

COMMERCIAL ENGLISH LANGUAGE

EDUCATION SECTOR

REPORT OF MEDIATOR

TO

MINISTER MARY MITCHELL O'CONNOR T.D.

**Patrick King
Mediator
27 June 2019**

SUMMARY AND RECOMMENDATION

“Teachers in my school have no complaints”. I do not doubt the sincerity of the English Language school provider who made this statement at the general meeting of English Language school providers and owners held in Dublin on 28 February 2019. However, as can be seen from Appendix 1 and 2 to this report, there are also school providers who believe that there are legitimate grounds for serious concerns about the manner in which some English Language schools operate and how employees in such schools are treated.

Appendix 2 contains an accurate reflection of the views of school employees. While there are a small number of positive comments from teachers about their experiences of working in this sector, the great majority are highly critical of the working conditions in English Language schools.

Many thousands of students travel from all over the world to attend English Language courses in Ireland. This, to a great extent, is due to the excellent standing Ireland has as an education provider. However, this reputation is fragile and is damaged each time an English Language school closes at short notice. It is also damaged when there is evidence that school employees are poorly paid and have unfair working conditions. Teachers in the schools state that low staff morale is commonplace and some cite examples of high levels of stress and distress caused by their poor working environment.

Based on what providers/employers and employees have stated through the mediation process, it is essential that minimum employment standards are put in place for the sector. For such standards to be effective they must have a legislative basis. Adherence to such minimum standards should be a prerequisite for the awarding of, or indeed the retention of, the IEM quality mark envisaged in the QQA Bill currently before the Oireachtas. Statutorily based minimum employment standards would protect employees and would prevent schools from undercutting each other through the use of lower standards.

All of the employees who communicated during the course of this mediation process asked that minimum employment standards would be put in place. The ICTU and the two trade unions active in the English Language sector (UNITE and SIPTU) strongly support a process that would result in a ministerial employment order that would create minimum employment conditions with legal force. The preference for the trade unions is that this should take the form of a Statutory Employment Order (SEO).

At the general meetings of over ninety employers/providers held in Dublin, Cork and Galway there was little evidence of a desire for statutorily based minimum working conditions. However there was a strong desire expressed by employers for a strict accreditation regime for schools with adherence to common standards being consistently applied to all schools. Progressive Colleges Network (PCN) who represent eight schools, engaged in the mediation process and agreed that minimum employment standards should exist for schools and that these should have a statutory basis through a Sectoral Employment Order (SEO) or an Employment Regulation Order (ERO) arrived at via a Joint Labour Committee (JLC). Independent Language Schools Group (ILSG) which is an informal grouping of fourteen language schools, engaged in the mediation process and agreed that should a statutory process (eg SEO or JLC) be established they would engage with this.

Marketing English Ireland (MEI) engaged in the process and stated that they are committed to supporting and working collaboratively with the Department of Education and Skills in exploring an appropriate method for enhancing employment terms across the sector. To this end, MEI is convening an EGM of its members in order to change its Constitution so that members can be balloted on engagement by MEI in a representative role in sectoral collective bargaining under the auspices of industrial relations legislation. MEI states that it is fully committed to an agreement on an appropriate method for enhancing employment terms across the sector.

I have been requested by the Minister to engage with employers and employees in English Language schools in order to explore the scope for a statutory agreement on minimum standards of employment in the sector. Having engaged extensively with the relevant stakeholders and noting their positions as set out above, I make the following recommendation:

Recommendation:

I recommend that the Minister for Business, Enterprise and Innovation applies to the Labour Court to establish a Joint Labour Committee (JLC), in accordance with industrial relations legislation, to address all aspects of the working conditions and pay of employees in English Language schools with a view to the issuing of an Employment Regulation Order (ERO) for the sector.

I make this recommendation having noted:

- the expressed wish of employees and their trade union representatives (ICTU, UNITE, SIPTU) that statutory minimum working conditions should be established for the sector;*
- that employer bodies PCN and ILSG support engagement in negotiations on statutory minimum working conditions*
- and that employer body MEI is convening an EGM of members with a view to facilitating a ballot on engagement in a statutory process leading to minimum employment conditions.*

I further recommend that the stakeholders who participated in the mediation process (MEI, PCN, ILSG, ICTU, UNITE, SIPTU) be invited to participate in the JLC when it is established.

BACKGROUND

Language School Closure

On 3rd December 2018 Grafton College Dublin, a private English Language school, closed without giving notice to either employees or students. More than twenty teachers and other employees of Grafton College became unemployed and were owed several weeks pay. Over 400 English language students were left without tuition although within weeks, most were placed in other MEI (Marketing English Ireland) affiliated schools. This school closure was the latest in a series of English Language school closures over the past two years.

Mediator

On the 5th December 2018 Higher Education Minister Mary Mitchell O'Connor TD advised Seanad Eireann that the problems facing teachers at Grafton College had exposed weaknesses in safeguarding fair and transparent pay and conditions of employment for staff in the English Language school sector generally. The Minister advised the Seanad that she intended appointing a mediator to meet with representatives of employers and employees in the sector to explore the potential for a registered employment agreement to be developed and registered with the Labour Court in order to regulate the pay and working conditions of employees in the sector.

On the 19th December I had a meeting with the Minister and on 13th January 2019 the Minister announced my appointment as mediator. The terms of reference of the mediator were defined as *'engaging with bodies representing providers/employers and employees in commercial English Language schools to explore whether there is scope for a set of minimum employment standards to be agreed that could lead to a Registered Employment Agreement for the sector'*. The Minister's key stated objective was *'to ensure that Ireland has an English Language Education sector that we can all have confidence in and which provides a quality education to international students coming to Ireland to learn English. Staff, not least teachers, are obviously a central element in ensuring the quality of that education provision'*.

