

GUIDELINES FOR DEVELOPING SOCIAL DIALOGUE STRUCTURES IN PERSONAL AND HOUSEHOLD SERVICES

ALPHS

Advancing Personal and Household Services



Partners



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INTRODUCTION AND CONTEXT

There is significant evidence that social dialogue and (sectoral) collective bargaining between employers' and workers' representatives leads to better wages and working conditions for workers in all areas of activity, including in the different sectors involved in personal and household services.¹

As an area of employment, PHS has the potential to grow significantly. CEDEFOP, the European Centre for the Development of Vocational Training, has predicted that until 2025 the care sector will be among the top ten areas of potential job growth.² Yet, although there are many differences between the care and non-care sectors in PHS, both sectors struggle to recruit and retain qualified professionals – an issue which will only become more problematic with the growth of PHS.³ This is in part due to wages, working conditions and career paths which are too often below the average conditions for professions that require similar qualification levels, for instance retailing. This situation is exacerbated by the proliferation of undeclared work.

It is important to note that the situation for professionals in care services is generally better than for those working in non-care. This is partly down to qualification levels, but more generally is because the care and home care sector is generally better structured, regulated and organised than the non-care sector. Yet, all struggle with recruitment and retention challenges.

In this context, social dialogue and sectoral collective bargaining is a proven successful instrument for ensuring decent wages and working conditions in PHS. Such structures can also have a positive impact on the development of regulatory frameworks for PHS, as social partners can be constructive partners for public authorities in the development of PHS policies. We should allow the social partners to design curricula, health and safe standards, to improve the attractiveness, recognition and image of the industry.

Yet social dialogue structures in PHS are still weak or non-existent in many European Member States, a fact which weakens the development of Personal and Household Services and their positive impact on the quality of life in these countries.

The following guidelines will help to guide and inspire stakeholders, in particular trade unions and employers, as to the importance of setting up or strengthening social dialogue in Personal and Household Services. They also provide examples of how this is done in different ways across Europe. Finally, they will conclude with some key success factors for the development of effective social dialogue structures in Europe.

¹ <http://www.oecd.org/els/emp/ExecutiveSummaryAndOverview.pdf>

² <https://www.cedefop.europa.eu/en/publications-and-resources/publications/3052>

³ <http://sociaemployers.eu/en/news/new-report-on-the-social-services-workforce-in-europe-current-state-of-play-and-challenges/>



WHAT ARE SOCIAL DIALOGUE AND COLLECTIVE BARGAINING?

A. WHAT IS SOCIAL DIALOGUE?

The International Labour Organisation defines social dialogue as “all types of negotiations, consultations or exchange of information between or among governments/employers/unions (labour administrations, trade unions, and employers’ associations) to develop consensus on policy approaches and practical measures to ensure equitable social and economic development”. The European Union sees social dialogue as a “way of promoting a new organisation of work, so modernising the relationship between management and labour. For the EU, social dialogue can be:

- a bipartite arrangement between employers and trade union organisations; or
- a tripartite arrangement between social partners and public authorities.

Social dialogue is different from civil dialogue, which is the dialogue between public institutions and civil society organisations. Civil dialogue covers wider economic, social, cultural and environmental issues. Social dialogue deals with relations between employers and employees.⁴

B. WHAT IS COLLECTIVE BARGAINING?

The most important form of social dialogue on the national level is collective bargaining. Collective bargaining is specific to reaching binding agreements on wages and working conditions, as opposed to social dialogue which addresses a broader spectrum of issues, and has a larger impact on the entire industry as a whole. The International Labour Organisation summarises collective bargaining as follows:

- Collective bargaining takes place between an employer, a group of employers or one or more employers' organisations on the one hand and one or more workers' organisations on the other;
- It may take place at many different levels, with one level sometimes complementing the other: a unit within an enterprise, enterprise-level, sectoral, regional and national level;
- Collective bargaining serves a dual purpose: it provides a means of determining the wages and conditions of work applying to the group of workers covered by the ensuing agreement through free and voluntary negotiations between the two independent parties concerned;
- It also enables employers and workers to define by agreement the rules governing their relationship.⁵

