

FAO the Labour Court

21st May 2021

By email only

Re: Early Years Service Joint Labour Committee Draft Establishment Order

Chair and members of the Court,

I refer to the notice of Intention on 27th April 2021 to hold an inquiry into an application to establish an Early Years Service Joint Labour Committee pursuant to section 38 of the Industrial Relations Act, 1946.

Ibec recognises that pay is a substantial issue in moving the Early Years sector forward and stability, through improved terms and conditions, is to be welcomed. Any such improvement is desirable, not just for employers and employees, but particularly for children within the remit of the sector. Ibec continues to engage positively in the establishment of a Joint Labour Committee as a mechanism to improve pay and conditions of employment in the Early Years Sector.

However, Ibec wish to make an objection to the Draft Establishment Order as published, specifically in relation to the two sections contained within the Schedule in order to ensure that the sector and the workers to whom it applies are adequately and appropriately reflected within the Draft Establishment Order.

1) The Sector

Ibec are seeking to amend the wording within this section to reflect the interpretation of the Child Care Act 1991 (as amended) as follows (marked up version at appendix 1 and clean version at appendix 2)

- I. Inclusion of "**Early Years**" and "**that**" and omission of "**provider**" and "**who**"
- II. Amendment of "**six**" to the numerical "**6**"
- III. Omission of "**semi-colon**" and replacement with "**and**"
- IV. Omission of "**a service providing**" and addition of "**the**"

V. Omission of reference to ***“service”*** or ***“service provider”*** and replacement with ***“person”***

VI. Omission of ***“a”*** and inclusion of ***“that”***

2) Workers to whom the Order applies

Ibec are seeking to draw a distinction between those workers who are wholly or mainly in direct contact with children with those in managerial and supervisory roles who may have varying degrees of direct contact with children. In this regard, Ibec are requesting that the draft establishment order is amended to reflect this distinction as follows:

Workers in the sector to whom the Order applies

Workers in the sector who are wholly or mainly in direct contact with children and who are involved in the education and/or care of children, and managerial and supervisory workers.

The above amendment consists of the addition of ***“comma and”*** after *education and/or care of children* in the draft establishment order and the omission of ***“including”***.

Yours sincerely,



Darragh Whelan
Director, Childhood Services Ireland, Ibec

APPENDIX 1

Marked version

SCHEDULE

The sector

The sector comprises any **Early Years** service provider ~~who~~ **that** provides:

any pre-school, play group, day nursery, creche, day-care or other similar service providing service to children who have not attained the age of **6** ~~six~~ years and who are not attending a recognised school within the meaning of the Child Care Act 1991

And

any early years service, play group, day nursery, crèche, day-care or other similar service which caters for children under the age of 15 years enrolled in a school providing primary or post-primary education and which provides a range of activities that are developmental, educational and recreational in manner outside of school hours; **and** the primary purpose of which is to care for children where their parents are unavailable, and the basis for access to which service is made publicly known to the parents and guardians of the children but excluding services solely providing activities relating to the Arts, youth work, competitive or recreational sport, tuition, religious teaching;

The sector does not include ~~a service providing~~ **the** care of one or more children undertaken by a relative of the child or children or the spouse of such relative; ~~a service~~ **a person** taking care of one or more children of the same family and no other such children (other than the ~~service provider's~~ **person's** own children) in ~~a~~ **that** person's home or ~~a service~~ **person** taking care of not more than 6 children, of which not more than 3 are pre-school children, of different families (other than the ~~service provider's~~ **person's** own such children) at the same time in ~~a~~ **that** person's home.

Workers in the sector to whom the Order applies

Workers in the sector who are wholly or mainly in direct contact with children and who are involved in the education and/or care of children, **and** ~~including~~ managerial and supervisory workers.

APPENDIX 2

Clean version

SCHEDULE

The sector

The sector comprises any Early Years service that provides:

any pre-school, play group, day nursery, creche, day-care or other similar service providing service to children who have not attained the age of 6 years and who are not attending a recognised school within the meaning of the Child Care Act 1991

And

any early years service, play group, day nursery, crèche, day-care or other similar service which caters for children under the age of 15 years enrolled in a school providing primary or post-primary education and which provides a range of activities that are developmental, educational and recreational in manner outside of school hours and the primary purpose of which is to care for children where their parents are unavailable, and the basis for access to which service is made publicly known to the parents and guardians of the children but excluding services solely providing activities relating to the Arts, youth work, competitive or recreational sport, tuition, religious teaching;

The sector does not include the care of one or more children undertaken by a relative of the child or children or the spouse of such relative; a person taking care of one or more children of the same family and no other such children (other than the person's own children) in that person's home or a person taking care of not more than 6 children, of which not more than 3 are pre-school children, of different families (other than the person's own such children) at the same time in that person's home.

Workers in the sector to whom the Order applies

Workers in the sector who are wholly or mainly in direct contact with children and who are involved in the education and/or care of children, and managerial and supervisory workers.