceleration of developments in teleworking.

On 15 January 2021, the Department of Enterprise published its national teleworking strategy, following consultation with stakeholders during 2020 (Gov.ie 2021c). The primary measures involved in this strategy entailed the introduction of a legal right for employees to request teleworking, and a 'right to disconnect'. The strategy seeks to harness the advantages of teleworking, whilst it also acknowledges the potential pitfalls. It was informed by 522 responses to its consultation (in summer 2020), and it outlines three pillars that are designed to complement each other, and which tie in with environmental and communications policies. The strategy is part-reliant on the successful completion of the National Broadband Plan, which is a priority issue for teleworkers in rural areas (Gov.ie, 2021c).

Regarding the three pillars, the first pillar is to create a conducive environment for teleworking, requiring legislative action (i.e., the 'right to request' telework and the 'right to disconnect'). The second pillar is to enhance the teleworking infrastructure, such as developing more working 'hubs' and finding ways to accelerate the broadband plan. Pillar three focuses on collecting and using data to inform and improve decisions on teleworking (and an interdepartmental group was set up to facilitate this). The strategy also entails a requirement to mandate public servants and employees of public bodies to move to 20% home and teleworking by the end of 2021 (Gov.ie, 2021c).

On teleworking, the strategy provides for a right to request such an arrangement – as opposed to an automatic right to telework. If an employer refuses to grant this request, the employee can challenge this decision, and ultimately submit a claim to the Workplace Relations Commission on the matter (see case law precedent above, under 'New Occupational Health and Safety Rules').

In January 2021 the Government launched a public consultation on flexible working, designed to inform a broader framework linked to the Programme for Government. The process entails the Department of Children and Equality seeking the views of employers, employees and the wider public on the types of flexible working arrangements currently in place and the changes that they wish to see (Prendergast, 2021e). Findings from the consultation will inform the development of a new flexible working policy, designed to promote a better work-life balance for those with caring responsibilities and to support the higher participation of women in the workplace. (Prendergast, 2021e).

In May 2021 the National Competitiveness and Productivity Council (NCPC) pointed out that opportunities for teleworking have the potential to impart economic, social, and environmental benefits, whilst offering a better quality of life to those living and working in Ireland (NCPC, 2021; Sheehan, 2021b). The Council also focused on the impact of the shift to increased teleworking on Irish enterprises and the possible implications for competitiveness and productivity, pointing to the potential for enterprises to further benefit from teleworking arrangements via access to a broader pool of talent, promoting retention, and improving cost-effectiveness, whilst engaging in more sustainable ways of working. However, it also acknowledged that some enterprises might struggle with the additional costs of setting up teleworking arrangements. Delving further into the issue, the NCPC cautioned that the extent to which teleworking can improve or hamper productivity depends on multiple interrelated factors. Amongst these factors it noted that strong digital and management skills, along with investment in broadband infrastructure and ICT equipment are relevant to efforts at maximising the potential productivity gains from effective teleworking whilst minimising negative spill-overs. The NCPC noted that it takes time for changes in work practices to manifest in measurable impacts on productivity at the individual or firm level. So, it is important to collect data to monitor these impacts and to implement the right policies (NCPC, 2021; Sheehan, 2021b).

Around mid-May 2021 a national teleworking survey undertaken by the National University of Ireland Galway and the Western Development Commission (NUIG/WDC) reported findings of a strong preference for teleworking amongst employees, albeit with an apparently low level of interest in teleworking ‘hubs’ (Prendergast, 2021f). This third NUIG/WDC teleworking survey found that 95% of workers wanted to keep teleworking some or all the time, after the pandemic has ended. The survey was conducted in April 2021, covering 6,500 respondents. The survey findings also note that the preference for telework is largely to do with making life easier for employees, via a better work-life balance. The survey found that people indicated that they would like to vary the number of days teleworking, depending on their circumstances (Prendergast, 2021f).

Notably, at around the same time an Ibec survey of employers found that 20% prefer 3 days onsite, using a hybrid model; 9% preferred 1-2 days onsite, 13% preferred 2 days onsite and another 9% opted for 2-3 days onsite. However, one-third of employers had yet to decide what the ratio of onsite/offsite would be or indicated that it will depend on the role of the worker (Prendergast, 2021f). The Ibec survey also indicated that most employers are not concerned about the commuting times of their employees. However, the aforementioned NUIG/WDC survey found that there is a clear concern on this issue (amongst employees), with 68% either concerned or somewhat concerned about their commute, pointing to the stress and time of the commute and its impact on their wellbeing. A clear majority of employees (70%) (in the NUIG/WDC survey) are also concerned about readjusting to office life (Prendergast, 2021f). Whilst the majority of employees surveyed would like to continue teleworking for some or all the time going forward, around half of respondents indicated they are, on average, working more hours remotely than when working onsite. The NUIG/WDC survey also found that just over two-thirds of respondents find teleworking increases their productivity (Prendergast, 2021f).

At the end of May 2021 Ireland’s first national network of teleworking hubs was launched, with 66 facilities participating across the country (Kenny, 2021). The Connected Hubs Network is designed to allow people to book desks, meeting rooms and co-working spaces through an online booking system on the nominated website. The initiative is designed to enable freelancers, start-ups and small business to book working spaces at the 66 existing hubs online – estimated to grow to 100 by year’s end. Interested parties can book hot desks, private offices, meeting rooms and co-working and collaborative spaces via the network, whilst also using online meeting technologies, with some hubs offering enterprise and business supports to start-ups and small businesses (Kenny 2021).