⁴ PESSIS 2: Briefing on Social Dialogue by the Public Services International Research Unit: https://80cf426a-4e57-48e6-a333-91f4b1dbdd1a.filesusr.com/ugd/9f45fc_1afd1588a601424a9f28409a1c72332a.pdf

⁵ PESSIS 2 – Summary Information on Social Dialogue, Collective Bargaining, EU-level social dialogue and Sectoral Social Dialogue Committees, compiled by Mathias Maucher, EPSU: https://80cf426a-4e57-48e6-a333-91f4b1dbdd1a.filesusr.com/ugd/9f45fc_fdf73849fe044bbd-be2f45e5657f9af0.pdf

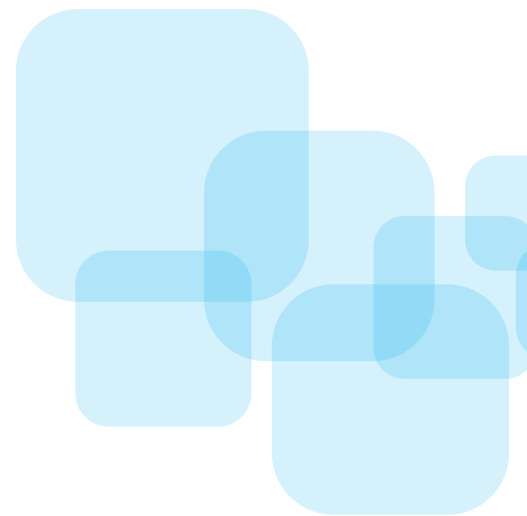
C. WHY IS SOCIAL DIALOGUE SO IMPORTANT?

There are numerous positives to having effective social dialogue structures and processes; chief amongst them is their ability to solve “important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress.”⁶

Social dialogue and in particular industry-wide collective bargaining is an effective way of developing sectoral or cross-sectoral minimum standards in – potentially – all areas of working life, thus protecting workers, but also employers by allowing them to operate on an equal basis with other employers, without the risk of a race to the bottom regarding wages and working conditions. The main goal should be to create an equal opportunities environment, where employers and workers are getting their needs met.

It is also an instrument for improving the effectiveness of the sector’s operations, and therefore the quality of the service provided, as it provides a unique and structured space for exchange and discussion between the sector’s employers and unions. For instance, social dialogue can:

- ensure that workers’ representatives – who are providing the service on the ground and therefore have invaluable knowledge – have a recognised voice in the direction any given sector is taking;
- be beneficial to policy-makers and employers, as well as service users or consumers.
- provide an opportunity for employers to present and explain their decisions and vision for the sector’s development and consequently negotiate with the representatives of workers on this topic.



⁶ International Labour Organisation: Social Dialogue: <https://www.ilo.org/ifpdial/areas-of-work/social-dialogue/lang--en/index.htm>%20%20a



**WHY SOCIAL
DIALOGUE AND
COLLECTIVE
BARGAINING IN
PHS?**

Social dialogue is an effective instrument in providing the forum for employers and trade unions, as well as, when relevant, public authorities, to discuss and find solutions to the challenges in PHS.

Social dialogue in PHS can, for instance, help to create the right framework that will help to tackle the prevalence of undeclared work and help to ensure that all workers in PHS have fair wages, working conditions and social protection.