Q.Q.A. Bill

The appointment of a mediator took place in the context of the Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018 which was progressing through the Oireachtas. The Bill proposes new powers to regulate the English Language Education Sector and includes the awarding of an IEM (International Education Mark) for English Language and Higher Education providers. The Bill also proposes scrutiny of the corporate fitness of education providers. As the Bill progressed through Seanad Eireann, amendments were added linking the awarding of the IEM to standards of employment in English Language schools.

Minister's Letter to Schools and Stakeholders

On 11th January the Minister wrote to 119 English Language Schools and to relevant stakeholders including ICTU, Unite the Union, SIPTU, IBEC, MEI (Marketing English Ireland) and PCN (Progressive Colleges Network). In her letter the Minister stated that she had appointed a mediator to explore the scope for a set of minimum employment standards to be agreed that could lead to a registered employment agreement for the sector. Recipients were invited to participate in the mediation process.

MEI responded to the Minister's letter on 16 January stating that they wished to make a submission and to engage with the mediator. Nine schools responded stating that they supported the initiative; one school responded stating that they were 'not interested' in the process. ICTU and Unite the Union had earlier written to the Minister seeking ministerial intervention in the sector.

EMPLOYEES

Communication with Employees

Throughout the mediation process I have received written communications from or met with, over 100 teachers who are employed in the English Language school sector. As it was not feasible to meet with teachers in their places of work, I arranged to visit the Annual Conference organised for teacher practitioners by English Language Teachers Ireland (ELT Ireland) held in Griffith College Dublin on 16 February. My role as mediator was explained to the attendees and I circulated a letter to them inviting individual submissions. I wish to express my thanks to the officers of ELT Ireland for facilitating this.

Appendix 2 to this report sets out the wide range of issues and concerns raised with me by the teachers. There were some positive comments from teachers about some employers and about some of the working conditions they experience. However the overwhelming view of the teachers who communicated with me regarding their working conditions was negative and highly critical.

Most of the teachers expressed concerns about the precarious nature of their employment. As a large number of schools have closed in recent years, often giving little or no notice to staff, lack of employment security is a concern for many. Teachers also complained about the uncertainty of their teaching hours, inadequacy of their contracts, low pay, lack of payment for non-teaching work and absence of leave entitlements.

Many teachers referred to low morale amongst the staff of the schools. They referred to lack of appreciation for their work. Some complained about poor communications and high levels of stress. There were some who praised their employers and said that they had been treated with respect. However in general, teachers felt they were not being treated as professionals who were providing a good service for their students.

ICTU

Following the closure of Grafton College, Patricia King the General Secretary of ICTU wrote to the Minister raising concerns about the position of the Grafton ex-employees.

As Mediator, I met with Patricia King and ICTU senior official Liam Berney on 9 January. ICTU confirmed that they were happy to engage in the mediation process in the interests of all employees in English Language schools. They expressed concerns about the immediate problems being experienced by the Grafton College staff including loss of pay and loss of redundancy entitlements.

ICTU stated that most employees in English Language schools were in precarious positions with poor working conditions; that there was no consistent regulation of the sector and no standards for employee treatment.

ICTU saw the ultimate solution for employees in the sector as the making of a Sectoral Employment Order (S.E.O.) covering pay, leave entitlements, pension etc. Such an order with minimum standards would prevent schools from undercutting each other. ICTU also stated that a levy/bond system if applied to all schools would guarantee some payment to all employees in redundancy situations.

On 25 February ICTU wrote formally to me as mediator repeating that many English Language School employees work in precarious positions. ICTU proposed that the Labour Court should be requested to conduct an investigation into the terms and conditions of the employees and that subsequently the Minister could make a Sectorial Employment Order on working conditions.

At a further meeting held on 19 March ICTU reiterated its position in this regard.

SIPTU

On 6 February a meeting was held with SIPTU senior officials Karl Byrne and Adrian Kane. They made clear SIPTU's ongoing concern about the lack of a standard accreditation model for English Language Schools. SIPTU's English Language School membership is mainly confined to University Language Schools eg DCU English Language Services, however, SIPTU also has some members in the wider commercial English Language sector.

SIPTU stated that industry wide school accreditation would help to ensure better and more consistent employment standards. SIPTU's view was that employment standards throughout the sector are poor and that use of an SEO would be the most effective means of protecting the interests of employees.

On 13 February a meeting was held with a number of SIPTU members who had experience of English Language teaching in a number of schools. They stated that pay rates in the sector varied between 13euro and 24euro per hour. They were aware of many teachers who were planning to leave the sector because of the poor wages and working conditions. They gave examples of some schools not paying legally required holiday pay to employees. Redundancy was a threat for all English Language teachers. They also expressed concerns about the lack of consultation with teacher practitioners in the drafting of the QQA Bill.

On 11 March SIPTU formally wrote to the mediator confirming that an SEO would be the most desirable way of protecting English Language school employees. SIPTU also stated that the current 'light touch' regulation of schools needs to be replaced by a robust and consistent regulation system. This position was confirmed at a further meeting with SIPTU held on 19 March.

UNITE

UNITE initially wrote to the Minister for Education and Skills on 5 December 2018 to raise the issue of the closure of Grafton College without any prior notification to the staff employed there. UNITE stated that this was the second such school to close in 2018 and pointed out that the workers now faced extreme hardship.