In late June/early July 2022 a Chartered Institute of Personnel and Development (Ireland) and Industrial Relations News survey reported that two-thirds of Human Resource professionals in private sector companies were claiming that demands from key personnel to telework is one of the big challenges they face in 2022, with a third saying staff preferences for working outside of Ireland will also feature (Sheehan, 2022c). The respondent private sector companies were asked, over the next 12 months, which of several teleworking issues was their company likely to face. In response, the demand from key staff to telework was highlighted by 134 respondents (66.64%) out of the 90% plus who completed the relevant section of the survey. Further highlighting this feature of pandemic/post-pandemic working life, it also found that 72 respondents (35.64%) indicated that the issue of staff wanting to work outside Ireland posed a challenge (Sheehan, 2022c).

In mid-July 2022 the Minister for Public Expenditure and Reform published a policy statement on partial telework in the Civil Service. Notably, the trade union side wants to see this policy extended throughout the public service (Sheehan, 2022d). On publication, the Minister pointed out that since the onset of COVID-19, the civil service - like other sectors – has mainly been fully teleworking. Subject to changes in public health advice, he predicted that some degree of teleworking would continue to be a feature of Civil Service work for the remainder of 2021, with partial telework on the agenda going forward (Sheehan, 2022d).

In a similar vein, in September 2021 public service unions and officials from the Department of Public Expenditure and Reform began a six-month engagement on teleworking under the auspices of the Civil Service General Council (Sheehan, 2021e). This development is a progression from when the official side presented the trade union representatives with a draft framework document on the subject in August 2021 (after the Government's Cabinet had approved terms of reference for a policy pertaining to the civil service). The relevant (Fórsa) union has stated that their aim is to agree on a long-term framework for managing teleworking to supersede arrangements put in place during the pandemic. Thereafter - once agreement is reached in the civil service - the framework is expected to inform discussions in other public sector organisations (Sheehan, 2022e).

The Workplace Relations Commission (WRC) issued a Code of Practice in April 2021 regarding the right to disconnect (McCrann and O'Rourke, 2021). Notably, whilst failure by an employer to follow the Code is not an offence, the Code is admissible in evidence in proceedings before a Court, the Labour Court, or the WRC. Hence, should an employee make a complaint to the WRC relating to their working hours under the Organisation of Working Time Act 1997, the Safety Health and Welfare at Work Act 2005, the Employment (Miscellaneous Provisions) Act 2018, or the Terms of Employment (Information) Acts 1994 - 2014, the employer's compliance or otherwise with the Code will be considered in the adjudication of that complaint.

The Code states that the Right to Disconnect relates to an employee's right to be able to disengage from work and refrain from engaging in work-related electronic communications, such as emails, telephone calls or other messages, outside normal working hours. The Code itself has three main elements:

- the right of an employee to not routinely perform work outside normal working hours.
- the right to not be penalised for refusing to attend to work matters outside of normal working hours.
- the duty to respect another person's right to disconnect (e.g., by not routinely emailing or calling outside normal working hours).

The content thereof also provides practical guidance for employers and employees designed to assist them in meeting their legal obligations and to protect employees from working excessive hours (McCrann and O'Rourke, 2021). Should an organisation's formal grievance procedure prove unsuccessful in resolving a complaint, an employer may end up defending a claim in the WRC, either under the legislation listed above (or under any other employment legislation e.g., the Unfair Dismissals Acts 1977 – 2015). The Code details the steps that the WRC will expect employers to take to meet their obligations, as follows:

- Provide detailed information to employees on their working time, in accordance with the Terms of Employment Information Act, 1994 - 2014.
- Ensure that employees are informed as to what their normal working hours are reasonably expected to be under the Employment (Miscellaneous Provisions) Act 2018.
- Ensure that employees take rest periods, in accordance with the Organisation of Working Time Act 1997.
- Ensure a safe workplace, including reviewing their risk assessment and, where necessary, their safety statement, in line with the Safety, Health and Welfare at Work Act 2005 and taking account of their obligations under section 8(2)(b) of this Act.
- Not penalising an employee for acting in compliance with any relevant provision or performing any duty or exercising any right under the Safety, Health and Welfare at Work Act 2005.

There were no other changes to working time law in Ireland in 2021. There was no evidence of collective agreements pertaining to revisions to working time (i.e., readily available from the standard sources) for 2021.

However, it may be deemed pertinent that: (i) this subject has been considered by Eurofound discretely (Eurofound, 2021); (ii) a 2020 survey found evidence of a COVID-19 induced trend toward longer working hours (Irish Jobs, 2020) and (ii) the Building Momentum (public service) agreement provides for the establishment of an independent body aimed at bringing about a return to pre-Haddington Road Agreement working hours (Brennan, 2021; FORSA, 2021).