Creating industry-wide standards

Wherever it is developed, social dialogue collective bargaining has allowed social partners (employers and trade unions) active in PHS to establish common standards on wages, working conditions and professional development opportunities which are to a large extent far better than in the Member States where such social dialogue has not taken place. Social dialogue limits the ability to operate in isolation, allowing for more fairness within the industry. In fields of activity where wages and working conditions can often be poor, social dialogue and collective bargaining have proved to be a very useful instrument. It is important to note that social dialogue structures are organised on the basis of each individual sector or even sub-sector involved in PHS, meaning that it is important that they recognise the individual sectoral specificities in PHS. This being said, further effort should be made to ensure that employers and trade unions in both the care and non-care dimensions of PHS begin talks to discuss possible common arrangements in order to meet the growing joint challenges both sectors are experiencing.

Professionalization⁷

Social dialogue and (sectoral) collective bargaining are also a useful instrument to define new and refine current professional profiles in the field, as well as establish common standards for qualifications, training opportunities, career paths and much more. As such, effective social dialogue also has a positive impact on the quality of the service provided. We must also be cautious that by increasing qualifications too high we might start excluding workers currently working in this area. There is room for a wide range of skills and abilities in this field, and the value of this work should be recognised in ways other than through qualifications.

Rights and obligations of employers and workers⁸

It is also important to note that many workers in Personal and Household Services – and sometimes employers too – are very isolated, due to the nature of working in people’s homes. Many workers – and also employers – can also be vulnerable; partly due to the service itself, and partly due to other variables. For example, many workers come from migrant backgrounds and are not fully aware of their rights. Or employers may be, for instance, persons with disabilities recruiting their own personal assistance, who may not always be aware of their roles and responsibilities. Therefore, bringing these sometimes isolated and/or vulnerable workers and employers together and supporting them to organise themselves collectively, and then participate in social dialogue and collective bargaining, can also help to reduce their isolation and find common solutions to their challenges.

In short, social dialogue and collective agreements are an effective instrument to tackle many challenges in PHS, from reducing isolation and tackling undeclared work, to strengthening wages and working conditions and identifying new professional profiles and necessary qualification standards.

⁷ Please see tailored guideline regarding professionalisation

⁸ Please see tailored guideline regarding rights and obligations of employers and workers



**HOW IS
SOCIAL
DIALOGUE
ORGANISED
IN PHS?**

All social dialogue structures and collective agreements must meet the organisational needs and traditions of the sectors involved in PHS in each country; even if this effectively waters down the concept of PHS being a single concept. For instance, there are currently very few social dialogue structures which entirely cover the concept of PHS as defined by the European Commission.⁹ The exception is in France where there are three collective bargaining agreements (one for private households, one for not-for-profit organisations and one for for-profit organisations). All of them cover both care and non-care activities.

Equally important is that social dialogue structures can vary, and they need to be established to meet the local needs and context. Tripartite participation, between trade unions, employers and government is the most important aspect of social dialogue. There is a high level of public investment and public interest in PHS so it is important that everyone is included and that a high degree of transparency is also present. This diversity is, therefore, an important element for policy-makers to consider if they wish to set up or strengthen social dialogue structures for PHS in their country.

BELGIUM

In Belgium, joint social dialogue committees are set up on a 'branch' level, meaning sectoral or even sub-sectoral level. There are therefore numerous different committees which could be included in the EU's PHS definition, including for instance:

- Joint committee no. 110 for textile care (laundry, ironing and sewing; mostly used for ironing outside the home)
- Joint committee no. 145 for horticultural (gardening)
- Joint committee no. 318 for family and elderly help services. This Joint Committee is split between the Flemish (318.02) and the French (318.01) Communities
- Joint committee no. 322.01 for accredited service voucher agencies
- Joint committee no. 323 for workers under the 'domestic servant regime' as well as the sector of the management of buildings and real-estate agencies
- Joint committee no. 337 for the non-market sector (for workers with domestic housekeeping status as well as diplomatic domestic workers)

Each Joint Committee negotiates new collective labour agreements (collective bargaining) every two years, taking into account new developments and their impact on working conditions, wages, etc. Of course, this also means that there is a broad diversity in the number of employer organisations and trade unions, each representing a specific sectoral approach within PHS, as well as taking into account the highly federalised nature of Belgium.