Meetings were held with officers of UNITE English Language Branch on 4 January and with UNITE senior officials Brendan Ogle and Davy Kettyles on 11 January. At these meetings UNITE raised a range of issues including the following:

- lack of professional recognition for English Language Teachers
- lack of employment security and certainty of teaching hours
- pay inconsistencies and lack of leave entitlements
- inconsistency and uncertainty of employees' contracts.

UNITE representatives stated that they were the trade union with the greatest number of members in English Language Schools although it was accepted that some teachers were not members of any trade union. They said that there had been cases of victimisation of employees because of their trade union membership.

UNITE stated that the English Language school sector was to a great extent unregulated and that the closure of so many schools was damaging the international reputation of the country. They said that strong Government intervention was now required to regulate language schools strictly and that the Minister should use powers to impose an Employment Regulation Order (ERO) to set minimum employee working standards.

On 20 February a meeting was held with six members of UNITE who were currently employed as teachers in English Language schools. They gave first hand examples of their employment experiences (some of which are contained in appendix 2 to this report). They stated that teachers in English Language schools are highly motivated and professional, and that the 'industry' has the potential to be highly successful. Employment security varies from school to school with some teachers employed in the same school for over 15 years whereas other schools have 'revolving doors' for teachers.

The teachers argued that the new IEM must enforce best practice with inspection of administration, ownership and finances included. They said that some schools were models of best practice with clear and transparent pay policies and scales. However the great majority of teachers are unhappy with their pay rates and only a fifth of teachers are paid for non-teaching contact duties eg preparation time. Some schools provide limited paid sick leave entitlements and only about 5% arrange pension facilities for staff. They estimate that as a result of these conditions, half of the teachers intend leaving the sector.

A further meeting was held with UNITE senior officials on 1 April at which they reiterated their belief that a Sectoral Employment Order (SEO) was the best mechanism for dealing with minimum employment conditions for the sector.

EMPLOYERS / PROVIDERS

Meetings with Employers/Providers

There is no single employer body which represents all English Language Schools in matters of industrial relations with employees. At a meeting on 6 February MEI (Marketing English Ireland) explained that it was not within the remit of MEI to deal with industrial relations issues as MEI's main role was in the development of the foreign language student market in Ireland. In the light of MEI's stated position and in order to open communications with employers, I decided that general meetings of English Language school owners/providers would be held in Dublin (26 February), Cork (4 March) and Galway (5 March). A total of 92 representatives of owners/providers from all parts of the country attended these meetings. Appendix 1 to this report includes a list of the issues raised and comments made at these three general meetings.

Progressive Colleges Network (PCN)

Progressive Colleges Network is a representative body for private English Language colleges in Ireland. It has a membership of eight colleges.

On 11 January the Minister wrote to PCN with an invitation to participate in the mediation process. On 30 January PCN wrote to the mediator stating that its schools employed in excess of 350 staff and provided tuition for 3,000 students annually. On 1 February I wrote to PCN requesting a meeting and on 1 February PCN responded positively to this request. On 4 February I met with David Russell the chairperson of PCN. A further meeting was held with eleven representatives of PCN on 13 February.

At these meetings PCN representatives made clear their wish to participate in the mediation process and to fully engage in any negotiations on the development of minimum standards of working conditions in English Language schools. PCN expressed concerns and frustrations about the current school accreditation and inspection regime. PCN also stated that they had problems with the proposed Protection of Enrolled Learners' Fund as set out in the current QQA Bill. As an alternative to this, PCN proposes a comprehensive insurance policy which would protect each individual learner. PCN also suggested that an income protection insurance policy could offer staff members protection in the event of school closure.

A further meeting was held with four PCN representatives on 2 April. At this meeting PCN were briefed on all developments thus far. I presented in specific detail the range of comments and submissions I had received both from employees and from employers (see appendix 1 and 2). I set out what I thought the ultimate destination of the mediation process might be i.e. an agreement on minimum employment standards that could take the form of a registered employment agreement. PCN confirmed its support for and ongoing commitment to, the mediation process.

On 21 May, in a letter to the mediator, PCN stated that it was fully committed to improving standards in the English language sector and that it had a strict set of guidelines which member institutions are expected to follow. PCN further confirmed on 17 June that it remained supportive of the mediation process in its efforts to seek agreement on statutory employment regulations ie through an SEO or JLC. PCN also advised that it is currently negotiating insurance cover for the protection of staff involved in any school closure situation.

Independent Language Schools Group (ILSG)

At the general meetings of owners/providers of English Language schools held in Dublin, Cork and Galway, it emerged that there was a cohort of schools which were affiliated to neither MEI nor PCN. As it was important that all schools would be included in any ongoing communication relating to the mediation process, the unaffiliated schools who were in attendance at the Dublin, Cork and Galway meetings agreed to form an informal grouping which subsequently chose to identify itself as the Independent Language Schools Group (ILSG). This group designated Steven O'Dwyer to act on their behalf in mediation communications. There are now 14 schools represented by ILSG.

Immediately after each of the Dublin, Cork and Galway meetings, I met with the representatives of schools not affiliated to either MEI or PCN. These schools indicated their willingness to engage in the mediation process.

On 11 March I had a further meeting with four representatives of ILSG. At this meeting ILSG was briefed on all developments thus far. I presented in specific detail the range of comments and submissions I had received both from employers and from employees (see appendix 1 and 2). I set out what I thought the ultimate destination of the mediation process might be i.e. an agreement on minimum employment standards that could take the form of a registered employment agreement.

At that meeting ILSG stated that feedback they had received from their schools was that they should engage in the mediation process. A major concern for them was the absence of an accessible accreditation system for all schools. They also pointed out that the language school industry was evolving with an increase in year round schools as opposed to seasonal schools. An accreditation system must take account of this. One school made the point that while an employer/employee *“agreement would bring about more stability to the industry, all resources should be currently focusing on delivering the IEM”*.