It may also be deemed pertinent that in November 2021 the Court of Justice of the EU held that – in a case relating to firefighters and Dublin City Council - if a retained firefighter is not very significantly constrained in managing their time whilst on stand-by for the fire brigade (and can carry out other business during this time) then the stand-by period is not considered working time. The Court of Justice held that the Working Time Directive of 2003 must be interpreted as meaning that a period of stand-by, where the worker carries out a professional activity on his or her own account but must, in the event of an emergency call, reach his or her assigned fire station within 10 minutes, does not constitute 'working time.' That is, it is not working time if it follows from an overall assessment of all the facts of the case, that the constraints imposed on the worker during the stand-by period are not of such a nature as to constrain objectively and very significantly the ability that he or she has freely to manage, during the said period, the time during which his or her services as a retained firefighter are not required (Tancock, 2021).

Labour shortages

As summarised in the 2020 national report, in July 2020, the Government outlined its job stimulus package, with a range of business support measures costing up to €7.4 billion. The stimulus package includes €200 million for training, skills development, work placement schemes, recruitment subsidies and job search cum assistance measures.

Turning to 2021, the first notable contribution about the pandemic's effect on labour supply surfaced in May 2021, when a review from the Economic and Social Research Institute (ESRI) drew attention to the growing problem of intergenerational inequality in the Irish labour market (Fitzgerald, 2021a). It found that young adults have been disproportionately affected by the labour market impact of the pandemic. For example, it established that there were 112,000 fewer people aged between 15 and 34 in paid work in the final quarter of 2020 compared with the same period in 2019, whilst the drop in employment in this age group reached 14%. This compared with a decline of 6% among those over the age of 35. The review also noted that the pandemic restrictions had a sizeable impact on activity and employment in the hospitality, leisure, arts, and retail sectors, which between them employed almost 40% of those born between 1985 and 1994 (Fitzgerald, 2021a). A stand-out feature identified in the review of post-crash Ireland was the high number of people neither at work, nor in full-time education or training, with the review estimating that the proportion of those not in employment, education or training had risen from 10% in 2007 to 26% in 2011. Younger cohorts were particularly affected, mostly males in construction and females in retail (Fitzgerald, 2021a). Notably, the review also found that key areas of the economy (incl. IT, construction, and other services) were suffering from ongoing labour shortages, raising the issue as to whether the PUP scheme serves to discourage some people from re-entering the labour market (Fitzgerald, 2021a).

On the very same theme, the existence of the PUP scheme was criticised by employers in lower-paid service sectors, as they called for it to be ended, as the payment is viewed as a disincentive to returning to or taking up new work. For example, in June 2021 ISME's Chief Executive addressed the Oireachtas Committee on Enterprise, Trade and Employment, arguing that the PUP was slowing the return to work (Higgins, 2021a). These claims were countered by trade unions and the ICTU, who assert that other factors are at play contributing to a shortage of staff in some sectors, such as workers having left the country or changed sectors of employment (Prendergast, 2021c).

In August 2021 a report from a global jobs site (Indeed.com) found that employers who are looking to recruit staff rapidly, as they emerge from the pandemic, may struggle to attract applicants (Gleeson, 2021). The report concluded that whilst job postings seeking workers had surged above pre-pandemic levels – indicating high demand from employers – only 7% of people were urgently looking for a new job, whilst 46% of respondents were not searching for a new job right now, with 29% not actively looking - though open to opportunities. Notably, the report concluded that even those out of work or in receipt of the PUP do not appear to be in a hurry to find a new job (Gleeson, 2021). For those without a job, it found that only 34% were actively looking for one. Factors identified that contribute to this reluctance include family and household responsibilities, access to childcare and caring responsibilities and health concerns associated with vaccination (Gleeson, 2021).

In the following month, September 2021, the Minister for Higher Education acknowledged that there were significant staff shortages impeding the Government's desire to build more houses and improve insulation levels in existing homes – noting that his department was tasked with reskilling or upskilling 27,000 people over the next 10 years. In this regard he drew attention to the incentive scheme for employers to hire apprentices and the existing courses at third level – from apprenticeships to higher education (Wall, 2021). Coinciding with this statement, the SIPTU trade union pointed out that the Government's housing plan could fail because of a shortage of workers, whilst the ICTU also acknowledged that a labour shortage exists, though noting that an apprenticeship and upskilling initiative could go a long way toward addressing the gaps. However, the Construction Industry Federation's input to this debate stated that the industry can grow to meet the demand, pointing out that it is increasingly becoming technologically driven, serving to make the industry more attractive to young people and women of all ages and improving productivity, enabling the economy to build sustainably, more efficiently and cost effectively (Wall, 2021).

Addressing the same issues in October 2021, the Minister of State for Business, Employment and Retail announced changes to the employment permits system for workers from outside the European Economic Area (Gov.ie 2021d). These revisions included:

- Most construction sector jobs now eligible for a General Employment Permit.
- Quota to be removed for HGV driver work permits.
- 350 General Employment Permits for hospitality managers.
- Social Workers to be eligible for Critical Skills Employment Permits.
- Dispensing Opticians to be eligible for General Employment Permits.
- New General Employment Permit quotas for 1,000 Horticulture Operatives, 500 Meat Deboners, 1500 Meat Processing operatives and 100 Dairy Farm Assistants; with a strategic review of labour attraction and retention in the sector to follow.
- New General Employment Permit quota of 100 for Work Riders.

