

# CEEP UK Newsletter

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For further information on any of the items presented in the newsletter, please contact

[Tina.Weber@lge.gov.uk](mailto:Tina.Weber@lge.gov.uk)

### ***Debate on Temporary Agency Workers' Directive heats up***

In the December 2007 issue of the CEEP UK Newsletter, we reported on the failure by European Social Affairs Ministers to agree on two important legislative measures: the revision of the European Working Time Directive and the draft Directive on the rights of Temporary Agency Workers. The latter would give the UK's over one million temps the right to equal terms and conditions with employees in the host organisation doing the same job. In its current draft, this would cover pay as well as other benefits such as pensions, rights to sick pay or maternity benefits. The only exception would be temps working on assignments of up to six weeks. While a number of EU countries retain some reservations about the existing draft from the Portuguese presidency, the UK is looking increasingly isolated in its opposition to the Directive and it appears that the presidency only postponed a vote on this issue – which the UK would most likely have lost – until the new European Treaty has safely passed through Parliament.

Recent newspaper reports have indicated that Gordon Brown may not only be standing isolated in Europe, but is also facing strong pressure from his own backbench MPs to reverse his position on this piece of legislation. Trade unions and over 100 Labour backbenchers feel that granting equal rights to temps would help to halt what they consider to be the increasing casualisation of the workforce. John Hutton, Secretary of State at the Department of Business, Enterprise and Regulatory Reform (BERR, formerly DTI), on the other hand, argues that only 6% of the UK labour force work for temporary agencies, in positions which often act as a stepping stone to other, more open ended employment. The CBI is concerned that the Directive could threaten around 250,000 jobs and cost British businesses up to £9 billion each year. An initial assessment carried out by CEEP UK indicates that public service employers are also likely to face increasing costs resulting from a European Directive on Temporary Agency Workers, not only because of increasing pay bills, but also resulting from entitlements to pension and other benefits. CEEP UK will shortly launch a survey of its membership in order to gather more detailed information on the potential impact of such regulation. This and other key items on the European policy agenda will also be the subject of a CEEP UK seminar to be held in London on 5 March 2008.

***Signposts are set for possible ECJ landmark ruling on rights of carers to flexible working***

On 31 January 2008, the ECJ's Advocate General delivered his pre-judgement opinion in the case of *Attridge Law v Coleman*. This potentially landmark case hinges on the question whether the EU's Equal Treatment Directive protects individuals from so-called "associated discrimination" and could have a significant impact on the rights of parents of disabled children and other carers to flexible working.

In this case, the company allegedly refused to grant Sharon Coleman the opportunity to work flexibly – an opportunity which she argued was granted to parents of children without disabilities. Ms Coleman, who worked as a legal secretary, claims she was subjected to unfair treatment by her employers. In particular she claims:

- she was criticised and described as 'lazy' when she wanted to take time off to care for her child
- on occasions when she was late for work because of problems with care for her child she was told that she would be sacked
- she was not allowed to work from home but other employees experienced no obstacles when wanting to care for their non-disabled children
- she was placed in a pool of staff selected for redundancy after she said that she wanted to make a formal request for flexible working to care for her child.

Ms Coleman claims that these actions created a hostile atmosphere which forced her to resign in March 2005. She was strongly supported by the Disability Rights Commission in pursuing her case to the European Court of Justice.

On 31 January 2008, the Advocate-General of the ECJ - whose opinion is not binding but is usually followed - said that European law, which the UK is obliged to follow, "protects people who, although not themselves disabled, suffer direct discrimination and/or harassment [at work] because they are associated with a disabled person."

A formal judgement in this case is expected later this year, but if the Advocate-General's reasoning is followed, this could have significant implications for employers, who will face an increased risk of discrimination claims from carers of disabled children and indeed other carers if they do not agree flexible working requests.

