

# Health & Social Services Committee

**HSS(2)-10-06(p.11)**

**Meeting date: Thursday 15 June 2006**

**Venue: Committee Room 3, Senedd, National Assembly for Wales**

**Title: European Issues - Update**

## **1 Purpose**

The purpose of this paper is to provide the Committee with progress of items selected from the 2006 and previous European Union Work Programmes (Part 1) and information on other health and social services items from Europe in which Committee Members may be interested (Part 2).

## **Part 1**

### **Progress of items from Work Programmes**

## **2 Services Directive**

EU Ministers reached political agreement on the draft legislation to open up the internal market for services, at the Competitiveness Council on 29 May 2006. The Council's agreement is based on a compromise text, put forward by the Austrian Presidency which is closely in line with the first reading opinion of the European Parliament (16 February 2006) and the Commission's amended proposal based on that opinion (4 April 2006). It excludes from the scope of application both private and public healthcare and pharmaceutical services.

Following approval of the Council common position text, the Directive will return to the European Parliament for a second reading. The Commission's amended Proposal is available at

[http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006\\_0160en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2006/com2006_0160en01.pdf).

Amendments relating to health and social services are summarised on page 3 of the document.

An update on the Commission's amended Proposal is included in the First Minister's report to the European and External Affairs Committee (10 May 2006):

[http://www.wales.gov.uk/servlet/EuropeanAffairsCommittee?](http://www.wales.gov.uk/servlet/EuropeanAffairsCommittee?area_code=37D6B0F100072F6F0000125D00000000&document_code=N000000000000000000000000000043937&p_arch=post&module=dynamicpages&month_year=null)

[area\\_code=37D6B0F100072F6F0000125D00000000&document\\_code=N000000000000000000000000000043937&p\\_arch=post&module=dynamicpages&month\\_year=null](http://www.wales.gov.uk/servlet/EuropeanAffairsCommittee?area_code=37D6B0F100072F6F0000125D00000000&document_code=N000000000000000000000000000043937&p_arch=post&module=dynamicpages&month_year=null)

However, following the exclusion of healthcare from the proposed services directive, the European Commission is intending to publish specific proposals on healthcare before the summer to help provide clarity and certainty over the application of EU law to health services and healthcare. It will also cover the refunding of care abroad and patient mobility, following the recent EU Court of Justice court case on the matter – see further information below in paragraph 9.

In view of this forthcoming proposal, the EU's 25 Health Ministers adopted a statement on Common Values and principles in EU Health Systems, at the Health Council

meeting on 2 June. The statement recalls the principles of universality, access to good quality care, equity and solidarity and requests that the Commission respects these principles when drafting this new proposal. The statement builds on work carried out under the UK Presidency.

[http://www.eu2006.at/en/News/Council\\_Conclusions/0106HealthSystems.pdf](http://www.eu2006.at/en/News/Council_Conclusions/0106HealthSystems.pdf)

### **3 Working Time Directive**

UK incorrectly transposed the working time directive

The Advocate General of the EU Court of Justice recommended on 9 March 2006 that the UK be found guilty of incorrectly transposing the Working Time Directive in two ways. Firstly, the UK has been accused of integrating the clause stating that "maximum permissible working hours per week or for night work only apply to a part of working time which can be measured and/or predetermined" into Britain's own working time regulations, when in fact derogations from this clause are only applicable when working time as a whole is unable to be measured.

The second reason was that the guidelines given by the UK Department of Trade and Industry which state that "employers must guarantee that workers are able to take daily and weekly breaks (resting time) but that it is not their responsibility to see that they are used effectively", did not comply with the terms of the Directive.

The UK is now waiting for the Court to deliver its judgement.

The opinion of the Advocate General can be found here:

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en&Submit=Submit&alldocs=alldocs&docj=docj&docop=docop&docor=docor&docjo=docjo&numaff=&datefs=2006-03-09&datefe=2006-03-10&nomusuel=&domaine=&mots=&resmax=100>

Still no agreement in Council on the revision of the working time directive

A meeting of EU Employment Ministers failed to reach an agreement on revising the Working Time Directive, after talks in Luxembourg on 1 June.

Although the Austrian EU presidency had devised a compromise package in an attempt to break the stalemate over national opt-out clauses to the EU's 48 hour week rules and a cap on the weekly maximum length of the working week, Ministers remained divided after talks dissolved, with the UK and a few other Member States refusing to give up its right to the opt-out. It was suggested in a report of the proceedings that the European Commission may have to take legal action against a number of member states currently in violation of European Court of Justice rulings over on call time.