In the same month (i.e. October 2021), Solas (2021) published a National Skills Bulletin (from its Skills and Labour Market Research Unit), on behalf of the National Skills Council. The Bulletin draws on a range of data sources, including the Central Statistics Office's Labour Force Survey and spans 95 occupational groups together with a range of labour market indicators. The Bulletin concluded that the impact of the pandemic had given rise to substantial disruption to the Irish labour market, noting that at mid-May 2020 over 1 million people were in receipt of income support payments from the State. Whilst the numbers receiving payments fell as restrictions eased, subsequent lockdowns saw numbers rise again. Notably, the Bulletin focuses primarily on the situation in the Irish labour market during 2020 (Solas, 2021).

Amongst the review's main findings (pertaining to the pandemic's labour market impact) were:

- The labour force decreased by 12,400, standing at 2.43 million (annual average) in 2020.
- Employment fell by over 28,200 to 2.29 million (annual average) — the employment rate decreased by 1.8 percentage points to 67.8% (annual average).
- The participation rate decreased by 1.2 percentage points to 61.1% (annual average).
- The unemployment level increased by 15,800, standing at 136,700 persons (annual average), whilst COVID-19 adjusted unemployment stood at 444,200 in 2020, an increase of 323,300 (or 267.3%) compared to the standard Labour Force Survey estimate in 2019.
- The unemployment rate (using traditional methods) increased by 0.7 percentage points to 5.7% (annual average); the COVID-19 adjusted unemployment rate reached 18.5% in 2020.
- The youth unemployment rate increased by 4.2 percentage points to 13.8% (quarter 4).

- In terms of those aged 15-24 years, the 'Not in Employment, Education or Training' (NEET) rate increased by 1.0 percentage points between the last quarter of 2019 and the same period in 2020.
- The broad unemployment measure (combining unemployed and part-time underemployed persons) increased by one percentage point to 9.9% in the last quarter of 2020.
- The old age dependency rate continued to increase, by 0.5 percentage points to 22.4% (Solas, 2021).

Wages and wage-setting

In February 2021 the aforementioned 'Building Momentum' new public service agreement was welcomed by the Minister for Public Expenditure and Reform, noting that the deal – which is estimated to cost €906 million - would offer stability for both public servants and the public who rely on the vital services they provide (Sheehan, 2021f). However, trade unions regard this 'Building Momentum' agreement as a sort of 'bridging' or 'holding' agreement, considering the prevailing pandemic-related uncertainty. A relatively novel feature of the agreement is that it provides for a 'Sectoral Bargaining' element in respect of pay and conditions in the public service. The agreement itself provides for two general round increases of €500 or 1%, whichever is greater, on 1 October 2021 and 1 October 2022, whilst it also established a sectoral bargaining fund equivalent to 1% of basic salaries, with a payment date of 1 February 2022.

The purpose of this Sectoral Bargaining Fund and the associated process is to deal with outstanding adjudications, commitments, recommendations, awards and claims within the terms of the Fund and within the Exchequer funding limit in place (Sheehan, 2021f). Under this agreement, individual groups, grades, and categories of civil and public servants can opt to use the 1% sectoral allocation as a sectoral pay round (payable on February 1, 2022). Alternatively, they can use the allocation to deal with outstanding adjudications, recommendations, awards, or claims, up to the value of 1% of pensionable pay. However, by mid-July 2021 it was reported that progress on this provision had been relatively slow, albeit with indications that – with some exceptions – a majority would opt for a straightforward 1% pay increase (Sheehan and Higgins, 2021). Notably, this sectoral bargaining process can be traced to a nurses and midwives' strike in 2019, after which other public service unions sought to 'catch up' on the gains made by these cohorts. This 'catch up' process was delayed by the pandemic, but subsequently subsumed in this new sectoral bargaining element of the Building Momentum public service agreement (Sheehan and Higgins, 2021).

Whilst it is widely acknowledged that the pandemic gave rise to considerable workplace co-operation (especially from frontline workers), there is little evidence of associated formal flexibility and pay cut agreements. Notably however, in February 2021 Shannon Airport and its associated unions were directed by the Labour Court to engage on a six-week period of negotiation to find alternatives to 20% pay cuts that had been introduced the previous September (Higgins, 2021c). The temporary pay cuts were introduced in 2020 for all staff earning more than €30,000 per annum, forming part of the commercial semi-state airport operator's response to the pandemic driven collapse in air traffic. In a similar vein – and related to the pandemic's impact – in March 2021 the Irish Aviation Authority management and union negotiators reached a comprehensive 5-year agreement, including cost containment measures (Sheehan, 2021g). This agreement entails two short cost reduction arrangements between the unions and management - that had been prompted by the pandemic. Its (5 year) duration is seen as relevant to the provision of stability, given the pandemic-driven external uncertainty. Notably however, a review thereof pointed out that there is no immediate prospect of general pay rises in the aviation sector (Sheehan, 2021g).

Turning to the wider economy, in October 2021 it was reported that local pay bargaining activity in the private sector and commercial semi-states had made a partial recovery during the year (Higgins, 2021d). Notably, it was recorded that whilst pay terms remain slightly lower than in recent years, the ‘2%-plus rise’ rate (per annum) pattern of the last decade continues to prevail. The relevant review of pay settlements in the private sector and commercial semi-states entailed a total of 81 deals over the first nine months of 2021, compared with just 64 deals for the 12 months of 2020 (and 149 deals for the 12 months of 2019) (Higgins, 2021d). Notably, this review concluded that the data shows some relative recovery in pay bargaining in 2021, following the pandemic shock, though it is well below the pre-COVID levels of the late 2010s (Higgins, 2021d). As noted above, the level of pay increases in 2021 - as during 2020 - run at the lower end of the 2-3% per annum range (as established in the late 2010s).

