

**Unite the union opening statement to
Joint Committee on Tourism, Culture, Arts, Sport and Media
Hearing on Governance and Culture Issues at RTE**

24 April 2024

Thank you for the opportunity to address the Committee on behalf of Unite the union.

Our comments will focus on the second matter being considered by the Committee, namely the procedures and processes relating to the misclassification of workers' employment status and impacts thereof.

Unite the union represents a small number of craft workers in RTE, who have the protection of permanent full-time contracts.

Unite is part of the Trade Union Group in RTE, and our members stand in solidarity with all workers whose employment was misclassified by RTE – who were what is known as 'bogus self-employed'.

The employment status section of the Department of Social Protection, SCOPE, is currently investigating whether or not 695 RTE workers should have been classified as full employees.

It is our view that it would have been useful if the Committee could have facilitated workers affected by misclassification of employment in RTE to address the Committee.

We understand that the Committee has received legal advice to the effect that it has no power to mediate on workplace grievances.

However, allowing workers to outline their experiences would not have placed any onus on the Committee to mediate, but could have better informed the Committee's deliberations on this issue.

In Unite's experience, bogus self-employment is a feature across a range of sectors. While this hearing relates to journalists working for RTE, the practice is particularly widespread in construction, and is also prevalent in areas such as English Language Teaching.

Bogus self-employment – like other forms of precarious working - impacts on workers, compliant employers and the wider economy.

- It embeds inequality into the workplace, where one worker is employed on a permanent contract and enjoys all the associated benefits, while another worker in the same or an equivalent role has their employment mis-classified and is denied those benefits.
- It limits workers' access to benefits such as pensions, holiday pay or illness cover, and they enjoy fewer protections against unfair dismissal or discrimination in the workplace.
- Employers who misclassify workers as self-employed, or who engage in other forms of precarious employment, have an unfair competitive advantage over other employers.
- The non-payment of employer's PRSI not only reduces the money available to the social insurance fund; it also reduces individual workers' social insurance entitlements. The effect of this is that the individual workers concerned, and wider society, are effectively subsidising the employer's business costs. Some years ago the Irish Congress of Trade Unions estimated that bogus self-employment in the construction sector alone cost the Exchequer €80 million per annum, and the figure is now likely to be significantly higher.

In 2021, Unite put forward the following proposals as part of our submission to the Committee on Social Protection, Community and Rural Development, and the Islands in response to their Draft Recommendations on bogus self-employment.

- Establishment of a '*presumption of employment*': an employment relationship should be presumed to exist unless it can be proven otherwise. This means that the burden of proof in the event of a disputed relationship must be on the employer, rather than on the worker.
- Updating of the Code of Practice on Determining Employment Status to reflect new forms of bogus self-employment and precarious working. The Code of Practice should be put on a statutory footing.
- Establishment of a dedicated and appropriately resourced unit within the Workplace Relations Commission to carry out in-house investigation, on-site inspection and adjudication functions relating to employment status.
- Development of standard definitions of the terms 'employee' and 'worker', to be incorporated into all relevant legislation.
- Extension of the limitation periods (lookback periods) applicable to breaches of employment law to six years, putting them on the same footing as the limitation periods applicable to other areas of contract law.

A number of these proposals were reflected in the Committee's final recommendations, including putting the Code of Practice on a statutory footing; establishing a dedicated and resourced employment status unit within the Workplace Relations Commission; and developing standard definitions of the terms 'employee' and 'worker', and applying them to all employment legislation.

While the current Committee hearing relates specifically to governance and culture issues at RTE, we know that the practice of mis-classifying workers' employment status is not confined to the national broadcaster.

We would therefore urge the Committee to consider endorsing the above recommendations which, if implemented by the current or a future government, would go a long way towards addressing bogus self-employment and other forms of precarious working.

Thank you.
