Note on Clarifications re: Security ERO

1. *'The Report does not identify the legitimate interests of all members and workers likely to be affected by the proposals or set out in what way the Committee had regard to same when adopting the proposals.'*

The legitimate interest of employers and employees lie in the sustainability and stability of the sector in which the interests of each – businesses and workers – is vindicated. It is the original rationale of the Joint Labour Committee:[1]

- The payment of a living wage
- The distinction between healthy and unhealthy conditions of bargaining
- The vulnerability of good employers
- The '*condition of progressive degeneration*'

The legitimate interests of both employers and employees on these issues intersect. In the absence of the Joint Labour Committee and orders flowing from that body, there is a risk that wages will decline given the lack of a sectoral wage floor – forcing employees on to wage levels which heighten the risk of poverty and deprivation (it should be noted that 11.4 percent of those in work, and 20 percent of one-income households, are officially described as living in deprivation).[2]

The impact on employers is, first, the inability to recruit and retain staff given a decline in wages. This creates supply-side bottlenecks as firms' ability to produce their services is undermined by inability to staff those services. This is already occurring as SIPTU is aware that employees are being paid to recruit people. Higher turnover of staff incurs additional recruitment and training costs for employers. Second, having to compete with what can be called 'low-road' employers (employers that use wage devaluation as a tool as part of their business model) can further exacerbate recruitment and retention issues.

The impact on consumers is similarly negative as the sector suffers from instability, unable to attract staff, incapable of meeting demand, which can have the perverse effect of driving up prices as demand outstrips unstable supply. Consumer lack of confidence in the sector to deliver goods and services necessarily impacts negatively on enterprises.

The state and therefore the wider economy also have a legitimate interest. Low-road employers are able to externalise costs on wider society: low wages result in reduced tax revenue and increased social protection expenditure (e.g. Working Family Payment). Firms also externalise costs on to other firms through their employees' reduced purchasing power; this hits firms dependent on that purchasing power. And in all this, low-pay, low-road firms externalise their costs on to their own employees who pay through reduced living standards. All this undermines

The legitimate interests of employee, employers, consumers and the state are damaged from the lack of an agreed and robust wage floor. The task of the Join Labour Council is to balance those interests. SIPTU believes the proposed ERO does just that – it helps to ensure a living wage for

[1] "Hansard Series 5, Vol 4, col 388". 28 April 1909.
[2] CSO: https://statbank.cso.ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=SIA12&PLanguage=0 and https://statbank.cso.ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=SIA17&PLanguage=0

employees, provides stability for employers, removes potential supply-side bottlenecks and ensures the sector can meet consumer demand, and limits the externalities on to employees, employers, consumer and the wider economy.

2. *'The Report does not identify with enough clarity the legitimate financial and commercial interests of employers and once identified go on to consider how they might be likely to be affected by the proposals.'*

The legitimate financial and commercial interests of employers revolve around three things: profitability, cost reduction, and sectoral / firm stability. The proposals do not impede the profitability of firms as the benefit of a sectoral wage floor is that no firm suffers discrimination; all firms are on the same wage-paying pitch. A one percent increase in employee compensation across the entire sector has a 0.6 percent impact on turnover. This would increase a unit of sales worth €100 by 63 cents[3].

However, this should be caveated by two factors. First, this assumes a one percent across the board, including managerial staff and, in some cases, owner-managers. Second it doesn't factor in the reduction in recruitment and retention costs owing to the higher wage. Third, there is nothing to suggest that pay increases impact harder on smaller firms. Small businesses (less than 50 employees) experienced the highest level of enterprise creation. Finally, it doesn't factor in increased productivity (turnover or value-added per employee rising faster than employee compensation per employee). Between 2012, when the recession bottomed out, and the latest year we have data for – 2018:

- Sector-wide value-added increased by 36.9 percent while sector-wide employee compensation (personnel costs) increased by 20.7 percent
- Labour productivity (gross value-added per employee) increased by 19.4 percent while personnel costs per employee increased by 4.5 percent[4]
- Employment has increased by 11.3 percent

This shows wage increases being paid for by increases in productivity as value-added outstrips personnel costs on both the sectoral and per employee level. SIPTU contends that the pay increase envisaged by the ERO submission would not undermine the sector or individual firms given the rise in productivity. The pay rise envisaged in the ERO submission would constitute a catch-up.