A discrete review of this subject concluded that pay settlements for the first nine months of 2021 were not reflective of factors such as inflation or the skill and labour shortages surfacing since pandemic restrictions had been eased (or of the Government’s planned withdrawal and tapering down of business and labour supports) (Higgins and Sheehan, 2021). It was suggested that they do constitute a window into how private sector pay agreements stand, as the Irish economy emerges from the pandemic in overall good shape. The review (also) found that pay increases in 2020 in the private sector and the commercial semi-states were averaging between 2% and 2.5%. However, it also acknowledged that inflation and pandemic-related differences in performance between sectors made future pay movements harder to predict than at any time in the last decade (Higgins and Sheehan, 2021).

In February 2021 it was reported that the Government’s belated publication of the Low Pay Commission’s work (about the 2020 national minimum wage) indicated the difficulty that the COVID-19 pandemic had caused, in terms of preventing unanimity amongst the Commission’s members (Prendergast, 2021g). The Commission’s majority recommendation was for a €0.10 increase to the national minimum wage, bringing it to €10.20 per hour, with effect from 1 January 2021. However, this recommended rise was not unanimous, with 2 employee/union representatives, withdrawing from the Commission in protest at the eventual recommendation. It was also noted that the Commission’s annual work/schedule on making a minimum wage recommendation was severely disrupted in 2020 because of the pandemic. Its normal schedule, which involves regional meetings with stakeholders, could not proceed as planned, due to restrictions. The Commission’s report acknowledged the significant variations between sectors in how they were impacted by the pandemic, pointing out that these variations, together with the possibility of a second or third wave of the virus, made predictions problematic (Prendergast, 2021g).

Another significant factor relating to this topic materialised in April 2021, when the Tánaiste and Minister for Enterprise announced that the Low Pay Commission will formally begin its work on shifting its focus from a statutory minimum to a higher, living wage (Prendergast, 2021h). This departure had first been signalled by the Tánaiste in October 2020. Arising therefrom, the Low Pay Commission’s brief now includes ‘if and how’ a living wage could be implemented in Ireland.

Notably, an influential factor in this departure is the Government's commitment to progress toward a living wage and the proposed EU Directive on adequate minimum wages (Prendergast, 2021h).

Impacts on the social dialogue and collective bargaining

Arguably and potentially the most consequential 'social dialogue' development in 2021 transpired in March, when the main employers' body, Ibec agreed to participate in a special study undertaken under the auspices of the social partners' Labour Employer Economic Forum (LEEF). This study or task group is charged with a range of related tasks, including an examination of how collective bargaining might be developed in a way that is consistent with Irish business competitiveness. The involvement of Ibec, the ICTU and Government in such a forum is seen as a significant development, to be watched with considerable interest by both sides of industry and various state agencies and government departments (Sheehan, 2021h). Notably, this initiative comes at a time when the European Union is progressing a draft directive with implications for collective bargaining coverage across all Member States and when the Irish Government has committed to strengthening social dialogue and engagement with civil society, in line with its commitments in the Programme for Government (Sheehan, 2021h). Explaining this decision (in March 2021), the Taoiseach outlined his support for social dialogue and for regular and open engagement with all sectors of society – as being particularly important for steering the country out of the pandemic's complex economic and social challenges (Sheehan, 2021i). Elaborating thereon, the Taoiseach committed to making this a core part of how Government does its business, whilst building on various existing mechanisms (e.g., the National Economic and Social Council, the LEEF and the Brexit Stakeholders Group). As a component of this process, he committed to beginning a series of engagements with the main social partner representative groups, under the auspices of a Social Dialogue Unit in his department. Related thereto, he also acknowledged that the LEEF has played an important role throughout the COVID-19 crisis and will be strengthened (LEEF deals with economic and employment issues relevant to the labour market, including issues such as statutory sick pay and the teleworking strategy) (Sheehan, 2021i).

As noted above, one of LEEF's more notable contributions in 2021 was the issuance of a guidance note on a safe return to the workplace (Sheehan, 2021j), together with the fact that a LEEF Consultative Group was established to oversee implementation of the Work Safely Protocol, including Ibec, the CIF, the ICTU, SIPTU, the HSA, the HSE and the Government Departments of: Health; Enterprise, Trade and Employment; Agriculture, Food and Marine; and Taoiseach (Higgins, 2021b).

With renewed concerns about COVID-19, in November 2021, the Government introduced measures designed to contain the fall-out therefrom (Sheehan, 2021k). In response, both Ibec and ICTU – the key social partner members of LEEF - welcomed these measures. Taking effect from midnight 18 November, the guidance asked that everyone revert to working from home unless it is necessary to attend the workplace in person. In this context it is relevant that the Government announcement referred to an engagement that had taken place with employers and trade unions (via LEEF), to update this guidance (on working from home and protective measures – as per the Work Safely Protocol - for those attending workplaces) (Sheehan, 2021k).