In a submission sent on 22 March ILSG set out a list of their concerns:

- the ongoing inability of schools to apply for any form of national accreditation
- the absence of a national body for all schools in the industry
- the lack of insight that the Department of Education and Skills has into the industry
- the lack of clarity around the IEM and its role in the issue of employee contractual matters
- the lack of inspection of all schools.

On 22 March ILSG sent written confirmation that its schools were willing to proceed with the process of mediation in pursuit of agreement on minimum employment standards on condition that the other associations (MEI and PCN) also agree to proceed with the process.

Marketing English Ireland (MEI)

MEI is a company limited by guarantee whose objects include the marketing of Ireland as a centre for the teaching of English as a foreign language and developing projects to foster this market. There are 66 English Language schools affiliated to Marketing English Ireland. MEI has company offices in Dublin 7 and has a full time CEO (David O'Grady).

On 16 January MEI wrote to the Minister stating that they wished to make a submission to the mediator and to engage with him. On 30 January I rang the CEO in order to arrange a

meeting. This proposed meeting was to be discussed at the MEI board meeting set for 31 January. On 5 February I rang the CEO who stated that he would meet with me provided that it did not constitute formal engagement by MEI in the mediation process.

I met with the CEO on 6 February. He stated that the MEI position was that its role does not include industrial relations and employment matters, and that MEI was therefore currently not engaging in the process. Following this meeting I wrote to MEI confirming my understanding that MEI was not engaging in the process and requesting MEI to reconsider this position. I also requested that MEI would use its good offices to encourage its constituent schools to engage in the process.

In the light of the decision of MEI not to participate in the mediation process, on 17 February I wrote to all schools inviting owners/providers to attend meetings with me to be organised in Dublin, Cork and Galway.

On 22 February MEI wrote to me regarding the mediation process regretting the fact that *“as THE representative body for English language schools, MEI, was not given notice of this process prior to the public announcement”*. The letter further stated that MEI schools *“maintain the highest standards of professionalism, due diligence and care for their students and staff alike..... MEI prides itself on the standards of our schools and our teachers and we value the work our teachers undertake to ensure student success”*. The letter went on to refute the position expressed by the mediator in an earlier email to MEI that *“working conditions have a major bearing on morale and thereby can have a clear impact on the quality of the service offered by the English Language schools”*. Furthermore MEI refuted *“any suggestions that there are concerns in relation to work and employment conditions”*.

In this letter of 22 February MEI went on to state that they would now accept the invitation of the mediator to participate in the mediation process and looked forward to contributing positively and constructively. I responded on 22 February offering dates for an early meeting with MEI Officers. On 12 March MEI wrote to me offering a meeting on 27 March.

On 25 February MEI sent a 'positioning document' to its schools *“in anticipation of upcoming meetings between ELE providers and the state appointed mediator (Patrick King)”*. Inter alia this document stated:

- *this is the first meeting of the process, members are primarily there to listen, nothing will be decided on the first day of the process.*
- *MEI colleges are rigorously tested and inspected and must adhere to protocol that calls on them to maintain the highest standards of professionalism, due diligence and care.*
- *All schools operate within the Law including all applicable national employment law and adhere to the Organisation of Working Time Act.*
- *Schools fully understand their duty of care to all staff and value their teachers. Schools cannot operate without teachers so their reputation as employers is important.*
- *MEI strongly disagree that there are issues regarding pay and working conditions in the colleges.*
- *There is no staff morale issue within the colleges.*
- *Staff who join the Colleges to teach enjoy flexible arrangements that suit them.*
- *SEOs will not protect students or teachers from colleges closing.*
- *Changing the employment status and rights of our college employees would negatively impact the financial operations of colleges and threaten jobs in the sector.*

On 27 March I met with the MEI Chairperson (Pdraig Hourigan), ex-Chairperson (Therese Dillon) and CEO. MEI were briefed on all aspects of the mediation process thus far, including the views expressed by employers and employees at the various meetings (see Appendix 1 and 2). MEI stated that they would now proceed to brief members on what they had heard. MEI raised a concern about the lack of control that would exist for schools that are not party to any negotiated agreement on working conditions. MEI noted the fact that all sides were emphasising

the need for a robust IEM regime and stated that the early implementation of an IEM was a matter of urgency.

On 16 April MEI advised the mediator that consultations with member schools would continue until the end of May. MEI confirmed that they were happy to continue mediation discussions. In response to MEI questions, it was confirmed that should agreement be reached which resulted in a Sectoral Employment Order or a Joint Labour Committee, employment orders arising from these would apply to all schools in the sector and not just to schools that are party to the agreement. Further clarifications were given to MEI in correspondence sent on 10 and 16 May.

At their AGM held in late May, MEI adopted a Charter of rights for employees in their 66 affiliated schools. A report on this decision was carried in the Sunday Business Post on 2nd June. Arising from this I received complaints from union representatives and on behalf of non MEI schools that there had been no consultation with them about the Charter and that it constituted a deviation from the mediation process in which they were engaged in good faith.

I met with officers of MEI on the 5th June. MEI stated that consultations on the mediation process with member schools had been held throughout April and May and at their AGM. They stated that the Charter adopted at the AGM was a significant step in protecting employees' working conditions and was a genuine attempt to raise standards of employment. MEI stated that they had been working on the development of the Charter for over 12 months and that the Charter was *'not at odds with and would be fully consistent with a Statutory Agreement arrived at through the mediation process'*.