- Between 2018 3rd and 2020 2nd quarter, economy-wide wages rose by 10.8 percent (seasonally adjusted)[5]
- In this same period, there were no wage increases under the ERO in the security sector

[3] Eurostat: https://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=sbs_na_1a_se_r2&lang=en . Employee compensation (personnel costs) makes up 63 percent of turnover across the sub-sector, private security services. Data regarding value-added, personnel costs, productivity, enterprise size and employment reproduced below come from this database.
[4] This should be treated with some caution as it measures employee compensation per employee. However, it doesn't measure per hour so the composition of working time could produce different numbers. Nonetheless, any changes would not be significant as working hour patterns in the sector have remained broadly the same.
[5] CSO: https://statbank.cso.ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=EHQ03&PLanguage=0

In the Government's budget papers, compensation per employee is projected to increase by 2.9 percent in 2020 and 1.2 percent in 2021. Over this two year period, the Government projects employee compensation per employee to grow by 4.1 percent.[6]

(a) Impact of Covid-19 and Brexit

The employers have argued that the Covid-19 pandemic and the prospect of a no-deal Brexit has created conditions in which they cannot afford pay increases. We addressed this in a previous submission. The problem is that the employers have not advanced any evidence as to how these two events impact at sectoral level. For instance, Bidvest stated:

> *'The impact of COVID-19 is being felt by all sectors of the economy, and all economic projections point to our economy heading into a significant and prolonged recession.'*

However, the evidence suggests otherwise. First, not all sectors or firms have been negatively impacted. In the CSO's latest *Business Impact of Covid-19 survey*[7] 50.7 percent of business report either normal or higher than normal turnover. This would be higher among non-tourism/hospitality businesses.

Second, no one is predicting a 'prolonged recession'. The Government's recent budget projects growth to return in 2021.[8] The second lockdown will impact on this but it will only delay the beginning of the recovery from later this year to the beginning of next year.

The employers not only relied on global statements which failed basic evidentiary tests, they put forward no evidence of negative impact at sectoral level. There is no doubt some impact would have been felt. However, SIPTU would argue that as security services work, in the main, for large industrial and commercial concerns, the impact would be limited.

Further, a number of companies offering security services do not appear on the Revenue Commissioner's list of companies accessing the subsidies under the Temporary Wage Subsidy Scheme (TWSS).[9] This would suggest such companies did not suffer the minimum 25 percent turnover loss to qualify for the TWSS. For example, Securitas, Bidvest Noonan, Synergy Security, and Securitas do not appear on the Revenue list under those trading names. This is not an exhaustive list; however, the employers could provide a list.

Further, for those companies accessing the TWSS, the subsidies under the scheme would cover most of their operating costs due to the fact that the sector is labour-dense. Therefore, the subsidy would have a greater benefit for such companies than companies in other sectors which are less labour-dense.

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[6] Budget 2021 Economic and Fiscal Outlook: http://www.budget.gov.ie/Budgets/2021/Documents/Budget/201020_Budget%202021_Economic%20and%20Fiscal%20Outlook_A.pdf

[7] CSO: https://www.cso.ie/en/releasesandpublications/er/bic19/businessimpactofcovid-19survey27julto23aug2020/

[8] See footnote 6

[9] Revenue Commissioners: https://www.revenue.ie/en/corporate/press-office/press-releases/2020/pr-301020-revenue-publishes-list-of-employers-who-received-payments-under-twss.aspx

If there has been a negative impact on the sector from Covid, as part of legitimate and financial interests, it is up to the employers to establish this case. To date, they have chosen not to. This may be due to the fact that the pandemic has not negatively impacted the sector to any significant extent.

A similar perspective can be applied to the impact of Brexit. It is difficult to see how this would impact on the sector to any significant extent. The sector is reliant upon domestic activity though there could be some impact on contracts with firms that are UK export facing. However, it is, in the first instance, up to employers to produce the evidence that Brexit can or will impact so negatively on the sector that it necessitates a suspension of the ERO.

3. *'It is not made clear to the Court why the levelling of wages maintains competitiveness in the sector.'*

An ERO does not represent a levelling of wages; it represents a wage floor. Wage can vary either through collective bargaining, efficiency wages or the impact of diminishing supply of labour (usually as a result of poor wages and working conditions). It is this wage floor that '*maintains competitiveness*'.

There is no single definition or description of 'competition'. Governments utilise regulation to achieve the type of competition desired. For instance, a low-road competitive model allows for wage devaluation which allows firms to externalise costs on to other actors, including employees (as outlined above). This leads to a '*condition of progressive degeneration'* as referred to above.

'A high-road competitive model ensures that firms compete in a manner that increases value-added and wages, with positive spill-over effects on the rest of the economy and the Exchequer (higher growth, wages, tax revenue, purchasing power and demand). In this model, firms focus on service quality, efficient allocation of resources, customer relations, investment in training, attracting labour through improved conditions, etc. This creates more resilient and long-term successful firms.

The choice is not whether there is competitiveness, but what kind of competitiveness.

End.