***European social partners debate next steps for better reconciliation of work and family life***

Following the European Commission's second stage consultation on improving measures aimed at reconciling work and family life in May 2007, the European social partners CEEP, BusinessEurope, ETUC and UEAPME sent a joint letter to the Commission requesting that it refrain from bringing forward any new initiatives while the social partners initiated their own discussions aimed at evaluating parental leave arrangements in connection with other arrangements supporting parents and work life balance, such as flexible work arrangements and childcare, as well as other forms of leave, to assess if joint actions need to be taken at European level. The social partners undertook to report on progress made in these discussions to the Commission and the Tripartite Social Summit in March 2008.

In the background to these discussions the European Parliament is pressing for revisions to the existing social partner framework agreement on parental leave with a view to making improvements in relation to the length of leave as well as the level of remuneration. In addition, the European Commission has already

announced its intention to bring forward proposals to revise existing provisions regarding maternity protection and to consider introducing a right to paternity leave across the EU.

The first meeting of the social partner working group to debate these issues took place on 22 January 2008. It was agreed that an initial analysis of existing parental leave and other leave, as well as childcare and flexible working provisions in different EU Member States would be prepared in advance of the next meeting of the working group in February. This will be based on information provided by the respective national members of the European social partner organisations. An initial analysis of this material within the employers' group highlighted the following:

- The provisions of the 1995 framework agreement on parental leave have been implemented in all Member States;
- Because of the cultural and political traditions of each country, a wide variety of complex arrangements to assist in the reconciliation of work and family life exists in across the EU, which combines parental leave with maternity and other leave arrangements;
- Significant differences also exist in the level of pay for different leave arrangements and the extent to which such costs are covered by employers or government;
- The interaction between leave arrangements and the availability of flexible working as well as affordable and high quality childcare arrangements is critical in influencing the take-up of leave.

From an employers' perspective, the benefits of offering measures which assist in reconciling work and private life must be balanced with the need to provide continuity of service or production, the ability to plan ahead, avoiding labour market shortages and preventing the further segmentation of the labour market which can result from offering carers (currently mostly women) very long periods of leave.

The initial trade union reaction at the meeting indicates a continuing desire to “modernise” parental leave provisions, enhance maternity protection and make increased provision for fathers to take leave to care for children and other dependents.

CEEP UK is represented in the European level discussions by Tina Weber. Members of CEEP UK will be kept informed of developments in these discussions and will be able to input into the debate at the seminar to be held in London on 5 March 2008.

### ***Commission postpones publication of controversial patient's rights Directive***

The publication of a draft Directive on Patient's Rights, expected to be issued by the Commission in December 2007 has been postponed amidst strong criticism from all sides regarding many of the widely leaked proposals it is set to contain. While the Directive is intended to open the “EU internal market” for health care services and giving patients greater rights to access health care services across borders, significant concerns have been raised concerning some of the potential consequences of such a Directive:

- Existing drafts indicated that patients would be able to seek treatment abroad without prior authorisation by their GP or specialist, making it difficult for health care systems to budget, as they will only be made aware of costs incurred when a patient returns from receiving treatment and presents a bill;
- While the Directive stipulates that the cost of treatment abroad will be covered up to the amount the same treatment would have cost in the home health care system, it is not clear who will cover the cost should anything go wrong with a procedure carried out abroad. In addition, there are concerns that the system would allow queue jumping by the more well off, as treatments need to be paid for up front;

- The question has also been raised whether the establishment of a Committee of Member State representatives chaired by the Commission to oversee the operation of this system does not constitute one further step towards undermining what the European Treaty provides as being the responsibility of the Member States (under the principle of subsidiarity);
- In addition, there are many other practical problems to be considered, such as the transfer of patient records and potential difficulties in workforce planning as it is difficult to predict the level of influx of patients from different countries.

In the longer term concerns could also be raised regarding the impact of such measures on European health care systems in general. It was the proposal of the Commission that patients should only be able to be reimbursed for treatment abroad which would also be available to them in their home country. It is maybe not too much of a leap to consider the possibility of cases being brought before the European Court of Justice by citizens considering their human rights or their rights to equal access to services being infringed by differences in health care policy and accessibility to different treatments or medication between EU health care systems.