At the meeting with MEI on 5th June I provided an update on the progress of the QQA Bill through the Oireachtas. I explained that the Minister had accepted amendments to the Bill which required adherence to employment standards as a condition for the awarding of the IEM (International Education Mark). I stated that the Bill would progress to Second Stage at Dail Eireann in the following week.

The meeting then discussed what might be contained in a Statutory Agreement as envisaged by the Minister when she set up the mediation process. I had earlier, in writing, set out for MEI how a Sectoral Employment Order (SEO) or a Joint Labour Committee (JLC) and Employment Regulation Order (ERO) would operate and the stages of implementation of such employment orders. As an example I quoted details from the recently issued (2019) SEO Statutory Instrument for Electrical Sector Employees in order to show what might be contained in a Statutory Agreement. I pointed out that this SEO deals with working hours, different pay rates, unsocial hours, pensions, death benefits, sick pay, dispute procedures etc. These details were set out by me as MEI had asked why existing legislation on minimum pay etc was not sufficient for the English Language Sector.

At the meeting MEI confirmed the following:

- that they were fully supportive of including employment standards in the QQA Bill especially the insistence on adherence to those standards.
- that MEI has no objection in principle to a Statutory Agreement on Minimum Employment Standards.
- that the MEI Charter is not at odds with and would be consistent with a Statutory Agreement on Minimum Employment Standards.

MEI further stated that the fact that not all employees were members of a trade union was an issue when it came to employee representation at a JLC. I agreed to investigate how the Labour Court would deal with this issue. I stated that quite a number of the teachers who had written to me had stated that union membership was discouraged by their employers and some had alleged victimisation as a result of trade union activity including loss of teaching hours.

MEI also expressed concerns about the level of resources that would be provided for 'policing' adherence to the standards for schools set out in the Bill. I agreed to contact the Department in this regard as requested by MEI.

Immediately following the meeting on 5th June I wrote to MEI confirming that it was my understanding that MEI *'had no objection in principle to a Statutory Agreement on Minimum Employment Standards as envisaged by the Minister in the mediation process'*. MEI responded on 7 June stating *"It is correct to say that MEI would have no objection to a Statutory Agreement on Minimum Employment Standards in line with pre-existing legislation. However we cannot agree to a Statutory Agreement 'as envisaged by the Minister' in circumstances where her expectations have not been articulated to us or detailed"*.

My response to MEI dated 10 June stated that it was my understanding that the MEI phrase 'pre-existing legislation' as used by MEI included the options of SEOs and JLCs. I also explained that I had set out the 'Minister's expectations' for a registered employment agreement at my three meetings with MEI and that the 'detail' in any statutory agreement would be formulated by the parties in the JLC. I furthermore explained the process whereby ICTU would be requested by the Labour Court to nominate employee representatives on the JLC.

On 14 June I was advised by MEI that they were now going to consult with their membership and immediately conduct a ballot on entering into an REA/SEO/JLC process. The result of the ballot was to be communicated by 21 June. The Department of Education and Skills wrote to MEI on 15 June requesting a meeting in order to ensure that MEI membership was fully apprised of the policy framework for the IEM as reflected in the QQA Bill and of the importance placed by the Minister on the success of the Mediation process in supporting the achievement of a high-quality English Language Education sector in Ireland. This Department /MEI meeting took place on 19 June.

On 25 June solicitors acting for MEI emailed advising that the ballot proposed for the previous week had not taken place. They stated that MEI's primary function was to engage in marketing English as a foreign language in Ireland and that MEI had not historically engaged in any representative capacity for the purposes of collective bargaining negotiation. In that light it was now legally necessary for MEI to convene an EGM of its members with a view to amending its constitution to allow it to undertake a representative role in sectoral collective bargaining under the auspices of industrial relations legislation. This constitutional amendment if approved would facilitate the holding of a ballot of members on the new representative role. This EGM will take place on 23 July.

The email from the MEI solicitors stated that MEI was *"fully committed to continue its efforts to improve professional development and standards and to not only maintain the fair and generous employment terms offered by the majority of its members, but to explore agreeing an appropriate method for enhancing employment terms across the sector."*

MEI emailed on 26 June confirming that the constitutional amendment being proposed at the EGM on 23 July was required if MEI was to be authorised to engage in collective bargaining.

FURTHER RECOMMENDATIONS

Employer Engagement:

In the course of the Mediation Process I was given full co-operation by the employer groups MEI and PCN, and by the ad hoc group ILSG. At the commencement of the process there was some uncertainty about whether it was within the remit of MEI to be involved in matters of industrial relations. There were a small number of objections to the mediation process from individual school providers who portrayed the process as an unhelpful intrusion by Government.

A difficulty that emerged during the Mediation Process was the absence of a single employer organisation which could speak with experience and expertise in matters of industrial relations/contracts/ working conditions etc. Skills in such matters are dissipated among the over 100 schools. It would make sense and add efficiency if schools would pool resources and knowledge to create a single management representative organisation. Such an organisation would be in a better position to speak for and negotiate on behalf of schools. It could develop skills and expertise and would be well placed to advise individual schools on best practice on industrial relations and employment issues. It would mean that trade unions, the Department of Education and Skills and Government would have a body with which to negotiate on employment matters that affect and are common to all schools.

Recommendation:

that schools and those employer organisations that already exist look at the feasibility of creating a representative organisation with appropriate professional expertise to represent and advise schools on matters of industrial relations and employment generally.

