

**Submission
to
The Labour Court Inquiry
October 4th 2019**

**Into the proposed establishment of a Joint Labour Committee (JLC)
in respect of
The English Language Teaching (ELT) Sector in Ireland
in accordance with
Section 38 of the Industrial Relations Act 1946**

**This Submission is made on behalf of

Marketing English in Ireland (MEI)**

Introduction

The herein submission is made to The Labour Court in formal objection to the proposition that a Joint Labour Committee (JLC) should be established under provisions of the Industrial Relations Act 1946 in respect of “English Language Schools” as referred to in the Public Notice published by The Labour Court on September 4th 2019.

This submission is made by Marketing English in Ireland (MEI), the largest association of schools and colleges in the English Language Teaching (ELT) Sector in Ireland.

In total 66 individual schools and colleges are currently in MEI membership.

Members are concentrated in Dublin city and suburbs, with others located in Counties Carlow, Clare, Cork, Donegal, Galway, Kerry, Kilkenny, Limerick, Waterford, Wexford and Wicklow.

The total number of students who attended MEI English Language programmes in 2018, the last complete year for which statistics are available, was 121,462 (Report for MEI by INSIGHT Statistical Consulting – May 2019).

The total number of staff employed by MEI members in 2018, was 3,046 during the peak season, June-August, and 1,700 during off-peak.

Of these numbers, Teaching staff totalled 2,058 during peak months, and 1,119 during off-peak months.

Administration/Support Staff numbered 988 during peak months, and 581 during off-peak months.

MEI understands that there are 8 other schools/colleges operating in the ELT Sector in an association known as the ‘Progressive College Network’(PCN).

There are a further number of non-associated schools and colleges, estimated to number approximately 20.

MEI is not aware of any statistical record in respect of the actual scale of student throughput or staffing levels in either PCN schools/colleges or in those non-associated schools/colleges.

This submission is made solely on behalf of, and in respect of MEI members schools/colleges.

It is also made on the basis that MEI membership is solely comprised of schools and colleges that meet strict criteria for entry, one of which is appropriate accreditation by Accreditation and Co-ordination of English Language Schools (ACELS).

This accreditation will formally cease and will be replaced by accreditation through the International Education Mark (IEM) which has now been given a statutory status following the enactment of the QQI Act 2019 in July last.

MEI is an association seeking to establish, maintain and develop standards in the ELT Sector.

In this regard MEI supports the view that pay and conditions of employment of its people should meet a reasonable and visible standard.

Moreover MEI is disposed towards consideration of such a standard as part of the implementation of the IEM accreditation process, and by extension including a standard in respect of basic pay and defined conditions of employment as a means of assuring people standards, and regulating entry to, and participation in, the ELT Sector.

Context of the JLC Proposition

MEI is aware that the Minister of State for Trade, Employment, Business, EU Digital Single Market and Data Protection was prompted to make application to this Court, for the establishment of the proposed JLC, under Section 38 of the Industrial Relations Act 1946, by his government colleague, the Minister of State for Higher Education.

This prompt followed a recommendation to the Minister of State for Higher Education in a Report which she commissioned, and which was issued with the date of 27 June 2019, and was titled; *“Commercial English Language Education Sector : Report of Mediator to Minister Mary Mitchell O’Connor T.D.”* The author was Mr. Patrick King, a former General Secretary of the Association of Secondary School Teachers in Ireland (ASTI).

The commissioning of this report followed the closure of Grafton College, in December 2018.

MEI is aware that the application to this Court, for the establishment of a JLC in the ELT Sector, is based on one of the main recommendations contained in the Report referred to.

Mr. King, though referred to as “Mediator” in line with the Report’s title, did not conduct a mediation process in a manner usually associated with such a process. His report will be later referred to herein as the ‘King Report’ for ease of identification.

MEI Officers and Members met with Mr. King during the course of what was more an investigation than a mediation process. At no stage were proposals put to MEI for

agreement. In any event the Articles of Association of MEI do not allow for MEI to conclude any form of agreement that purports to create obligations for or bind members in the absence of a specific mandate to do so.