CEEP as well as HOSPEEM and their members will continue to be involved in these discussions at European and national level and the CEEP UK Newsletter will report on any future developments when the Directive is eventually issued by the Commission.

### ***New Commission website on EU policy on public services***

The European Commission has recently launched a new website providing information on EU legislation and policy affecting public services (or services of General Interest in European parlance). The website can be accessed via this link [http://ec.europa.eu/services\\_general\\_interest/index\\_en.htm](http://ec.europa.eu/services_general_interest/index_en.htm) which provides access to all relevant Commission Communications, other documents, useful links and frequently asked questions.

### ***CEEP UK agrees 2008 budget***

Among the main items discussed by the CEEP UK Executive Committee held on 30 January 2008 were the organisation's 2008 budget as well as proposed changes to CEEP UK's constitution and financial arrangements.

The Executive Committee decided to freeze subscription rates for the second consecutive year, despite the cost of our subscription to Brussels going up by 2.5% and an adverse exchange rate. The extra costs will be covered by a combination of taking a small amount from our reserve, project income due from head office in Brussels to pay for the Policy Officer's work in co-managing two European projects in 2007 and some small cost savings. In making this decision, the Executive Committee felt that subscription rates would have to be increased in 2009.

Invoices for 2008 will be issued in April and subscribing organisations are asked to pay promptly, as from this year onwards we are taking responsibility for our own accounts which up to now have been handled for us by the Local Government Association.

There will be a special meeting of the UK General Assembly in London on 3 April (to coincide with the next meeting of the National Association of Regional Employers) which will be asked to approve a revised constitution for CEEP UK. The new text was endorsed by the Executive Committee on 30 January but needs formal approval at a meeting of the General Assembly. The main changes in the new constitution are as follows:

- to open up the membership of the organisation to any public service employer in the UK or association thereof
- to establish CEEP UK's status as that of an unincorporated association

- to change the Policy Officer's status to that of Director and to establish new arrangements for oversight of her performance and development
- to create a role of honorary treasurer, which in the first instance will be carried out by Charles Nolda, subject to annual confirmation by the General Assembly
- to change the quorum arrangements
- to provide that, in the event of dissolution, any costs arising, debts and financial balances would be shared pro-rata among the member organisations.

Copies of the proposed and old texts will be circulated to all members of the General Assembly at least a fortnight in advance. Meantime, any questions should be addressed to Charles Nolda (Charles.Nolda@lge.gov.uk).

### *Diary of events*

11/2/2008	Brussels	CEEP Local Enterprises Committee
11/2/2008	Brussels	CEEP Transport Committee
12/2/2008	Brussels	Meeting of CEEP shadow group on reconciling work and family life
18/2/2008	Brussels	CEEP Delegates Committee/General Assembly/Chairs and Vice Chairs
25/2/2008	Brussels	CEEP Social Affairs Committee
5/3/2008	London	CEEP UK Executive and seminar on currently European policy issues
3/4/2008	London	CEEP UK Executive and General Assembly
7/4/2008	Brussels	CEEP Social Affairs Committee
6-7/5/2008	London	Joint social partner project on restructuring: UK seminar
21/5/2008	Brussels	CEEP Delegates Committee/General Assembly/Chairs and Vice Chairs
2/6/2008	London	CEEP UK Executive
9/6/2008	Brussels	CEEP Social Affairs Committee
10/9/2008	London	CEEP UK Executive
23/9/2008	Brussels	CEEP Social Affairs Committee
25/9/2008	Brussels	CEEP Delegates Committee/General Assembly/Chairs and Vice Chairs
23-24/10/2008	Winchester	NARE and CEEP UK AGM
17/11/2008	Brussels	CEEP Local Enterprises and Services of General Interest Conference
20/11/2008	Brussels	CEEP Social Affairs Committee
15/12/2008	Brussels	CEEP Delegates Committee/General Assembly/Chairs and Vice Chairs