⁹ The European Commission is the executive branch of the European Union, responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU.

FRANCE

France also has a rather heterogeneous approach to social dialogue in PHS with social dialogue based on different professional 'branches', which together make up the European definition of PHS, namely:

- National collective agreement for the sector of help, accompaniment, care and services provided at home (Convention collective nationale de la branche de l'aide, de l'accompagnement, des soins et des services à domicile) which groups together on the employer side USB-Domicile, Adessadomicile and FNAAFP/CSF and on the trade union side CFDT Santé Sociaux, CGT Action Sociale and FDTA-FO;
- National collective agreement of PHS companies (Convention collective nationale des entreprises de services à la personne), which groups together on the employer side SESP, FEDESAP, SYNERPA and FFEC, and on the trade union side, CGT Commerce, CFDT Services, FDTA-FO and CFTC Santé Sociaux;
- Collective agreement for employees employed directly by the end-user (Convention collective des salariés du particulier employeur in which employers are represented by FEPEM and their trade unions counterparts are CGT Commerce, CFDT Services, FGTA FO and FESSAD-UNSA;
- Collective agreement for childminders employed directly by the end-user (Convention collective des assistants maternels du particulier employeur) in which employers are represented by FEPEM and their trade unions counterparts are CGT Commerce, CFDT Services, FGTA FO, FESSAD-UNSA, CSAFAM and SPAMAF.

For direct employment, social dialogue has enabled the signature of two specific collective agreements, and the creation of specific employer contributions, in addition to those implemented in law, for financing social protection and professionalisation policies adapted to the sector. Two dedicated structures have been created: IRCEM (Institute for the social protection of employees in the direct employment sector), and Iperia, a national platform for professionalisation which assists workers in their professionalisation projects and formalities. Furthermore, a Joint National Council for Social Dialogue was launched in March 2014. It is a common authority to both branches related to direct employment and its role is to propose the topics of inter-branch social dialogue which must be treated as a priority (occupational health, professionalisation, fight against undeclared work, development of digital uses, etc.).

Joint agreements are regularly negotiated and signed to complete the provisions of the collective agreements. PHS workers can access vocational training, provident schemes, complementary pension schemes, complementary health insurance and recently occupational health doctors, in conditions adapted to the specificities of the employment relationship.

SWEDEN

Sweden has a social dialogue system which is divided between the care and non-care activities in PHS. However, larger companies do negotiate with unions directly.

For non-care activities, social dialogue is organised between Almega, the Employers' organisation for the Swedish service sector, and Kommunal, the Swedish Municipal Workers' Union.

For care activities, the biggest social dialogue negotiations take place between SALAR, the Swedish Association of Local Authorities and Regions, and Kommunal. It is important to note that other smaller Employer organisations, active in the for-profit and not-for-profit field, also negotiate collective agreements.

SPAIN

There are approximately 120,000 PHS workers across Spain who are represented through sectoral bargaining rights. PHS services in Spain changed drastically after law 27/11 was passed on 1 August 2011, initiating a 6-year transition to the recognition of PHS workers as having the same rights as other workers. This change enabled more than 30% of these workers to transition from undeclared to declared status, and encouraged them to join the CCOO trade union.

Workers in the sector had first been brought together by the CCOO in the 1980s, and after a 38-day strike they were able to achieve the first collective agreement in 1990. This resulted in a 39-hour working week, 4 days off per month, breaks in line with employment standards, and a pay level above the professional minimum. Since the 1990s the sector has grown, and the need for sectoral social dialogue and collective bargaining has grown in parallel. The solidarity of the workers over the years has meant that there were few strikes, and that their collective power was strong. However, with the growth of the industry more and more multinationals started operating, pushing the small and medium-sized businesses out. In March 2015, the workers had been without an agreement for almost a year. The employers were looking to increase working hours and freeze seniority and wages, refusing to recognise what had historically been agreed. This approach rallied the workers and brought them to the point of revolt. Just days before the largest planned PHS strike, the employers folded, granting a 36-hour working week, a wage increase of 1.2%, and assurances of job security.