Accordingly, MEI participation in the process that led to the King Report was largely to provide information and perspective, with the expressed caveat that no agreement on any matter or proposal was possible unless MEI representatives were empowered by a specific mandate from the membership.

The MEI Board has not been empowered to agree on the substance of the JLC proposition currently subject to inquiry by this Court, and in respect of which the Court has published a Draft Establishment Order.

An Extraordinary General Meeting (EGM) of MEI members was held on July 23rd, 2019.

At this EGM the content of the King Report was discussed in the context of the Board's view that engagement by the Board on behalf of members in respect of matters arising from the King Report would require a change to MEI's Articles of Association in order to establish an effective mandate to do so.

In the event, resolutions drafted for the purpose of altering the Articles of Association in accordance with the Board's view were overwhelmingly rejected in a secret ballot.

This rejection followed strongly expressed dissatisfaction with the King Report, and in particular its depiction of the ELT Sector as a singularly disreputable homogenous grouping of employers who maintain a culture of mistreating their teaching staff.

MEI members and Board totally refute this image as accurately reflecting the ELT Sector as a whole.

The MEI was established in 1993, as part of a continuum in the organisation of English Language Schools stretching back to the 1960's. It was set up with the expressed purpose of establishing, maintaining and developing transparent standards within the Sector so that it's industry could be sustained and grow based on strong quality assurance.

MEI's Mission Statement reads as follows;

The Aim of Marketing English in Ireland (MEI) is to be a significant presence in the area of International Education by consistently promoting the standards and quality of programmes offered to English Language Students in Ireland.

The company aims to do this by :

- *Raising the awareness of the quality of the teachers and the ELT programmes offered by member schools in Ireland.*
- *Assisting member schools abroad by engaging in a wide range of marketing activities.*
- *Accept only members who are currently approved by ACELS/QQI or British Council.*

- *Continuously seeking to facilitate the on-going development of and improvement to the services offered by its members.*
- *Promoting awareness of the significance of the ELT sector across a range of Government Departments and Agencies with a view to raising awareness of both the quality and the significant value of the service provided by the sector.*

These aims simply could not be achieved in the sector depicted in the King Report.

Widespread mistreatment of teaching staff or any of the many other people who contribute to the success of MEI members is not a reality within our membership.

The ELT Sector is a very competitive sector both internally and externally. This includes very keen internal competition for teaching resources, teaching facilities and student accommodation.

Basis for Formal Objection

MEI formally objects to the JLC proposition because it is invited to do so in the published notice, and because efforts to engage with the government ministers involved, since publication of the King Report, have failed. Apart from the failure to engage, MEI have been compelled to take this course because of the speed at which the JLC proposition has been pursued.

The speed of this pursuit and failure to engage feels very much like imposition.

As indicated in writing to both government Ministers it is imposition of a 'solution' without properly or effectively measuring the 'problem'.

MEI has been left without any choice, other than to formally object.

Little "evidence" of mistreatment, though referred to as such, is contained in the King Report. Instead there is anecdotal recitation of testimony which is not identified with any particular segment of the three identifiable segments in the ELT sector, or particular schools or colleges. Such identification would, apart from any other consideration, assist in authentication. It would also assist in measuring the imperative to act, and also guide action in an appropriately focused/discrete fashion.

Characterising all ELT Sector employers in the same way based on untested anecdotal testimony is simply not acceptable.

It is not an appropriate or sound basis for the proposition that a JLC be established.

This testimony does not make the case that it is expedient to do so.

MEI strongly disputes any assertion that people employed by its members are, as portrayed in the King Report i.e. denied access to written contracts of employment, reasonable rates of

pay, assured hours of work within the context of the sectoral dynamics, or any other right or entitlement prescribed in law.

- (i) **MEI's initial objection to the JLC proposition is that it is misconceived. The proposition is neither fact based or data driven in respect of the whole ELT sector.**

MEI does not accept that those parties with whom Mr. King engaged during his investigation, and on whose testimony he relies in making his recommendation for a JLC, are truly representative of employees in the ELT Sector.