Employee Engagement:

Most of the staff of English Language schools who are unionised are members of UNITE and a smaller number are members of SIPTU. Both UNITE and SIPTU supported and engaged fully in the mediation process. The ICTU also engaged fully in the process on the basis that its remit includes the enhancement of the working conditions of all workers including those who are not unionised. In this context I note that some school authorities have invited trade unions to engage with their employees. The engagement of trade unions in the process meant that I could receive information and representations from a perspective that was broader than one based on individual experiences.

It was in this context that I was required to seek out and invite submissions from individual employees. In this I was greatly facilitated by ELT Ireland who arranged for my attendance at their Annual Conference for EL practitioners where my role was explained and individual submissions could be invited.

Over 100 individual written submissions were received and I also met with a number of individual teachers. It was not feasible to meet with individual teachers in their places of employment. Almost all the individuals who made submissions asked that their opinions would be treated with confidentiality. A number expressed fears that their careers would suffer if the views they expressed were to become known to their employers. A few stated that they knew of union activists who had lost teaching hours or employment because of their trade union activities. I am very grateful to those individuals who either met with me or made written submissions. Their views are reflected in appendix 2 to this report.

Recommendation:

that it become part of a formal code of practice for all schools that trade union membership by employees is fully respected and facilitated.

Co-ordination of Accountability

Throughout the Mediation Process frustration was expressed by representatives of both employers and of employees that the English Language schools were accountable to a range of different State authorities. They said that this created confusion, inconsistency and duplication of work.

Recommendation:

That all relevant authorities of the State coordinate and streamline their engagement with English Language schools; this includes the Department of Education and Skills, Department of Justice, Department of Finance (and Revenue Commissioners), an Garda Siochana (GNIB), QQI etc.

ACKNOWLEDGEMENTS

I wish to thank English Language school employers, employer representatives (MEI, PCN, ILSG), employees, employee representatives (UNITE, SIPTU, ICTU, EL Advocacy) for their engagement and co-operation throughout the Mediation Process. My thanks also goes to the dedicated staff of the Department of Education and Skills (Higher Education Branch) for their support and advice. I also express my gratitude to Kevin Foley Chairman and Kevin Duffy ex-Chairman of the Labour Court and Anna Perry (WRC) for the technical information they provided.

APPENDIX 1

EMPLOYERS' VIEWS

The following is a compilation of comments and submissions received from employers at the general meetings of employers, at meetings with employer representatives and in written submissions from employer groups. The employers' views are listed under four headings:

- Mediation Process
- State Involvement in the Sector
- Accreditation of Schools
- Standards of Working Conditions

Mediation Process

mediation should happen after the IEM launch

mediation is another unhelpful intervention

mediation is a knee-jerk reaction to Grafton closure

mediation is too narrow, it should include school recognition and accreditation issues

sort out accreditation first, then do mediation

there is exaggerated hysteria over Grafton closure

reasons for Grafton closure need analysis as it was predictable

the fact that other schools stepped in and placed the Grafton students is not appreciated

Justice and Education Departments didn't apply existing regulations on Grafton College

State Involvement in the Sector

non MEI schools do not get Government information which is channelled through MEI
Department's lack of insight into the industry
State doesn't use the knowledge and expertise that's in the schools
State is unhelpful to the sector
there's been a series of unhelpful State interventions into the sector
State failed to act on Grafton
criticism re how Visa system operates
State doesn't understand the industry
some State interference has damaged the sector
schools need State subsidy as happens in other countries
in one closure, the owner was allowed to run off with the funds
where were the Revenue Commissioners in some closures?
Student Visa payments should be held in escrow accounts
All arms of the State (Education, Justice, Revenue etc) need to operate coherently
Ireland is losing competitiveness because of cost of living for students

Accreditation of Schools

we want all schools inspected
there is no accreditation model for non ACELS schools
many schools are never inspected
many schools are not accredited
most closures were in unrecognised schools
we are 7 years crying out for proper accreditation
unaccredited schools do what they want
inability of schools to apply for national accreditation
we have to compete with unaccountable schools
some schools are ignoring regulations
all schools should require a strict licence to practice
a quality mark is essential
some schools open, undercut, cherry pick, profit and then leave
some good schools can't get accreditation
some new schools set cheap undercutting fees
will the new IEM ever be enforced consistently?
some operators are not fit to operate
we are reputable schools but some operate recklessly
IEM should examine financial viability of schools
IEM has taken too long
different schools eg Junior EL, need different regulations
our schools have high standards of professionalism and care
critical of lack of ongoing inspection
current regulation is inconsistent
some schools get away with low standards

Standards of Working Conditions

can't single out issue of working conditions from wider accreditation/IEM issue
IEM unclear regarding contract/conditions issues
some schools have best practice, others are not engaging in this mediation process

an agreement on minimum conditions won't work
many schools already have above average conditions
current legal working conditions' minimums are sufficient
teachers can always move to where better conditions are if they wish
EL class size of 15 is superior to that of second level schools
IEM quality mark first, then talk about conditions
working conditions depend first on good regulations
teachers in my school have no complaints
some teachers do not have the relevant qualifications
level playing pitch with minimum standards would get rid of fly-by-nights
we're family run and have best practice
our school arranges pension for staff
schools can't give lengthy notice of closure, because creditors could move in
staff need protection from closure through insurance
changing employment status would negatively impact on financial position of colleges
and threaten jobs
we also want the best for our teachers
nobody is against best practice in working conditions
UNITE Trade Union can't speak for teachers
teachers want job security, but schools themselves don't have security
teachers are not complaining about conditions
some teachers want flexibility of hours, not certainty
an agreement on conditions wouldn't have helped the Grafton teachers
we value teachers' work
we refute that morale of employees impacts the service
existing employment laws are applied
staff enjoy flexible arrangements that suit them
we support an employer/employee agreement but only when IEM and inspection are in place

APPENDIX 2

EMPLOYEES' VIEWS

The mediation process involved engagement with both employers and employees. I met with and received submissions on behalf of employees from UNITE, SIPTU and the ICTU. As some of the employees in the schools are not members of a trade union it was important to invite individual employees to make individual submissions. I was facilitated in doing this by ELT Ireland who arranged for my attendance at their Annual Conference on 16 February.