Through social media and other communication strategies, the unions are working tirelessly to identify and organise workers in this sector. There is still much to be done, but the sectoral bargaining rights mean that all PHS workers can benefit from collective bargaining with the employer's association. When government policies such as the ratification of the ILO C189 Domestic Workers Convention are implemented, front-line workers will reap the benefits. The CCOO Construction and Services Federation continues to lobby the Spanish government to ratify ILO C189 and give PHS workers the rights already recognised for other workers.

ITALY

The first version of the National Collective Agreement on Domestic Work (CCNL – Contratto Collettivo Nazionale di Lavoro sulla disciplina del rapporto di lavoro domestico) was signed in 1974 and it has been revised several times since then. It regulates the employment relationship between domestic workers (badanti mainly caring for dependent persons or colf performing household activities) and the end-user acting as the employer. Signatories of the CCNL are Domina and Fidaldo from the employers' side, and Filcams CGIL, Fisascat CISL, UILTuCS and Federcolf from the unions side.

Over the years, the collective agreement has provided additional rights to domestic workers as well as minimum wages. Similarly, it has made families aware of their duties as domestic employers. Furthermore, it has led to the launch of two bodies: Cassacolf (an integrative fund providing healthcare services to domestic workers) and Ebincolf (an observatory of domestic work also developing a certification programme and taking initiatives in occupational safety).




SUCCESS FACTORS FOR DEVELOPING EFFECTIVE SOCIAL DIALOGUE STRUCTURES IN PHS

Conclusions

Social dialogue does not look the same in every country. It is important to note that the most important aspect of social dialogue is that it meets the needs of the industry and industry stakeholders. There is lots of flexibility in how the processes can be organised, and what is successful in one jurisdiction may not work well in another.

Based on the above-mentioned examples and experiences, we recommend the following elements to be crucial success factors in the development of social dialogue in PHS:

- Respect for the fundamental freedoms of association and the right to collective bargaining, through the appropriate legal framework which fits the special circumstances of PHS
- Strong, representative and independent employers and unions, with the technical capacity and knowledge required to participate in social dialogue
- Necessary support by the state to allow workers' and employers' organisation to become representative and carry out meaningful social dialogue and collective bargaining
- Laws for access, communication and structures which allow isolated and/or vulnerable workers and employers to organise themselves collectively
- Political will and commitment to engage in social dialogue on the part of all parties
- Appropriate institutional support which in turn will lead to social dialogue
- Appropriate multi-employer and/or sectoral social dialogue and collective bargaining structures, of which if necessary the state is part
- Appropriate enforcement and implementation mechanisms including through a functioning labour market administration, such as labour inspection and the social partners. We recognise that in PHS it is particularly difficult to carry out inspections, and may indeed be almost impossible considering that there are many one-to-one employment relationships
- Respect for social partners

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- The possibility to extend the coverage of collective agreements to those who are not directly involved in collective bargaining (sectoral collective bargaining) by the social partners.¹⁰ The challenge remains that organising workers in this sector is very difficult. Employers are also often in the dark about being an employer; they do not consider themselves to be employers and therefore do not recognise their obligations.
 - In the case of direct employment, Member States should create adequate conditions to build up a social dialogue at national and local levels by developing and structuring private employers' and domestic workers' organisations. This must lead to developing collective bargaining by considering the specificities of the employment relationship between two individuals.
 - Better recognition by public authorities of these private individuals as employers with their rights and obligations, and better regulation of working relationships between employees and employers will, therefore, help to reduce undeclared work, which is predominant in the sector.

¹⁰ <https://sustainabledevelopment.un.org/content/documents/10512Sectoral%20Paper%20HLPF%20WTUMG%20Final.pdf>



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