They are certainly not representative of employees in the employment of MEI members.

It follows that the Minister of State who has made application to this Court for the establishment of a JLC in the ELT Sector, has done so without the necessary assurance that his application is grounded in evidence or on testimony from representative voices.

There is little meaningful evidence that the ascribed testimony in the King Report is from a representative base.

There are no membership numbers provided in respect of the two Trades Unions referred to as organising teachers within the ELT sector.

There is reference to a conversation with 6 teachers in membership of UNITE, but without any reference to whom they purported to represent.

Mr. King also made reference to attending a conference meeting of a group he refers to as teachers in membership of English Language Teachers (ELT) Ireland, after which he received 100 written submissions. Again, it is unclear as to who or what the ELT Ireland group purports to represent and what if any association there is with any trade union or other grouping.

Mr. King makes no attempt to summarise in any structured manner the testimony contained in the submissions he received, nor is there an effective quantification of themes or issues. He simply recites statements attributed to the submissions made. There is no real evidence offered regarding the representative nature or otherwise of the views expressed.

The numbers that are referenced by Mr. King, measured in relation to the recorded teacher staffing in MEI schools alone, ranging from 1100 to 2000 during 2018, cannot be said to be representative of teaching staff in the ELT Sector.

In the context referred to, MEI challenges the basis for the application for the establishment of a JLC in the ELT Sector as the application was not made by either an employee grouping or

employer grouping with a proven representative status. Neither is the application before this Court, made by a trade union that has proven representative status in the Sector.

Finally, the applicant Minister is clearly grounding the application on testimony that has not been verified in fact or data, nor has it been verified as being offered by representative contributors.

- (ii) MEI challenges the Minister’s application as it is not based on either evidence or testimony which can be said to be proven in fact, data based or as coming from a representative source, or sources.**

In regard to other statutory restrictions on making an establishment order for a JLC (Section 37 of the Industrial Relations Act 1946) in the ELT Sector, MEI confidently states, that it is a fact that rates of pay and conditions of employment within its members schools and colleges are at established norms which compare favourably within the economy generally and will stand comparison within the ELT Sector as a whole.

- (iii) MEI challenges the application on the basis that there is no evidence to support a view that having regard to the existing rates of remuneration or conditions of employment of employees within the MEI member schools and colleges that it is expedient that a JLC be established. It should be remembered that MEI membership comprises the largest association of Employers in the ELT Sector.**

In respect of this latter point, the King Report cites the make up of the ELT Sector as comprising of three identifiable employer groups;

- MEI with 66 member schools/colleges
- PCN with 8 member schools
- ILSG with 14 member schools

Note: It is unclear what, if any, formal structure or association exists in respect of the ILSG (Independent Language School Group) referenced in the King Report.

The PCN Group is understood to be a group associated through ownership.

The MEI is an association of independent, largely second generation, family owned, schools/colleges.

JLC as a Concept

The fact is that the concept of a JLC arose more than 40 years ago at a time when employment rights and employment relationships were for the most part unsupported and unregulated in Statute Law.

Today, there is a wide floor of rights and regulation enshrined in Statute Law.

This has been constructed over time, largely through progressive European Union Law and through application by the expert Industrial Relations Machinery that has grown, developed and modernised to ensure that employment rights are upheld and that employer/employee relationships are effectively moderated in line with business and social needs.

Each of the areas of complaint referred to in the King Report are currently addressed in Statute Law.

These range from the provision of written contracts of employment, through minimum hourly pay, through minimum and maximum working hours, and across a wide range of paid and unpaid leave entitlements.

In dealing with a challenge to an Employment Regulation Order (ERO), the medium through which JLC determinations are effected, the High Court as well as dealing with the concept of an ERO in law, raised questions in respect of the authority of a body such as a JLC to put in place, with the weight of legal sanction, minimum rates of pay in excess of the minimum wage established under the National Minimum Wage Act 2000.