Another dimension of the LEEF-social dialogue process emerged in March 2021 when the Taoiseach informed the Dail that the Government would recognise frontline healthcare workers for the extraordinary contribution they had made during the pandemic and noting that the Government also wished to acknowledge the role of some key private sector workers in the process. This would be done via consultation with the social partners (via LEEF) (Sheehan, 2021l). However, by October 2021 it was apparent that little progress had been made on this somewhat complex and controversial matter, as reports emerged that the Government had indeed turned to LEEF to help extract itself from a problem considered to be of its own making (Sheehan, 2021m). According to Sheehan (2021m), ICTU and Ibec had been pressing successive Governments to deepen the social dialogue process via LEEF, for the purpose of engaging in and securing buy-in for key social and economic goals. In this regard, the role played by ICTU and Ibec (in 2020) in developing the various pandemic employment supports and health and safety protocols reflected LEEF's potential contribution on matter of consequence. Pertinently, Sheehan (2021m) noted that the move to secure the use of LEEF to deal with this frontline recognition issue came about following a pre-Budget submission made by ICTU to Government. Arising therefrom, the ICTU and Ibec were asked if they would assist (via LEEF) to produce an inclusive and collaborative approach to the pandemic recognition issue.

By the end of the following month, in November 2021, it was reported that a proposed special reward for front line health care staff for their work during COVID-19 might be imminently en route to Cabinet (Sheehan, 2021n). However, the same source noted that LEEF had not come up with the proposals as such, as it had not been involved in negotiations (as its role is a consultative one), though the Minister for Public Expenditure and Reform had been consulting with LEEF for the purpose of addressing promises made by various senior members of Government in respect of this recognition issue. It was suggested that LEEF had proposed that any such reward(s) should be confined to front line patient facing healthcare staff, with consensus on a public holiday as an appropriate form of recognition. However, the Industrial Relations News (IRN) reports that it was advised that LEEF is not able to make proposals, as its role is to engage and consult, with the Minister then deciding as to what is appropriate to bring before cabinet colleagues. Of course, a pressing and complicating dimension for Government in this regard is the timing of any such decision, as the country enters yet another wave of the pandemic (Sheehan, 2021n).

In October 2021 it was reported that local pay bargaining activity in the private sector and commercial semi-states had made a partial recovery during the year (Higgins, 2021d). The relevant review of pay settlements in the private sector and commercial semi-states entailed a total of 81 deals over the first nine months of 2021, compared with just 64 deals for the 12 months of 2020 (and 149 deals for the 12 months of 2019) (Higgins, 2021d). Notably, this review concluded that the data showed some relative recovery in pay bargaining in 2021, following the pandemic shock, though it was adjudged to be well below the pre-COVID levels of the late 2010s (Higgins, 2021d).

As detailed in the 2020 national report, the need for an immediate response to the impact of the pandemic (in 2020) brought about a renewed energy to social dialogue, particularly around discussions on the TWSS. The increased cooperation and involvement between the social partners achieved a consensus early on and, during the emergency period, a number of adjustments had to be made to the TWSS, which came about from input from the employee and employer bodies – mostly to address anomalies that arose.

Labour disputes in the context of the pandemic

The available datasets (from the Central Statistics Office) for 2021 reveal that during the first quarter of 2021 there were no days lost to industrial disputes. That is, no disputes began or were in progress in this period (Central Statistics Office, 2021). There was one industrial dispute in progress in the second quarter of 2021. It involved one firm and an estimated 500 workers, resulting in 1,429 days lost. (Central Statistics Office, 2021a). There was one industrial dispute in progress in the third quarter of 2021. It involved one firm and 43 workers, resulting in 86 days lost. (Central Statistics Office, 2021b). The dataset for the fourth quarter of 2021 is due for release in late February 2022.

In late April 2021 it was reported that the Electricity Supply Board (ESB) network technicians, in their capacity as members of the Independent Workers Union, had commenced their second full strike day, with further strike days scheduled (Sheehan, 2021o). In response, ESB Networks announced that it was formally issuing proceedings in the High Court, seeking damages and other reliefs against the union. The dispute arises from a demand by the (non-ICTU) union that the company consult with it about work outsourcing, in line with annual decision-making practices via an already-agreed industrial relations consultation process (Sheehan, 2021o). Approximately a fortnight after this action, the union announced that it was asking the courts to uphold and instruct an enforcement order on the ESB to comply with existing information and consultation legislation (Sheehan, 2021p). In the interim, the industrial action - which had taken the form of a work-to-rule as well as strike days – was to be suspended pending the outcome of the legal process (Sheehan, 2021p).

There were several other disputes in 2021 entailing threats of industrial action that did not actually materialise (e.g., public health doctors, school secretaries, the Local Employment Services, the Dublin Airport Authority, medical scientists).

In 2020 the WRC announced that with effect from 10 July (2020) it had started to roll out remote hearings on consent, with a focus on complaints submitted in relation to Organisation of Working Time Act 1997, Payment of Wages Act 1991, Industrial Relations Act 1969, and Terms of Employment (Information) Act 1994 etc. (Workplace Relations Commission, 2021). This followed an extensive consultation process run in two phases from April to June 2020. To ensure fairness for all parties, the WRC advised that over time, it would expand the range of cases amenable to remote hearing, considering the developing experience of all parties of using new procedures and technology. On 24 September 2020, Statutory Instrument 359/2020 came into force. This Order assigned the WRC as a ‘designated body’ for the purposes of Section 31 of the Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020. This Act makes explicit provision for remote hearings, thereby enhancing the WRC’s existing powers to hold remote hearings and removing any requirement for parties’ consent. The WRC’s 2021 Annual Report has not yet been published.