The Finnish Presidency will take up the issue when they assume Presidency of the EU in July. The European Parliament adopted its first reading in May 2005.

The Austrian Presidency's response to the failed Council meeting can be found here:

[http://www.eu2006.at/en/News/Press\\_Releases/June/0206bartenstein.html](http://www.eu2006.at/en/News/Press_Releases/June/0206bartenstein.html)

### **4 Regulation on medicinal products for paediatric use and amending Regulation (EEC) No 1768/92, Directive 2001/83/EC and Regulation (EC) No 726/2004**

The regulation on medicinal products for paediatric use looks set to come into force from January 2007 following the European Parliament's second reading on 1 June 2006. It approved the compromise amendments negotiated by the European Commission and Council of Ministers. (The Council adopted a common position on 10 March

2006 and the European Commission responded to the Council agreement on 13 March 2006 - COM(2006) 118 final:

[http://ec.europa.eu/enterprise/pharmaceuticals/paediatrics/docs/com\\_2006\\_118\\_en.pdf](http://ec.europa.eu/enterprise/pharmaceuticals/paediatrics/docs/com_2006_118_en.pdf) )

The agreement will now be formalised in Council.

## **5 Pandemic Influenza preparedness**

EU Health Ministers met on Friday 2 June 2006 and discussed proposals from Health Commissioner Markos Kyprianou that Brussels should have its own EU stock of antiviral drugs. The Commissioner is concerned at the major differences in antiviral levels among member states, with some smaller, poorer countries in particular thought to have supplies well short of those that would be required in the event of a pandemic outbreak. However, Members failed to reach agreement on this matter.

## **6 European Commission's Green Paper on Mental Health**

This Committee has responded to the Commission's Green Paper on Mental Health. The European Parliament's Environment, Public Health and Food Safety Committee is currently discussing its opinion on the Green Paper, see the draft opinion here:

[http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/pr/608/608840/608840en.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/pr/608/608840/608840en.pdf)

The Commission's follow up to the consultation should be published towards the end of 2006. For further information on discussions during the consultation period, see:

[http://ec.europa.eu/health/ph\\_determinants/life\\_style/mental/green\\_paper/consultation\\_en.htm](http://ec.europa.eu/health/ph_determinants/life_style/mental/green_paper/consultation_en.htm)

## **7 European Commission's Green Paper on promoting healthy diets and physical activity**

This Committee has responded to the Commission's Green Paper on health diets and physical activity. The Commission's follow up to the consultation should be published towards the end of 2006. For further information, see:

[http://ec.europa.eu/health/ph\\_determinants/life\\_style/nutrition/nutrition\\_en.htm](http://ec.europa.eu/health/ph_determinants/life_style/nutrition/nutrition_en.htm)

## **Part 2**

### **Other items for information**

## **8 Meeting of the Council's Employment, Social Policy, Health and Consumer Affairs**

A Council meeting was held in Luxembourg on the 1 and 2 June 2006 with the second day devoted to Health issues. At the meeting, the EU's 25 Health Ministers adopted a statement on Common Values and principles in EU Health Systems, as mentioned above in paragraph 2. The working time directive was also on the agenda on 1 June – see paragraph 3 above.

Other Items on the agenda included women's health, pandemic preparedness and the adoption of the food additives legislation. A press release giving a summary of the content of each item is available here: <http://europa.eu.int/rapid/pressReleasesAction.do?reference=MEMO/06/225&format=HTML&aged=0&language=EN&guiLanguage=en>.

The conclusions of the meeting can be found here:

[http://www.eu2006.at/en/Meetings\\_Calendar/Dates/June/0106RatBESO\\_GEKO.html](http://www.eu2006.at/en/Meetings_Calendar/Dates/June/0106RatBESO_GEKO.html)

## **9 EU Court of Justice ruling on refunding health care abroad**

The EU Court of Justice has ruled on the circumstances under which patients should be reimbursed by their national health service for the cost of their treatment abroad, in the case of *Watts v Bedford Primary Care Trust and Secretary of State for Health (Case C-372/04)*.

The Court found that:

"The obligation to reimburse the cost of hospital treatment provided in another Member State also applies to a national health service which provides such treatment free of charge."