This was a factor in considering the excessive nature of wrongly delegated law making authority, in a judgment which found in effect that ERO's as a concept were, at that time, in conflict with the Constitution (*John Grace Fried Chicken Ltd & Others -v- Catering Joint Labour Committee & Others [2011] IEHC 277*).

The ensuing amendments to the 1946 Act, as provided for in the Industrial Relations (Amendment) Act 2012 set out to realign the 1946 provisions with the Constitution both in respect of the delegation of law making, and also in relation to policy and principles needed to guide delegated authority.

However, the relevant amendments, in the latter regard, are not a definitive guide.

Accordingly the law remains uncertain in respect of how remuneration is established at minimum rates and in respect of what terms of employment , outside of pay, that may become subject to an ERO.

The relevant provisions, contained in Section 42A of the 2012 Act, a guide as they merely require the Labour Court to have “regard” to particular matters. This does not place a definite restriction on what may be considered to be a ‘term of employment’ and therefore amenable to consideration of a JLC and consequently with potential to become subject to an ERO. This an obvious concern for the MEI membership.

- (iv) **MEI challenges whether or not there is a substantive imperative for the JLC proposition based on the fact of the wide range of rights and entitlements**

already established in law supported by Industrial Relations Machinery through which employee rights and entitlements may be effectively pursued.

In respect of the intended regard to harmonious industrial relations and the avoidance/resolution of disputes as contained in the 2012 Act, it is a major concern amongst MEI members that the JLC proposition is largely driven by the desire of UNITE the Union to organise membership in the ELT Sector with the objective of imposing collective bargaining on the sector. Such imposition is counter to harmonious industrial relations.

There is evidence that this union has endeavoured to agitate and foment conflict as part of its strategy in reaching its objective. As recently as Monday September 23rd, last Unite placed their “first” picket on a Dublin school. This event was hailed on social media in a triumphal manner as the first ever trade union picket on an English Language School. The picket was clearly disproportionate in the number of picketers involved and in the flamboyant use of flags and banners. Notably, there were few picketers present that are actually employed in the school concerned. The rates of pay and conditions of employment that obtain in the employment in question are at a favourable level within the ELT sector.

The establishment of a JLC creates the potential for UNITE, who are unrepresentative of teachers in the sector, to achieve the imposition of collective bargaining on the ELT Sector through a ‘backdoor strategy’. This, apart from any other consideration, is counter to the Constitutional right of employers to freely choose with whom they deal, and consequently gives rise to further potential for legal challenge to the JLC concept.

- (v) MEI believe that the impetus behind the JLC proposition is driven by the objective of imposing collective bargaining on the ELT Sector , in effect through a ‘backdoor’. This is another important reason why MEI members challenge the proposition.**

Finally, it is worth noting that the suggestion by the ICTU that Sectoral Employment Orders(SEO) be pursued as provided for in the Industrial Relations (Amendment) Act 2015 in order to address what the King Report refers to as teachers’ complaints of “...*uncertainty in their teaching hours, inadequacy of their contracts, low pay, lack of payment for non-teaching work and absence of leave entitlements.*” ,has not been taken up.

The reason appears simple; The 2015 Act requires that an applicant for a SEO must show evidence to this Court that they have a representative status in respect of those to whom the SEO is proposed to apply.

- (vi) **MEI reiterates its concern regarding the representative status of the UNITE union within the ELT Sector and rejects the legitimacy of the picket referred to herein, on the basis that it believes that the dispute was contrived and timed to influence this Court.**

Facts in respect of MEI Schools and Colleges

The rates of pay and conditions of employment of teachers within the MEI membership are dictated by market forces and by the innate characteristics of the ELT Sector.

Characteristics of the ELT Sector Activity

As recited earlier, MEI member schools and colleges provide tuition to a growing number of students; just over 120,000 during 2018.

These students attend a wide range of English Language courses and are attracted to Ireland from an international market that is highly competitive.

