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Tánaiste and Minister for
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Progress Update for the LEEF High Level Working Group on Collective Bargaining

Dear Tánaiste,

In my letter to you of 29 July I set out the Interim Report of the LEEF High-Level Group on Collective Bargaining and committed to providing you with a further progress update by the end of this month.

The Group has met twice since the submission of the Interim Report to you at the end of July and I have also held a series of bilateral engagements with the members.

This work has led to the development of three principles which could result in meaningful reform of collective bargaining and industrial relations in the State. These are:

Principle One – Joint Labour Committees

The Group recognises that the legislative intention as set out in the Industrial Relations Act 1946 and updated in the Industrial Relations (Amendment) Act of 2012, is for the Joint Labour Committee (JLC) system to operate effectively as a mechanism to promote the sectoral regulation of pay and conditions through agreement.

The Group acknowledges that the JLC system is not now functioning optimally in this capacity. In light of this, the Group will explore options to incentivise employer engagement with a modern, evidence-based and consensus- focussed JLC system, responsive to the economic environment, which can ensure this important sectoral bargaining mechanism operates effectively.

Principle Two – Referral of Disputes to the Labour Court under Part 3 of the Industrial Relations (Amendment) Act 2015.

The Group intends to address some of the challenges encountered by parties referring disputes to, or defending disputes at, the Labour Court under Part 3 of the 2015 Act. In particular, the Group will examine the provision of expert means to assist the Labour Court in independently assessing and verifying economic and comparator data for the parties.

Principle Three – Good Faith Engagement at the Enterprise Level

The current wording of the Draft EU Directive on the Minimum Wage includes a requirement for Member States, where collective bargaining coverage is less than 70%, to provide for a framework of enabling conditions for collective bargaining and the establishment of an action plan to promote collective bargaining.

This sits alongside growing European and International legal and policy momentum towards re-examining how employers and trade unions engage on matters of mutual interest.

The Group is also cognizant of a global trend towards incorporating strong environmental, social and corporate governance into business models.

Taking account of these developments, whilst at all times remaining conscious of the voluntarist framework of industrial relations in Ireland,

The Group will explore a means to promote good faith engagement between employers and workers at the level of the enterprise, where a substantial proportion of employees are represented by a trade union and without prejudice to any outcome of such engagement.

The careful drafting of these principles reflects the challenging and complex nature of Ireland's voluntarist industrial relations tradition. Delivering outputs which would restore the JLC system to its intended operation, assist parties in bringing disputes to the Labour Court and ensure good faith engagement between workers and employers, would be very significant progress.

It should be acknowledged that reaching agreement on these outputs is difficult for both trade union and employer representatives. That being said, it is the stated intention of the Group to develop these principles into concrete actions which will form the basis of a final report to you as soon as practicable. To assist in this process, the Group will have recourse to research prepared for it by the Secretariat to the National Economic and Social Council (NESCC) along with access to an expert in Constitutional and Employment Law.

The Group is also aware that its Terms of Reference commit to consulting with all relevant stakeholders at appropriate times and I believe that this should now proceed on the basis of

the three principles set out above. This focused stakeholder consultation, organised and facilitated by the Chair, will be conducted within a four-week period and the outcomes will feed into the Group's deliberations before agreeing a Final Report which will be submitted to you for consideration by Government. If this is not possible before the end of this year, it will be as early as possible in 2022.

I am available to arrange a meeting with you should you consider it useful to discuss any elements of this progress update or the work of the Group in more detail.

Yours sincerely,

Prof Michael Doherty
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