Over one hundred individual submissions were received by me. The submissions set out the experiences and working conditions of teachers in English Language schools. The submissions were very detailed and in some cases were several pages long. Quite a number of teachers had served in several different schools and this was reflected in the submissions.

Apart from the written submissions, I met with a number of individual teachers at their request. The views of these teachers and those set out in the written submissions are listed below. No individual school or teacher is identified as anonymity and confidentiality were guaranteed by me. The employees' comments are listed under seven headings:

- Accreditation of Schools
- Contracts / hours
- Pay
- Communications with / Treatment of Staff
- Leave Arrangements
- Employment Security
- General Comments.

Accreditation of Schools

all schools need the same inspection standard
 English Language schools are unregulated at many levels
 our profession should be registered by Government
 accreditation system needs to be reorganised
 much confusion over accreditation in Ireland
 there is inconsistency in inspection of schools
 inspectors wouldn't talk about job security
 we need fair and equal evaluation of all schools
 we need a review of accreditation bodies
 having unregulated schools is damaging the whole industry

Contracts / Hours

we get no pay for non teaching work (very frequent comment)
 we get repeated short contracts
 long probation periods are common
 no end date on Fixed Term Contracts
 no permanent staff in my school
 I got no contract
 I'm on a zero hour contract (frequent comment)
 our contracts are out dated, cut and paste
 no pension scheme (frequent comment)
 huge amount of unpaid prep. time
 doing unpaid prep. work late at night
 our school brought in a pension adviser
 13 months with no contract or terms/conditions
 none of the staff has a contract
 our hours change without warning
 our school has a pension scheme
 I do 23 unpaid hours per month
 majority never given terms and conditions
 told 'accept the terms or leave the school'
 there is blatant disregard for law on contracts
 my school used to pay for prep. time
 35 contact hours per week at peak times
 we face unstable working conditions
 we're expected to be available, with no guaranteed hours
 lack of clarity in job description and contracts
 hours not guaranteed
 we're always on fixed-term contracts
 I've got nine contracts in two years
 nearly everyone I know is on an 'if and when' contract

my employer has always paid far above the going rate
many do 32 contact hours per week
it's rare to find real permanent contracts
hours never guaranteed, zero hours is the norm
I get paid for some preparation time
can be told on Friday, I've no hours on Monday
hours are precarious
conditions are getting worse
school made us register as self-employed
non-contact work is 7 hours a week
zero hour contracts or no contract at all is the norm
we all 'sign-on' at Christmas
seasonality of hours is very difficult
30 hours teaching per week is too much
10 unpaid hours per week
I'm not permitted to work in any other language school at the same time
next week's hours are always uncertain
no contract after 2 years, don't know what I'm entitled to
every Christmas I have to explain to Intreo why I've to sign on
I don't get full holiday pay, this is illegal
never given a contract, had to threaten the Labour Court on the school
my hours can be anything between 10 to 25 hours per week
hours are fairly portioned out for the most part
hours of work can be unknown, but this may be unavoidable
no end date on my temporary contract
teachers are temporary for up to 10 years
my school is promoting a pension scheme
contracts are 'if and when'
my job suits me as it's interesting and flexible
all teachers in my school are on zero hours contracts
I'm guaranteed no teaching hours week to week
my hours suddenly reduced while others were doing overtime
we have permanent contracts and guaranteed hours
after 5 years, I'm temporary, part-time with a zero hour contract
I get no pay for eight hours of prep. per week
on premises for 8 hours a day but, only paid for teaching hours

Pay

my pay is measly
we get no pay increases
no financial security
it's not a living wage
our pay scale is ignored
am/pm different rates of pay
we need a standard pay scale
can't afford to have children
pay rate the same for 11 years
no pay for 2 of 3 snow days
pay is exclusively for class contact teaching hours
teachers are struggling to pay bills

not a financially rewarding profession
I'm a negative on a balance sheet
no pay scale, no increments
I know of no other sector where graduates are so badly paid
there's a race to the bottom on student fees with knock on affects on staff
there is pressure to employ the cheapest teacher
in twelve years my pay went from 18 euro to 16 euro per hour
teachers live on the poverty line
you start at the bottom pay when you move school
I can barely afford rent
I have low chance of a mortgage
I have Masters and experience, but same pay as a new graduate
living in Dublin on this salary is impossible
I get 20 euro per hour, ten years ago I got 22 euro per hour
others in school get more, no transparency on pay
my pay in Dublin was higher
I'm not paid for my maternity appointments
our payscale is on the notice board
afternoon pay is less than morning pay
lack of transparency in pay system
pay uncertainty means I can't budget
I was threatened, bullied for working in a second school to make ends meet
my current financial position is dire
I earn less now annually than I did in retail on the minimum wage
I'm financially out of pocket after Grafton closure
pay is based on length of service, not qualifications
in total I earned 10,000 euro last year
difficulties in getting a mortgage
school has introduced a pay scale
we have monthly paid meetings
our pay doesn't sustain a standard of living
my pay has gone from 20 euro to 14 euro per hour
no transparency on pay scales
EL teaching only possible if you have a spouse with a steady job
pay scales don't exist
compared to other jobs, I am shocked and alarmed at what I earn
I'm luckier than most, I get 24 euro per hour
no increments, no difference regardless of qualifications
I was expected to accompany students on excursions at half the hourly rate
pay rates change, as if directors pick numbers from the sky
we have a pay scale but it's arbitrarily applied
pay scales are often just for show
pay rates between schools vary wildly
pay is negotiated on an individual basis