In essence there are three particular cycles of activity;

- Adult(over 16 years of age) programmes vary from 1 week to those that align with a standard academic year usually of 25 weeks duration.
- Junior Short Stay programmes that are run in Spring and Autumn usually of 1 to 2 weeks duration
- Junior (those aged 11-16 years old) programmes that are run during July and August usually of 2 to 3 weeks duration

Not all MEI schools/colleges participate in each cycle. In addition, some provide third level programmes in Business and IT disciplines.

Class size is limited to a maximum of 15 students, with class attendance limited at 15 hours per week.

The academic year Adult English Language programmes allow eligible students to support their stay by engaging in part-time working.

The Short Stay and Summer, Junior programmes seasonally swell student and teacher numbers. There is a particularly intense period of Junior Programme activity between June and August each year.

English Language Programmes involve the placement of students in approved family homes, that number in the region of 30,000 each year. This generates significant income for the families concerned.

They also create a demand for teacher resources, accordingly teacher numbers can virtually double during the Junior season. To accommodate this, teachers, on leave from Primary and

Secondary schools, are recruited and are afforded an opportunity to supplement their income. Also, teachers who are employed abroad take the opportunity to avail of a working holiday at home.

In addition, accommodation is rented from schools and colleges otherwise closed for summer holidays. The income derived from this rent has financed asset renewal, extensions and refurbishment.

The enrolment of students, unlike in other education sectors, is a very dynamic process because of the large range of courses on offer. Every week of the year there are enrolments, as well as exits.

School sizes range from single classroom Junior cycle to multiple classroom accommodation to facilitate broad range of English Language programmes.

Staffing Profile

Apart from those large number of teachers recruited to augment resources during the Short Stay and summer season Junior Programmes Cycle, which by definition are short term specific purpose engagements, part-time teaching is a large part of the staffing profile.

Part-time working fits with the short-time daily tuition requirements and for example domestic responsibilities, wherein part-time working suits homemakers and semi-retired teachers from the broader education sector.

In order to qualify as a teacher in the ELT Sector the minimum requirement is that an applicant holds a third level qualification at QQI Level 7, and has successfully completed a 120 hours Teaching English as a Foreign Language (TEFL) teacher training programme.

Contracts of Employment

MEI teachers are issued with written contracts of employment are typically issued with an Employee Handbook which sets out the broader conditions of employment.

Core teaching staff are employed on contracts of indefinite duration, while non-core are provided with written contracts of employment that are usually part-time , fixed term or specific purpose in nature. The latter categories reflect the somewhat unpredictable demand and seasonal nature of the business.

Where, because of the dynamics particular to teaching hours and therefore requirements are not certain, regularly employed teachers are eligible for hours aligned with the provisions of the Employment (Miscellaneous Provisions) Act 2018, and specifically Sections 15 and 16 of this Act.

Hours of Work

The majority of MEI members' teachers have definite weekly hours and are employed for between 15 and 30 hours weekly.

Pay Rates

Pay rates are determined with reference to such criteria as: teaching experience, length of service, and qualifications.

Teachers' pay is predominately dictated by the number of hours worked and is therefore calculated on an hourly rate basis.

MEI members' teacher pay norms range from €17.00 per hour to €25.00 per hour.

Leave Arrangements

MEI members comply with their full obligations in respect of statutory paid and unpaid leave.

Staff Development

More than 70% of MEI member schools and colleges currently provide opportunity for continuous professional development, and budget separately for same.

Staff Charter

At the MEI Membership Annual General Meeting in May of this year, members formally adopted a Staff Charter based on one developed by employers and employees at European level by EAQUALS a quality assurance body in language education.

This Charter sets out to formally assure international standards in respect of how staff are treated in the employment of MEI member schools and colleges.

It formally commits members to ensuring full compliance with all applicable employment law, as well as providing grievance and disciplinary procedures, effective staffing on full-time basis, issuing of written contracts to all staff, commitment to staff training and development, and an appropriate workspace with proper facilities to carry out their duties.(Appendix 1).

No Evidence of Mistreatment

MEI is satisfied from its recent survey of members, that staff are not mistreated in the manner suggested and depicted in the King Report.