Commentary and outlook

As in 2020, throughout 2021 the COVID-19 pandemic continued to be the most significant event to impact working life in Ireland. The scale and speed of change provoked by the pandemic is unparalleled in this jurisdiction. The country remained in a strict lockdown for the first quarter of 2021, with the hospitality industry severely curtailed.

The falling COVID infection and hospitalisation rates during the summer of 2021 led to the return of thousands of workers to their offices and places of work, throughout August and September. However, this **'return to the office'** was temporarily reversed, as the COVID-19 numbers started to rise again. In addition, some of provisions pertaining to people working from home and the subsequent announcement that the **pandemic unemployment payment** (PUP) would be re-established at a higher rate of payment, together with the extension of a number support schemes available to those businesses affected by public health restrictions, such as the **Employment Wage Subsidy Scheme** (EWSS), the COVID Restrictions Support Scheme (CRSS) and the tax debt warehousing scheme.

Social dialogue received a further boost in 2021 with the social partners regularly meeting through the **Labour Employer Economic Forum** (LEEF). This forum has been used to agree the various iterations of the **Return to Work Safely** protocol. Significantly, the Minister for Employment, Leo Varadkar TD, established a 'High Level' group, under the auspices of LEEF, to **review how industrial relations and collective bargaining** operates in Ireland. The work of this group is ongoing, into 2022, and is informed by the planned EU Directive on Adequate Minimum Wages.

The Workplace Relations Commission established a new Code of Practice on the employees' '**right to disconnect'** from work outside of normal working hours. This Code offers guidance to employers and employees on disconnecting from work as well as anti-penalisation protections for workers who refused to attend to work matters outside of normal working hours. However, this Code is not legally binding and carries no penalties for a party who does not adhere to its guidance.

In early 2021, the Government released its **national teleworking strategy,** Making Remote Work. A key piece of this strategy is the plan to introduce a 'right to request' remote working. It also involves the expansion of remote working hubs across the country, to facilitate regional growth. In other employment legislation, the **Gender Pay Gap Information Act** was passed, which will make it mandatory for large employers (250 or more employees) to report on their gender pay gap – and to explain the reason(s) for why there is such a pay gap. The provisions will apply to companies employing 50 or more employees on an incremental basis, over several years.

The Building Momentum **public service agreement** outlined phased pay rises for public and civil servants in 2021 and 2022. There was also an uptick in **enterprise-level pay bargaining** in the private sector and commercial semi-states. At the end of 2021, it was evident that inflation was becoming a factor, for the first time since the financial crisis of 2008-2009. This will have a certain impact on pay bargaining in 2022. The Exchequer figures for 2021 showed a very strong year, with record levels of intake in corporate and income taxes. Despite this positivity, the **housing crisis** persists, especially for younger workers, who are struggling to afford home purchases.

References

All Eurofound publications are available at www.eurofound.europa.eu

Brennan, C., (2021), Unions 'overwhelmingly' endorse new public service pay deal (irishexaminer.com)

Central Statistics Office (2021), https://www.cso.ie/en/releasesandpublications/er/id/industrialdisputesquarter12021/

Central Statistics Office (2021a), https://www.cso.ie/en/releasesandpublications/er/id/industrialdisputesquarter22021/

Central Statistics Office (2021b), https://www.cso.ie/en/releasesandpublications/er/id/industrialdisputesquarter32021/

Chartered Accountants Ireland (2021), https://www.charteredaccountants.ie/News/ expansion-of-supports-for-businesses-impacted-by-covid-19-restrictions-21-december.

Duffy, M. (2021), Enhanced wage subsidy scheme announced for December and January (breakingnews.ie)

Eurofound (2021), Workers want to telework but long working hours, isolation and (europa.eu)

Fitzgerald, K. (2021), Industrial Relations News - Article (irn.ie)

Fitzgerald, K. (2021a), Industrial Relations News - Article (irn.ie)

FORSA (2021), Building Momentum: A New Public Sector Agreement FAQs - Forsa

Gleeson, C. (2021), Talent shortage to hinder employers as job postings surge (irishtimes.com)

Gov.ie (2021), Government announces phased easing of public health restrictions

Gov.ie (2021a), New public health measures announced the path ahead

Gov.ie (2021b), https://assets.gov.ie/197018/ee93451c-2c67-4ea4-ad2b-ba5fb38bfce2.pdf

Gov.ie (2021c), Making Remote Work: National Remote Work Strategy (www.gov.ie)

Gov.ie (2021d), Minister Damien English announces comprehensive changes to the employment permits system in Ireland - DETE (enterprise.gov.ie)

Higgins, C. (2021), Layoff restriction extended again, as redundancy figures remain restrained

Higgins, C., (2021a), ISME and Congress clash over PUP, sick pay and redundancy rebate

Higgins, C. (2021b), Return to work guidance from LEEF forum

Higgins, C. (2021c), Shannon Airport and unions told to find alternatives to 20% pay cuts

