



Submission to the Low Pay Commission

Review of the allowances for board and lodgings under the National Minimum Wage, Act, 2000.

January 2017

Introduction

MRCI is a national organisation that works with migrant workers at risk of exploitation, poverty and discrimination and campaigns for social justice. It operates a national drop in service to migrant workers and their families which provides advice, advocacy and support to over 2,000 cases per year on employment and immigration issues facing migrant workers in exploitative work sectors. It also provides an assessment service for complaints of labour trafficking refers such complaints to the authorities and provides a range of supports to assist people subjected to this crime.

MRCI supports several actions groups and networks to facilitate migrant workers to become informed, claim their rights and act together to improve working conditions in unregulated sectors such as domestic work, fisheries, agriculture, restaurants and entertainment.

Domestic Workers Action Group (DWAG)

In 2003, the MRCI set up the DWAG to respond to the volume of employment complaints coming from migrant domestic workers employed directly by families in private homes. To this date, it remains the only organisation representing migrant domestic workers in Ireland; it has over 500 members who are all employed in private homes as cleaners, carers, childminders and au pairs.

DWAG campaigns for rights, dignity and recognition for all domestic workers Ireland; the group has been instrumental in achieving more robust enforcement of existing legislation and in bringing new protections for the sector. These include a code of practice, labour inspection, protections for workers employed in diplomatic households and exposing the exploitation of the 'au-pair' system. Most importantly, the group was key in securing the ratification of ILO C189 which commits Ireland to provide decent work standards for all domestic workers.

Scope of the Submission

The MRCI welcomes the opportunity to contribute to the review of the allowances for board and lodgings provided for under the National Minimum Wage Act, 2000. Our submission is rooted in our experience of working with workers in low-paid sectors where board and lodgings rates are applied (particularly in Domestic and Care, Accommodation and Food Services and Agriculture). For the purpose, of this consultation we gathered the experiences of live-in domestic workers and we organized a consultation with workers affected by the rates on January 22nd, 2017.

Persons with an Immigrant Background

Data obtained from Eurostat for 2015 shows that 749,943 (16.2%) of the population in Ireland is foreign-born and the CSO's 2016 Population and Migration Estimates found that 593,900 (12.7%) are migrants. According to the CSO, in 2016 there were 206,900 Non-EU immigrants registered in Ireland which represent 34.8% of the overall migrant population. The vulnerabilities and precariousness associated with immigration status merits special consideration when developing strategies to ensure equality outcomes for migrants.

Migrants and Low Pay

Eurostat estimate that 20.7% of workers in Ireland are concentrated in low-paid work.¹ Many in this grouping are migrant workers. A study conducted by the Nevin Economic Research Institute (NERI) estimates that approximately 75,000 workers are earning minimum wage - 5.6% of all employees, with 32,250 working full-time on the minimum wage. 65% of this group are women. A large proportion of these jobs are concentrated in the hotel, catering, restaurant, wholesale and retail sectors. The level of precarity experienced in minimum wage jobs is greater.

According to NERI, workers are more likely to be on temporary contracts, work less than 20 hours per week, work part-time, and be in the private sector. NERI also identified that those on minimum wages are more likely to struggle financially and one-third experienced deprivation.² Clearly, low pay is now a significant problem in the Irish labour market. The Quarterly National Household Survey also shows that migrant workers are concentrated in service sectors such as food, retail, health-related services and personal household services.

Furthermore, there is a dearth of research to fully understand the situation of low waged workers and on the numbers who would be impacted on by a change in the current rates applied to board and lodgings.

This review needs to take this context in to account and prevent a situation occurring where workers already struggling on low pay are further impoverished by increases to the rates.

Specificities of the Domestic & Care Sector

Many of the members of DWAG are "live-in", meaning they reside at their place of employment where they provide care for children, elderly people, people with mental, intellectual, and/or physical disabilities or they perform domestic chores. Sometimes they are expected to do a combination of those roles. Members of DWAG often speak of 'blurred lines' to describe the grey area between employment and free time. In most cases, domestic workers are expected to work over their hours. Many describe being expected to be 'on call' for the family. For example, being asked to babysit in the evening times or to 'wait on' for their employer to return home after their working hours are over yet this is not considered work by their employers and as such they are not remunerated.