As already said, the Report, which recommends that a JLC be established relies on unsubstantiated testimony in reaching this conclusion.

Apart from eliciting testimony, another reference point for determining or indicating mistreatment or non-compliance with employment rights is the data accumulated in the databases of the Workplace Relations Commission (WRC) and the Labour Court.

Instances of complaint found here could, at least, be indicative of mistreatment and or non-compliance.

In fact, a review of such complaint reveals that there has not been any referral to the Labour Court during the past three years.

In regard to a record of complaint to the WRC, this shows two referrals over the past three years.

With regard to workplace inspections, members report that in the past three years, there have been a total of ten inspections by the WRC. Two of these occurred in each of the two years; 2017 and 2018. In 2019 six inspections have occurred.

No major issue of non-compliance or mistreatment has been reported as a result of these inspections.

Accreditation and Registration

As already stated, MEI is a standards driven association of schools and colleges in the ELT Sector.

As the largest representative association, MEI takes a lead role in setting sector standards in order to optimise quality assurance in respect of the services provided for, and the care taken of, students who choose Ireland over other destinations in a very competitive international market.

In this context it is a prerequisite to MEI membership that applicants gain formal accreditation through a process of examination and inspection.

This has heretofore been achieved through ACELS accreditation. ACELS is the accreditation body most recently established in its current manifestation, as part of government strategy in setting worthwhile standards in education generally through the State's Qualification and Quality Ireland (QQI). ACELS was originally set up in 1969 and offered accreditation on a voluntary basis.

QQI was established as a State agency with responsibility for promoting quality and accountability in education and training under the Qualifications and Quality Assurance Act 2012. The ACELS organisation was dissolved in June 2012 and re-established between October 2013 and January 2014 under the auspices of QQI.

Against the backdrop of English Language school closures at that time, the Department of Education and Skills implemented a policy to increase regulation in the ELT sector. This policy required that non-EU students who required visas to enrol for English language study and to

permit them the opportunity to work in Ireland while doing so, could only qualify for the requisite visa through enrolment in accredited schools/colleges.

This policy was formulated to deal with a situation where disreputable providers in the ELT Sector facilitated non-EU nationals by enrolling them in a situation where their participation in English language study was essentially a masquerade to enable them to work in Ireland.

Under this policy the Department of Justice who maintained a register of students issued with visas for study and limited work, established a new scheme of registration as an interim measure, in advance of the implementation of the International Education Mark(IEM), which was included as an objective in the QQI Act 2012. The scheme was titled; The Interim List of Eligible Programmes (ILEP).

IEM is very much supported by MEI and is proposed to replace the ACELS accreditation requirement which MEI has voluntarily embraced as a membership prerequisite since its inception.

Regrettably the establishment of the ILEP scheme, which made ACELS accreditation a mandatory requirement for the enrolment for non-EU students, was challenged through Judicial Review proceedings in the High Court.

These proceedings were taken by two schools operating in the PCN association. At the time that the proceeding were taken, one of the two had failed to meet the eligibility criteria for ACELS accreditation and the other had an application pending.

In the event the High Court decided, inter alia, that because the ACELS accreditation lacked a statutory authority, it could not become a mandatory requirement as proposed. (National Employee Development Training Centre Ltd and Academic Bridge Ltd -v- The Minister for Justice and Equality, and Quality Assurance Authority Ireland [2014 nos.665 and 666].

This effectively created an accreditation bypass which remains today.

MEI still requires ACELS accreditation, but in a situation where new applications for accreditation are not being and have not been accepted since the 2014 High Court determination.

The affect of this is that MEI will not accept new members in advance of the establishment of the IEM accreditation process, now expected to be completed in the 2021-22 academic year. Until then, MEI members will be required to renew their existing ACELS accreditation in order to maintain standards of qualification and quality.

Attached, for the information of the Court is the MEI documentation associated with membership application and which reflects the standards required of applicants (Appendix 2).

