

**Department of Business Innovation and Skills
Review of Balance of Competences between the UK and EU**

Call for Evidence: Social and Employment Review

Introduction

In response to the questions posed in the consultation paper the Fire Sector Federation (FSF) would offer the following commentary and evidence. It is noteworthy that the FSF has representation from both the Public and Private sectors and the responses therefore reflect that makeup with some deliberately qualified to make it evident from which perspective the comments are made.

The argument for social and employment competence

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

In the Public sector there is little gain from EU involvement in social and employment issues like conditions of service. The main concerns are the loss of balance between benefit to social improvement and those of unintended consequence.

For example having shared educational and vocational accreditation, qualifications and validation of technical competence to support and underpin the EU principle of free movement of labour is seen as beneficial. This makes benchmarking of professional competency essential but since many of these actions often occur outside the EU Directive processes there remains concern about the regulatory impact on professions.

The attempt to apply new controls using amendments to the Working Time Directive is another example where the unintended consequence could severely disrupt employment with health and public protection services.

Likewise public contract tendering requirements as enforced in the UK as part of the single market can have significant impact on the overall ability of local and national companies to compete and hence develop prosperity in local communities by requiring extended and complex bidding processes that dissuaded SME to trade.

It is therefore essential that the EU conducts rigorous impact assessments, taking views from all member nations into account before embarking on legislative change.

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

It is accepted that there is desirability to seek eradication and exploitation of individuals in Europe as part of a common goal to improve in a meaningful way social wellbeing. An EU that shares this common perspective is likely to operate more cohesively when facing challenges whether they are economic, as in the current austerity, or when facing threats, natural and manmade.

However there has to be a pragmatic approach that recognises that although this is a worthy and ambitious goal its achievement has to reflect existing culturally and historical values and current

interests and performance in what remains a diverse Europe – proportional subsidiarity balanced with solidarity remains important. This also really underpins the need to ensure that other EU nations are equally responsive to the introduction and application of EU Directives

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

Effective UK legislation generally exists in part as an outcome of the UK Government's continued approach to unambiguously and faithfully introduce and enable the application of EU Directives in this area. The sense therefore is that some form of transitional legislative mechanism would be required to 'retain' this appropriate legislation rather than seeking to repeal and reintroduce new laws, thus allowing protection under social and employment legislation (health and safety, working and diving hours, etc.) to continue in application.

Impact on the national interest

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

Sensible interpretation by UK government of Directives have provided an even keel for some in areas like working hours and health and safety promoting wellbeing among workers

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

There is always a suggestion mainly in the media that the UK acts impeccably in social policy when other Member States do not thus disadvantaging UK enterprise. In the public sector the EC proposals to modify the Working Time Directive (WTD) are an example where the drive to improve social conditions in some MS that have not already adequately introduced existing WTD requirements fails to recognise MS where good proportionate management has already reached a satisfactory position.

Exploring the WTD commenced in 2009 when the broad picture across the EU indicated that of around 2.7 million firefighters 2.2 million or thereabouts were part time that would, if a proposed Portuguese amendment to remove the WTD opt out clause were enacted, reduce firefighter availability to predominantly rural communities dramatically. In the intervening period a failure to agree at the EU Parliament and a series of negotiations between social partners has failed to change anything except a concern in the workforce that the matter is unresolved.

In the same period the fire and rescue service (FRS) like many other employers has had to transform to lower expenditure with part time working becoming an essential option to match staff to demand. In the FRS Retained Duty System (RDS) staff are now seen as even more crucial but the possibility of unintended consequence of any further change threatens provision of the FRS, which is of course a subsidiary matter. It is understood that the health service has similar concerns.

Commercially as we understand the situation the UK continues to have more and more start up small companies (4.7 million or 95% of UK businesses are micro-businesses that is those employing 0-9 people; in 2013 these accounted for 32% of employment and 18% of turnover) and this is very much reflected in the fire sector where many micro and SME exist.

Great care must be exercised that any goals set or legislation suggested does not stifle their growth and using examples of reform, like Lord Young's review of procurement in local government perhaps

the UK should lead a “better regulation agenda in Europe” and engage with UK industry early in the EU policy processes to ensure that EU edicts are in the best interests of our own country?

Future UK policy on EU must also continue to include constant review of EU legislation to ensure that outcomes are fair and that there is sensible balance between prescription of the need to prove competence and a more ‘woolly’ requirement to comply, which will always be difficult to achieve given the cultural differences between the EU member states.

Across the EU there are in many cases greatly differing views with regard to terminology used in employment, for example, in Germany the term Engineer is prized by the people that are culturally ‘allowed’ to use it whereas in the UK it has a far broader application and thus an understanding of these differences is very important before any social or employment goals are set.

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

The very nature of social interaction including work has developed within each MS as a reflection of national needs, culture and history. Furthermore the climate, demography and topography affect the EU population diversely. The application of detailed universal solutions is not necessarily appropriate in this context and, as with the proposed WTD, may result in unintended consequences.

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?

No evidence can be offered save the popular but maybe misleading comments of the media and the occasional statement from suppliers or staff that they have been found uncompetitive on price due to what they regard as questionable requirements or lower labour costs based on poorer working conditions.

Future options and challenges

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

Essentially by ensuring it remains active in all proposals, drives for openness to ensure compliance with existing Directives, seeks redress when deliberate obfuscation or confusion and uncompetitive action is shown to exist, and targets economic disadvantage to achieve more balanced movement of labour.

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?

It is not suggested that the UK creates barriers to legitimate trade although there is an argument perhaps that those infringing social rights should have their trade restricted. There is support for the correct application of international standards for goods and competency qualifications.

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?

Continuing to seek full application of the proportionality and subsidiarity principles is vitally important as the WTD example has shown there exists the possibility that a matter of subsidiarity can be forced to comply and then adversely impacted by EU social policy.

In addition many workers are not part of the recognised social partners negotiation groupings and hence 'outside' the tent when discussions are held, for example many part time workers and SME employees are not within trade unions recognised as social partners. Whilst accepting whatever system exists has to be manageable there is a need to increase the consultative process so that such groups, now a very significant part of the workforce, are not disenfranchised.

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

Opting out is not really supported and if this were undertaken then to ensure continuity some UK Parliament transitional legislation would be required to maintain a sensible 'status quo'

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

Concerns remain in the public sector on matters like working time and driver hours within the overall management of wellbeing, competency, standards and quality in the workforce to avoid excessive regulation and economic migration.

The public sector is the major UK employer and always seeks to demonstrate the qualities of being a good employer, leading by example, with the consequence that this implicit desire to apply social and employment conditions in a fair and consistent way throughout the UK has significant economic cost. The current economic circumstances must be allowed to temper this tendency to lead and that demands a rigorous impact assessment be introduced by the EC in making any future proposals given the majority voting system introduced by the Lisbon Treaty.

In the commercial business sector concerns are also centred upon approach and application. The perception, for example, that there is a somewhat laissez faire application of Directive criterion by other Member States when compared and contrasted to the regulated and enforced approach within the UK; the fact that detailed impact assessments, including recognition of cultural and historic diversity, are not always thoroughly undertaken in advance; and a view that industry, especially the smaller enterprises where margins of profitability are usually slim, can often be unsighted about changes in social or employment conditions that can move a company out of profitability.