

The argument for social and employment competence (Q1 – Q3)

1. To what extent is EU action in this area necessary for the operation of the single market?

Our response is focussed on the Health and Safety element of this review

EU action in regards to Health and Safety should be restricted to activities which can be clearly shown to specifically address issues which can impact on economic union. This has not been the case to date.

2. To what extent are social and employment goals a desirable function of the EU in their own right?

Our response is focussed on the Health and Safety element of this review

Only in as much as they contribute to a successful economic union and can be clearly shown to have that specific effect. It has been shown that EU Social legislation has added to the burden on UK employers already impacted by specific Health and Safety legislation without improving Health and Safety performance throughout the EU.

3. What domestic legislation would the UK need in the absence of EU legislation?

With reference to Health and Safety legislation. The UK already had the Health and Safety at Work act 1974 prior to most of the 28 Health and Safety Directives imposed by EU up until 1994. Generally speaking, these covered the same areas as HSWA and therefore the primary UK legislation would suffice to ensure continued improvement to the safety of workers and others impacted by business.

To date it has been rarely necessary to amend primary legislation to bring into effect EU Health and Safety law. Similarities between HSWA74 and EU requirements mean that most EU requirements covered by Directive 89/391/EC (Health and Safety Framework Directive) largely mirrors the arrangements established by HSWA 15 years earlier.

Impact on the national interest (Q4 - Q7)

4. What evidence is there that EU action in social policy advantages the UK?

Our response is focussed on the Health and Safety element of this review

5. What evidence is there that EU action in social policy disadvantages the UK?

Our response is focussed on the Health and Safety element of this review

6. Are there any other impacts of EU action in social policy that should be noted?

Our response is focussed on the Health and Safety element of this review

7. What evidence is there about the impact of EU action on the UK economy? How far can this be separated from any domestic legislation you would need in the absence of EU action?

Regarding Health and Safety legislation. In light of the UK's well established primary Health and Safety legislation being wide ranging and successfully covering most of the matters referred to by EU Directives, any subsequent EU legislative requirements have proven to be unnecessarily burdensome and costly without any clearly identified improvement in Health and Safety standards.

The qualification "reasonably practicable" is used in UK to maintain a reasonable balance between cost and benefit of certain Health and Safety issues. This was challenged (unsuccessfully) by the European Commission in 2007. Had the UK failed in its defence of this process some form of no fault liability would have been required, which would be costly, cumbersome and litigious. This shows clearly the difference between the pragmatic, practical UK approach and the theoretical expectations of the EU and how the UK's established system works well in practice without EU influence.

Future options and challenges (Q8 - Q12)

8. How might the UK benefit from the EU taking more action in social policy?

Regarding Health and Safety legislation. The EU is fundamentally an economic union and its activities should be focussed on that foundation. Action on social policy is outside its original remit, costly and distracting from its true vocation, thus negating potential effectiveness of the economic union. Therefore further EU activity in this area is unlikely to bring any specific benefit to the UK which already has high social policy standards in relation to Health and Safety issues.

9. How might the UK benefit from the EU taking less action in social policy, or from more action being taken at the national rather than EU level?

Regarding Health and Safety legislation. The EU is fundamentally an economic union and its activities should be focussed on that foundation. Action on social policy is outside its original remit, costly and distracting from its true vocation, thus negating potential effectiveness of the economic union. Therefore reduced EU activity in this area would allow the UK to define and action its own priorities and allow the EU to focus resource on competing worldwide as an effective economic union.

10. *How could action in social policy be undertaken differently? For example, are there ways of improving how EU legislation is made e.g. through greater adherence to the principles of subsidiarity and proportionality or the ways social partners are engaged?*

The EU is fundamentally an economic union and its activities should be focussed on that foundation.

11. *How else could the UK implement its current obligations in this area?*

Our response is focussed on the Health and Safety element of this review

12. *What future challenge/opportunities might the UK face in this area and what impact might these have on the national interest?*

Our response is focussed on the Health and Safety element of this review