Draft Establishment Order

In respect of the draft order published by this Court, apart from any other consideration, it refers to a range of staff whom it is proposed be included in the JLC proposition. It is a fact that there has not been any investigation in respect of the rates of pay and terms of employment of any staff category other than teaching staff, in respect of whom the King Report was issued. There is no warrant for extending the scope of any JLC beyond teaching staff.

As recited herein, based on the requirements of Section 37 of the Industrial Relations Act 1946, which must be complied with in the process of consideration of an Establishment Order, per Section 39(1) of the said Act, a sound basis for the proposition of a JLC in the ELT Sector has not been established.

- Per Section 37(a), a representative organisation or group of persons has not made application for an Establishment Order. There is, at least, an implied requirement that an application by the Minister be based on evidence and reflects representative testimony.
- Per Section 37(b)(i), there is no agreement between relevant workers and employers for the establishment of a JLC.
- Per Section 37(b)(ii), there is no evidence that remuneration and conditions of employment within the majority of employers i.e. within MEI member schools and colleges, have been established through adequate process. Moreover the evidence is counter to this e.g. in respect of rate of pay norms and in the absence of evidence detected through the medium of WRC Inspections, or Complaints.
- Per Section 37(b)(iii) there is no evidence that with reference to remuneration or conditions of employment within the MEI majority of schools and colleges that it is expedient that a JLC should be established

In Summary

- MEI is the largest representative association of employers in the ELT Sector.
- It is standards driven organisation.

It has developed robust application and inspection processes in order to establish and maintain standards in line with its mission statement which is focused on providing student experience which is quality assured.

- MEI members rely on their teaching and support staff in order to deliver this quality assured experience. Mistreatment of teaching staff as portrayed in the King Report is incompatible with this reliance.
- MEI operates a Protection of Enrolled Learners (PEL) scheme which insures that MEI students affected by school/college closure or other event, will be accommodated in continuing their tuition to course completion in other MEI schools/colleges without additional cost.

In the case of the most recent closure i.e. Grafton College, which was the event that resulted in the commissioning of the King Report, 549 students were placed in accommodating MEI schools/colleges.

- The King Report is an erroneous basis on which to conclude that there is an imperative to establish a JLC in the ELT Sector. It is deficient in verifiable fact and objective data.
- The establishment of a JLC as proposed will not prevent further closures.
- Moreover, the JLC proposition appears to MEI to be an attempt by UNITE the Union to gain a foothold in their open ambition to force collective bargaining on employers in the ELT Sector, by establishing representational participation in a JLC.

MEI has a very real and growing concern, that the aggressive pursuit of collective bargaining rights by the Unite union recently expressed in pickets placed on a Dublin college is forcing members to consider continuing in business. It is also attracting attention from international agents through whom more than 50% of students are channelled into the ELT sector in Ireland. This gives rise to the very real prospect of agents diverting volumes of business to other economies.

It is important to note that any downturn in business will directly affect teachers employment and sources of income for host families, host schools and colleges during the summer Junior School cycle and negatively impact on the overall level of economic activity imported through the ELT Sector.

- MEI members must be allowed to choose with whom and in what way they deal with the pay and terms of employment of their staff. This is a right guaranteed in the Constitution.
- UNITE membership amongst MEI teachers, ELT Sector teachers cannot claim representative status based. Neither is the SIPTU membership at a level that could be determined as representative.

- Based on the rates of pay and terms of employment that prevail within MEI member schools and colleges there is no compelling imperative that makes it expedient to establish a JLC as proposed.
- The Board of MEI would cooperate fully with a Labour Court examination as per the Industrial Relations (Amendment) Act 2015 which provides for the use of Sectoral Employment Orders (SEO) as a method of addressing pay and particular terms of employment norms within industry. This aligns with the viewpoint recorded as having been expressed by the Irish Congress of Trades Unions (ICTU), in the King Report.

This Court is requested not to proceed with issuing an Establishment Order for a Joint Labour Committee as proposed.

Marketing English in Ireland (MEI)

04-10-2019