



Joint Committee on Bogus Self-Employment

Thursday, 28th March 2019

**Opening Statement by Jean Winters
Director
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My name is Jean Winters and I am the Director of the Industrial Relations & Employment Services at the Construction Industry Federation (CIF). I wish to thank the joint committee for the invitation to attend to contribution to the discussion on *bogus self-employment*.

The construction industry comprises of a number of sub-sectors i.e. general contracting, civil engineering, mechanical and electrical contracting, house building and specialist sub-contracting. Contractors operate in the public and private sectors in the industrial, commercial and residential/domestic markets. The industry is based on a system of tendering and contracting. In general terms, a main contractor tenders for and is awarded a contract and the various elements of the contract are sub-contracted to specialists to complete. In the domestic market, contractors/specialist sub-contractors are frequently engaged directly by the consumer. The industry currently employs approximately 144,000 workers, including professionals such as architects, engineers, quantity surveyors, project managers, site supervisors, and site workers such as foremen, craft persons, general operatives and apprentices. Workers in the industry are mobile by nature and must travel from site-to-site in accordance with the needs of the industry.

CIF is the representative body for contractors and employers in the construction industry. Our members employ substantial numbers of construction workers and we have a strong focus on training apprentices and general operatives to ensure that employees have the necessary skills and expertise to deliver a quality product. Workers in the industry are covered by the Sectoral Employment Order (Construction Sector) 2017. This SEO, which CIF applied for, sets legally binding hourly rates, pensions and sick pay for workers in the industry. CIF negotiates terms and conditions for construction workers with ICTU under the Construction Industry National Joint Industrial Council, a body which is chaired by the Workplace Relations Commission (WRC).

The majority of firms in the industry are SME's, employing less than 10 people. These firms are engaged in general contracting or specialise in a discipline such as groundworks, bricklaying, formwork, plastering, electrical or mechanical work, or painting and decorating. These workers move around from site-to-site as work dictates. Varying numbers and categories of workers will be engaged on any site depending on the size of the contract, the nature of the work, etc.

CIF is supportive of and promotes the current guidelines on the classification of workers, a document which was drawn up by a Government-appointed expert group in 2001 and updated in 2007. CIF is also supportive of the inspectorate regime engaged in by the Department of Employment Affairs and Social Protection (DEASP), and the Revenue Commissioners to ensure the proper classification of workers. We are also supportive of the work of the WRC with regard to the promotion of and compliance with all relevant employment legislation. Indeed, we have recently requested a meeting with the Compliance and Enforcement Division within the WRC to discuss measures to ensure compliance with the SEO. CIF was also an active participant on the Hidden Economy Monitoring Group which was chaired by the Revenue Commissioners.

The CSO provides data on the total number of workers employed in the construction industry, the number of self-employed with employees and the number of self-employed with no employees. The latest data (Q3 2018) confirms the following:

Total numbers employed in the industry	144,000
Of which:	

Self-employed with employees	14,600
Self-employed with no employees	31,900

Sub-contracting is a feature of the construction industry. The industry is heavily dependent on sub-contractors who specialise in a specific discipline. The self-employed may require employees depending on the size of the contract, the segment of the market he/she is operating in or the workload at any given time. Unions in the construction sector have been vocal about their concerns regarding the perceived level of *false self-employment* in the construction industry. Recent reports on the mis-classification of workers do not bear out the unions' concerns.

In August 2018 the ESRI published research on "Measuring Contingent Employment in Ireland". The ESRI looked at the prevalence of self-employed with no employees in several sectors and concluded it remains a relatively minor component of the Irish labour market, accounting for a little over 2% of total employment in 2016.

In January 2018 the Department of Employment Affairs and Social Protection, in conjunction with the Department of Finance and the Revenue Commissioners, published a report on the implications for social insurance and tax receipts of intermediary employment structures and self-employment arrangements. The report noted that available data does not indicate that self-employment accounts for any significant increase of the labour force. It also noted how the available data indicates that the proportion of self-employed people in the workforce generally is decreasing. In response to submissions received, a Construction sub-Group was set up to examine issues relating specifically to the construction industry. The report concludes that the Revenue Commissioners and Department of Employment Affairs and Social Protection are actively pursuing non-compliance and *"are successfully encouraging and enforcing compliance in the cases selected where non-compliance is an issue"*.

In May 2018 the Department of Employment Affairs and Social Protection launched a media advertising campaign to highlight the issue of "bogus self-employment". Individuals who believed they were in a false self-employment situation were invited to make an application to the Department for an assessment of their employment status. It is our understanding that, despite the concerns expressed publicly by the trade unions into the perceived prevalence of false self-employment, the level of direct contact with the Department's Scope Section from individuals as result of the campaign was low.

Self-employment, on condition that it applies in accordance with all relevant guidelines, provides flexibility to all parties concerned. It provides an opportunity for an individual to set up in business and to grow and create employment. It has been one of the key factors supporting employment recovery and growth in the economy. Current data indicates that the current level of self-employment in the construction industry is at similar levels to that which pertained in 2006 / 2007 (pre-recession). There is no evidence to suggest that there is a high level of false self-employment in the construction industry. Any new measures in this area, based purely on anecdotal evidence and without concrete data to support their introduction, would introduce undue rigidity into the sector, thereby stifling the industry's ability to grow and to create employment.

In conclusion, CIF is supportive of compliance with all statutory provisions, including employment protective legislation. We support the work currently undertaken in this area, both jointly and separately, by the various State bodies with powers to enforce compliance. No data is available to support claims by some unions in the construction industry of high levels of bogus self-employment in the sector. Any new measures which would unnecessarily introduce rigidity into the industry would be a retrograde step and hinder the industry's ability to grow and create employment.

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