Higgins, C. (2021d), Private sector pay, 2021: Increases average 2% to 2.5%, as activity increases

Higgins, C. (2021e), Return to work guidance from LEEF forum

Higgins, C. and Sheehan, B., ANALYSIS: a challenge for negotiators as inflation & sector differences emerge

Irish Jobs (2020), Working from home means longer hours for many - IrishJobs Career Advice

Kenny, A. (2021), Network of remote working hubs launched (irishtimes.com)

McCrann, T. and O'Rourke, D. (2021), Key takeaways on the WRC's 'Right to Disconnect' Code of Practice

Mulligan, H. (2021), Employers encouraged to use antigen testing

National Competitiveness and Productivity Council, http://www.competitiveness.ie/publications/2021/ncpc%20rw%20bulletin%202021-3%20-%20final.pdf

Prendergast, A. (2021), Over 110,000 workers have been on PUP for nearly one year

Prendergast, A. (2021a), Covid wage supports 'halved magnitude of income loss' - ESRI

Prendergast, A. (2021b), Employment wage scheme approved to end of December 2021

Prendergast, A. (2021c), Wage scheme to be phased out by April, payment checks tighten on PUP

Prendergast, A. (2021d), Two weeks of statutory sick pay for employees by 2025

Prendergast, A. (2021e), Flexible working consultation seeks views for work-life balance framework

Prendergast, A. (2021f), Major survey reaffirms high employee demand for remote working

Prendergast, A. (2021g), Government publishes Low Pay Commission reports from 2020

Prendergast, A. (2021h), Green light for move from minimum wage to living wage

RTE (2021), Garda taken to hospital as 23 held after demonstrations (rte.ie) RTÉ News, 2021-02-27.

RTE (2021a), Simon Coveney wins confidence motion in Dáil (rte.ie) RTÉ News, 2021-09-15.

RTE (2021b), Fresh restrictions after 'stark' NPHET advice (rte.ie) RTÉ News, 2021-12-03.

Sheehan, B. (2021), Social partners back continued support for protocols, say support measures key

Sheehan, B. (2021a), LEEF issues 'Guidance Note' on returning to the workplace

Sheehan, B. (2021b), Remote working: NCPC considers implications for competitiveness & productivity

Sheehan, B. (2021c), Key staff demanding to work remotely big challenge for HR – Survey

Sheehan, B. (2021d), New policy foresees structured "blended working" by March, 2022

Sheehan, B. (2021e), Remote working in Civil Service – 6-month engagement underway

Sheehan, B. (2021f), Public pay deal backed: sectoral bargaining & 'hours' centre stage

Sheehan, B. (2021g), Aviation Authority/Trade Union 5-year agreement should ensure stability

Sheehan, B. (2021h), Ibec ready to engage in social partner forum on collective bargaining

Sheehan, B. (2021i), Government agrees on a new approach to strengthening Social Dialogue

Sheehan, B. (2021j), LEEF issues 'Guidance Note' on returning to the workplace

Sheehan, B. (2021k), Social partners back continued support for protocols, say support measures key

Sheehan, B. (2021l), Taoiseach says LEEF may look at reward for "some private sector workers"

Sheehan, B. (2021m), Government turns to social partners to manage Covid-19 "reward" fall-out

Sheehan, B. (2021n), COVID 'reward' proposal may go before Cabinet next week

Sheehan, B. (2021o), Non-ICTU union plans more strike days, ESB Networks issues proceedings

Sheehan, B. (2021p), ESB dispute on hold as legal battle looms on consultation issue

Sheehan, B. and Higgins, C., Public service deal: majority may go for 1% rise under sectoral bargaining

Solas (2021), National Skills Bulletin

Special Correspondent (2021), Government reintroduces PUP as restrictions hit entertainment and hospitality sectors (thejournal.ie).

Tancock, J., (2021), The European Court of Justice provides further clarification on what constitutes “working time” under the Working Time Directive (2003/88/EC) - Lexology.

The Irish Independent (2021), Senior Fine Gael figures launch scathing attack on Taoiseach’s ‘appalling’ handling of pandemic, Irish Independent, 2021-02-24.

The Irish Independent (2021a), LIVE Covid restrictions Ireland announcement: Taoiseach Micheal Martin announces restriction changes but warns ‘change means risk’ as country reopens, Irish Independent, 2021-05-28.

The Irish Independent (2021b), Katherine Zappone ‘assured by hotel’ that party with 50 friends, including Tánaiste, was in line with Covid-19 restrictions, Irish Independent, 2021-08-04.

The Irish Independent (2021c), Cabinet agrees midnight closing time for pubs, restaurants and nightclubs as Covid cases hit 4,407 and ICU patients reach 114, Irish Independent, 2021-11-16.

The Irish Times (2021), Economic recovery plan ‘the opposite of austerity’, says Taoiseach The Irish Times, 2021-06-01.

The Irish Times (2021a), Covid-19: 2,950 new cases reported as Government reviews hospitality supports (irishtimes.com)

Wall, M. (2021), Harris says there is significant shortage of skilled tradespeople (irishtimes.com)

Whooley, C. (2021), Lifting of suspension of employees right to claim redundancy - ISME.

Workplace Relations Commission (2021), COVID-19 Update - 28 May 2021 - Workplace Relations Commission.

WPEF22016

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.