



The Royal College of
Midwives

Response

Response to
the Department for Business
Innovation and Skills
consultation on
Government Review of the
Balance of Competences
between the United Kingdom
and the European Union Call
for Evidence: Social and
Employment Review

January 2014

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The Royal College of Midwives' response to the Department for Business Innovation and Skills consultation on the Government Review of the Balance of Competences Between the United Kingdom and the European Union Call for Evidence: Social and Employment Review.

The Royal College of Midwives (RCM) is the trade union and professional organisation that represents the vast majority of practising midwives in the UK. It is the only such organisation run by midwives for midwives. The RCM is the voice of midwifery, providing excellence in representation, professional leadership, education and influence for and on behalf of midwives. We actively support and campaign for improvements to maternity services and provide professional leadership for one of the most established clinical disciplines.

The RCM welcomes the opportunity to respond to this consultation and our answers to the consultation topics are set out below.

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General Comments

The Royal College of Midwives (RCM) welcomes the opportunity to respond to the Department for Business Innovation and Skills consultation on the Government Review of the Balance of Competences between the United Kingdom and the European Union Call for Evidence: Social and Employment Review.

Our response will concentrate on some key themes rather than addressing each question as unfortunately we feel the questions are too vague and would only warrant a general response. As the questions are very vague this raises doubts about the methodology of the call for evidence as the results will more than likely express respondent's general views rather than factual and objective evidence.

We were disappointed that at times the tone of the consultation document does not come across as factual and objective but rather subjective. For example on page 19 it states:

"States have to ensure their own domestic legislation complies with these rules as a minimum and once EU legislation is adopted can no longer apply previously lower standards. In theory this practice ensures that the EU respects the principles of subsidiarity and proportionality by ensuring that regulation set above the national level is the minimum necessary but some have questioned whether this is what happens in practice. It is open to Member States to exceed these requirements if they wish. This practice in the UK is often referred to as 'gold plating'."

This statement implies that the official terminology for this practice is 'gold plating' when that is not the case and is not factual. The term 'gold plating' is a term used to be pejorative and to illustrate a particular political agenda.

We would like to put on record that we wholeheartedly support the social and employment provisions. The provisions are sensible and moderate and aim to improve living and working conditions; protect workers' health and safety; eliminate discrimination and implement the principle of equal pay; protect dismissed workers; and workers rights to be informed and consulted. The provisions are sensible and are not onerous on business, indeed the Government has acknowledged many times that the UK has one of the most lightly regulated labour markets in the developed world.

The RCM's view is that the logical consequence of a single market is to have a single set of labour rules which should be based on a decent standard for all workers and not on the lowest common denominator. Moreover, it is our view that the social and employment goals are desirable as a goal in and of themselves as well as being a key constituent part of the market.

The RCM believes that measures that respecting and protecting fundamental social rights and equalities are essential to protecting working people and their living standards. Effective labour market regulation can play an important role in preventing unfair competition and undercutting of employment standards as well as supporting and generating high value, high trust and highly productive workplaces. High and consistent standards encourage competition on the basis of innovation and productivity rather than cost cutting and poor quality provision.

Without fundamental social rights and protections the EU will be perceived as just for business but with nothing in it for ordinary citizens and workers.

The equality directives provide an important minimum level of protection from discrimination for all UK citizens which helps to ensure that they are treated fairly whatever their sex, race or other protected characteristics. In employment it ensures that the best qualified staff are taken on based on their merit and qualifications alone and that they are not discriminated against once in employment.

We are sure that many other submissions to this call for evidence will be able to articulate the advantages and benefits of the equality directives and the health and safety directives. However, we would like to focus on the Working Time Regulations in our evidence.

The consultation document refers to the Working Time Regulations as controversial and calls into question the health and safety evidence to support them. The RCM's view is that there is health and safety evidence that shows that working long hours without adequate recovery periods poses a significant risk to the health, safety and wellbeing of those working shifts. In addition to considering the health, safety and wellbeing impact on the staff we also have to consider the health, safety and wellbeing impact on others, for example, maternity service users.