Communication with / Treatment of Staff

manager is legalistic and aggressive
staff left due to stress
many suffer low morale
some teachers in tears

toxic environment in our school
so far so good
fear of punishment or intimidation
teachers feel helpless in the school
school emails, abrupt and uncourteous
staff afraid to speak up
we're afraid to voice concerns
EL teachers are in dire need of protection
teachers treated with contempt and suspicion by owners and Dept. of Immigration (stet)
no recourse for aggrieved employees
my managers here respect me and pay for non contact hours
need proper grievance procedures
some who were actively involved in the union were not rehired
many providers work exceptionally hard to do their best for staff
I never felt as low as I did in this exploitative industry
we've been threatened with reduced hours
communication is good with monthly staff meetings
in one school bullying was rife, being shouted at was common place
little investment in creating working conditions for staff
management in my school have been generally supportive
promotion vacancies not announced
lack of appreciation at times
communications in the school are clear
stressful to have to deal with new classes each week
I don't feel respected and I feel so dispensable
I feel wasted, security would make a big difference
bullying is rife in this industry
valued so little, I'm thinking of leaving
there has been a notable improvement in communications
communication is sporadic
I often feel exploited as an ELT
most managers have little or no experience
I was harassed and felt compelled to leave
my work place has been a toxic environment
our academic manager is very pleasant and helpful
communication can be unprofessional and manipulative
we feel ignored and underappreciated
communication is generally quite good
I have experienced unprofessional behaviour
my employer treats staff fairly and is better than some others I've heard of
managers support us as best they can
can't raise issues, afraid to rock the boat
the environment is rather toxic
we are passionate about what we do, schools exploit our good nature
ad-hoc approaches to staffing, employee well-being is not a priority
this is an exploitative sector
the more vocal you are about your rights the less hours you get
management did not tell us about this mediation project
schools are professional in an academic sense

Leave Arrangements

no sick leave pay (very frequent comment)
under pressure not to be ill
my job threatened when I asked for leave
bereavement leave, difficult to achieve
I can't call in sick
school illegally didn't give holiday pay
up to 6 paid sick leave days p/a in our school
most schools will not pay sick leave
sick leave is at the employer's discretion
no bereavement leave
we've been asking for years how our holiday pay is calculated
paid sick leave is not common
we have 10 days paid sick leave
we get three sick leave days a year
I have a fear of falling sick

Employment Security

we need protection from closures
teachers left without wages when closure happens
general sense of insecurity
job security is our biggest concern
no guarantee of weekly hours
there is no security in my job
I fear closure of my school
fear of losing job or hours cut
going to work on Mondays hoping school isn't shuttered
non-existent employment security
precarious hours can be reduced any time
job security is virtually absent
no security, no stability, no protection
there is little or no security
precarious conditions, no hours is an excuse to get rid of teachers
I'm leaving Ireland, there's no future in EFL especially in Dublin
I can't make a career out of this any more and it breaks my heart
we're all just waiting for next school to close
teachers are laid off, yet new teachers are recruited
temporary contract means no security and no mortgage
school closed and we weren't paid for months
there have been 16 closures since 2014
I can be let go anytime
I never felt like I was secure
laid off if work dries up, no security
we need a support scheme for staff in the event of sudden closure
employer funded insurance cover for teachers in closures is needed

General

we are a dedicated lot
our passion for the job is used against us
it's a very limited career

I love my job for what it does
there's no job progression
our team is extremely dedicated
it's not a viable long term career
teachers love what they do
good will taken advantage of
teaching English is a highly skilled job
I love teaching and love the students
it's a stop-gap, not a career
industry losing quality teachers
it's a short term job
I plan to leave, having a family is inconceivable
it's rewarding when you see students flourish
I'm passionate about teaching, it's rewarding
EL is an enjoyable, stimulating career
loyalty to a school accounts for little
we've none of the benefits that other teachers have
I'd strongly discourage any young person to take up this as a career
you gain skills in EL but with no prospects
I have loved every minute of my time helping students reach their potential
we are constantly reminded how replaceable we are
managers do not want teachers to stay long term
there is a culture of fear around unionisation
promotion is based on 'nod and wink'
this industry has a deplorable reputation
school takes zero account of teacher fatigue or the monotony of the job
teachers are expendable and treated with little respect
our industry is rife with exploitation
a number of owners have absconded leaving a trail of destruction
we need more CPD
exploitation of admin staff is scandalous
we need union recognition
I don't know who owns my school
school owners live abroad
school won't talk to union
no training/CPD
school was very disorganised
no incentive to develop professionally
EL conditions much worse than EL abroad
must pay for own CPD
in most schools if you are known to be a union member you run the risk of no hours
people are afraid to join a union
the industry has a terrible reputation because of conditions
refusal to engage with our union
I've been very disillusioned and apathetic about my job
unions are not recognised
I was told by employers not to attend union meeting
this industry is precarious and unjust
my career is like a cul-de-sac
EL teachers are some of the best people I know

this industry is so broken
few owners have background in education
there are a few good owners
the business model is defective in terms of educational professionalism
language schools seem to be on a race to the bottom, undercutting each other
it's an increasingly cut-throat industry
the expertise of a number of retiring owners will be missed.

End