Deductions for board and lodgings have a significant impact on the net income of domestic and care workers whose hourly wages rarely surpass €10 and are often below the minimum wage rate. In effect deductions in this context result in some domestic workers earning below minimum wage. This is a critical issue that need to be considered as part of this review as an increase in deductions would result in some workers being at further risk of earning well below minimum wage – a statutory entitlement.

Living in your place of employment adds a significant layer of dependency on your employer and can exacerbate the workers' isolation which is characteristic of the domestic and care sector. Dependency on

¹ Eurostat: Low pay is classified as earning less than two-thirds of national median hourly earnings.

² Collins, M.L. (2015), 'Earnings and Low Pay in the Republic of Ireland: a profile and some policy issues' NERI Working Paper, 2015/ No. 29. Dublin, The Nevin Economic Research Institute.

the employer for the provision of income, food and accommodation coupled with this isolation significantly limits the worker’s ability to advocate for their entitlements. This can often result in workers fearing to advocate for their rights and can result in breaches of employment law being tolerated.

‘Live-in’ workers are very clear that their place of employment is not their home and as such its value should not be linked to the market rates. They and MRCI reject calls to align the value of board and lodgings deductions to increasing rent prices. It must be emphasised that what is on offer is sometimes a room within a house, sometimes a shared room with the children. The standards offered vary considerably. Living in with an employer is not the same as renting accommodation independently with a separate space with full autonomy and control over ones living space and food arrangements. The fact that the standards for board and lodgings is not currently defined or governed by standards is also a serious gap.

There is a lack of enforcement of rights and a lack of standards in the private home. Many domestic workers cite issues in relation to the quality of accommodation such as:

- No private space/sharing with the children
- Always on call for the children
- No access to the internet
- Limited use of the washing machine
- Limited use of hot water
- Where a separate room is provided lack of privacy is cited as a concern

In relation to the food provided complaints include:

- the denial of certain types of food
- no input in what type of food is consumed
- additional costs are borne by the worker to meet dietary requirements
- no option to opt out of the food arrangements
- no option to cook for oneself

Deductions for Board and Lodgings

At the time of the introduction of the National Minimum Wage, the interdepartmental group report recommended that deductions for board and lodgings should be given a monetary value. However, it was agreed that such deductions should not be linked to the market value; instead the figures were reached by the Joint Labour Committee on Hotel & Catering. The agreed deductions adopted, which remain in place, are:

	Board	Lodgings	Board & Lodgings
Weekly Rate	€32.14	€21.85	€54.13
Daily Rate	€4.60	€3.14	€7.74

In keeping with this practice of we believe that the Low Pay Commission is not the proper forum to consider these issues as it goes beyond the scope of the Minimum Wage. Deductions are an issue of terms and conditions of employment. As such, a more appropriate forum for this issue to be examined is in the context of social dialogue and collective agreements.

Key factors that need to be considered

The MRCI believes that before making any recommendation to change the rates allowed for deductions in respect of board and lodgings more comprehensive research is needed on the numbers of low waged workers who will be impacted on by a change in the current rate.

An equality impact assessment should be conducted to measure the impact of any change in the rate on groups of workers in the sectors mentioned above, which consistently earn below the living wage rate of €11.50 an hour and under the agreed low-pay threshold (60% of median salary). Deductions should not result in already low-waged workers being further impoverished and at risk or at further risk (where minimum wage is not being earned) from earning minimum wage – a statutory entitlement.

Full consideration needs to be given to the specific impact on part-time workers as well as other workers with irregular working schedules.

The value of board and lodgings deductions should not be aligned to increasing rent prices.

We believe that parallel to the discussion in relation to an increase in the rates, the enforcement of employment standards and the National Minimum Wage in the concerned sectors must be a priority.

Board and Lodgings need to be defined and standards designed and implemented to govern such deductions.

Key recommendation

Considering all the above and given that any increase will impact most severely on low waged workers, MRCI propose that no increase is introduced at this time. Any such increase would result in some workers being at risk of earning below minimum wage – a statutory entitlement or some workers not currently in receipt of minimum wage of earning well below the minimum wage – a statutory entitlement.