Midwives and maternity support workers cover a service that runs 24 hours a day, 7 days a week, 52 weeks a year and as such they have to work shifts including nights and weekends, they have to provide an on-call service, and they typically work for long periods e.g. 12 hour shifts to provide continuity of care to women in labour.

The Health and Safety Executive has found that shift work, especially night work, can lead to many health problems including: disruption of the internal body clock; fatigue; sleeping difficulties; disturbed appetites and digestion; reliance on sedatives for example, sleeping pills; reliance on stimulants, for example coffee and nicotine; and social and domestic problems.

Moreover, working night shifts; morning shifts with very early start times; and working on call can lead to sleep loss which can lead to lowered levels of alertness. Cumulative sleep loss

over a number of days can result in a sleep debt with reduced levels of productivity and attention.

Research by the Health and Safety Executive has found that when individuals are sleep deprived performance is affected and errors are more likely. They found that this particularly applies to tasks that require: vigilance and monitoring; decision making; awareness; fast reaction time; tracking ability; and memory; all of which are skills needed in a busy maternity unit.

Working time doesn't just have an effect on the health, wellbeing and safety of staff, it also affects the women and babies who midwives care for. According to the Health and Safety Executive the risk of errors, accidents and injuries: is higher on night shifts; is higher on shifts that are over eight hours long; increases over successive shifts, especially if they are night shifts; and increases if there are not enough rest breaks. Job performance is poorer on shift work especially when working night shifts, tasks tend to be completed more slowly at night and in general the early hours of the morning present the highest risk for fatigue related accidents.

The Health and Safety Executive have found that for the first 8-9 hours in a shift the accident risk is constant, but after 12 hours the risk approximately doubles and after 16 hours it trebles. In the 2012 NHS Staff Survey 47% of midwives said they had seen either errors, near misses or incidents that could have hurt service users in the last month.

This is a very important issue for midwives and maternity support workers. In 2012 Income Data Services carried out a survey of trade union members in the NHS for the NHS staff side to submit to the NHS Pay Review Body as part of our evidence for the 2013/14. The survey found that:

- 86.9% of midwives and 58.3% of maternity support workers reported they 'frequently' or 'always' work more than their contracted hours.
- 46.3% of midwives and 44.1% of maternity support workers reported that all of the extra hours were unpaid with a further 19.7% of midwives and 13.7% of maternity support workers said that some of the hours were unpaid.
- 26.5% of midwives and 22.8% of maternity support workers said they worked 4 or more extra hours each week.
- 63.1% of midwives and 49.1% of maternity support workers said the increased workload was having a negative effect on patient care.

Therefore, given that midwives and maternity support workers are already finding themselves regularly working more than their contracted hours we do not want to see a relaxation of working time regulations that would see them work even more hours.

The RCM's view is that the Working Time Directive places fair and reasonable restrictions on working hours and ensures fair and reasonable recovery periods. Staff that work in an essential 24-7 services must have protections for their health, safety and wellbeing and this in turn also protects the health, safety and wellbeing of service users of the NHS. When some commentators (who more often than not work regular hours) dismiss the Working Time Directive as 'gold plated' it feels flippant and disregards the staff that work long and unsocial hours to care for others and provide an essential service.

Moreover, this will become more important as workers are required to work longer. Employers will need to develop and put in place strategies to support the extension of working lives and this will not be helped by any moves away from the social and employment protections derived from Europe. In January 2013 the Department of Work and Pensions published 'Fitness for work: the Government response to 'health at work – an independent review of sickness absence' in which they said: "as the workforce ages, an increasing number of employees will be managing long term health conditions. This means that the way we support employee health will become increasingly important, both at work and in terms of better management of chronic health conditions."

In conclusion, an important factor in the improvement and promotion of health and wellbeing of employees will be those protections derived from Europe, therefore the RCM fully supports shared competence on social and employment legislation.