The two main points made in the Judgment related to the scope of Regulation No. 1408/71 on the application of social security schemes within the European Community and the scope of the freedom to provide services principle. The gist of the first of these was that the competent institution, in this case, Mrs Watt's Primary Care Trust:

"Must establish that the waiting time does not exceed the period which is acceptable in the light of an objective medical assessment of the clinical needs of the person concerned in the light of his medical condition and the history and probable course of his illness, the degree of pain he is in and/or the nature of his disability at the time when the authorisation is sought."

With the second point, freedom to provide services, the Court found that where a person whose state of health requires treatment goes to another Member State and receives that treatment:

"It falls within the scope of the provisions on freedom to provide services regardless of the way in which the national system with which that person is registered and from which reimbursement of those services is subsequently sought, operates."

The Judgment further points out that the NHS system of prior authorisation for treatment in another Member State constitutes an obstacle to the freedom to provide services.

The text of the press release has more detail about other findings related to this Judgment and can be accessed at: <http://www.curia.europa.eu/en/actu/communiqués/cp06/aff/cp060042en.pdf>

Having received the European Court of Justice's ruling on this point of European law, the case now returns for a final decision to the UK courts.

## **10 Commission report on Blood Donation**

On 17 May 2006 the European Commission published a report on the promotion by Member States of voluntary unpaid blood donations. The report summarizes measures in different Member States including the non-payment for blood donation, reimbursement of expenses, time off from work related to voluntary blood donation, provision of refreshments to blood donors etc. It also gives a general presentation of voluntary blood donation promotion methods used in Member States such as Information campaigns, special days and student awareness. The recommendations of the report are for a European wide study to determine best practices for promoting voluntary and unpaid donations and to develop methodology and recommendations for appropriate actions.

The report can be found at: [http://ec.europa.eu/comm/health/ph\\_threats/human\\_substance/documents/blood\\_com\\_0217\\_en.pdf](http://ec.europa.eu/comm/health/ph_threats/human_substance/documents/blood_com_0217_en.pdf)

## **11 The Finnish EU presidency**

Finland is due to take over the Presidency of the EU from Austria on 1 July 2006. The website was opened on 31 May and can be accessed at:

<http://www.eu2006.fi>

A preliminary agenda for the presidency has already been compiled and health priorities include the Working Time Directive, finalisation of the decision-making process on the EU public Health programme for 2009-13, and Pandemic preparedness. There are also objectives in relation to two items of legislation, i.e. to forge a political agreement on the Commission's proposals at the first reading of the Regulation on Medicines for use in advanced therapies and Directives amending Directives on medical devices.

A new pharmaceutical forum will hold its first meeting during the Presidency, and it will set out a strategic blue-print for the work of the G-10 working party on pharmaceuticals and competitiveness. A copy of the preliminary agenda can be accessed at:

[http://www.eu2006.fi/the\\_presidency/en\\_GB/presidency\\_agenda/\\_files/75305502727143591/default/preliminary\\_agenda.pdf](http://www.eu2006.fi/the_presidency/en_GB/presidency_agenda/_files/75305502727143591/default/preliminary_agenda.pdf)

## **12 Modernisation of Social Services**

A communication issued on 23 April 2006 by the Employment, Social Affairs and Equal Opportunities Directorate, sets out the Commission's interest in looking at the modernisation of social services in Member States. [http://ec.europa.eu/employment\\_social/emplweb/news/news\\_en.cfm?id=153](http://ec.europa.eu/employment_social/emplweb/news/news_en.cfm?id=153)

## **13 EU Health websites**

A new official EU public health thematic website has been set up as part of the Community Public Health Programme 2003-08. The website contains clear links to health topics and up to date details of meetings, outcomes, events and press releases. It also contains key indicators such as 1999 figures for consumption of fruit, and current research, all of which can be accessed at: [http://ec.europa.eu/health-eu/index\\_en.htm](http://ec.europa.eu/health-eu/index_en.htm)

## **14 Expert Working Group on social determinants and health inequalities**

Three representatives from the Department of Health in London were among the 33 participants nominated from the 19 countries that participate in the High Level Committee on Public Health who attended the first meeting of the Expert Working Group on social determinants and health inequalities held in Luxembourg from 2-3 March 2006. A report of the meeting, dated 21 April 2006 is available at: [http://ec.europa.eu/health/ph\\_determinants/socio\\_economics/documents/ev\\_060302\\_rep\\_en.pdf](http://ec.europa.eu/health/ph_determinants/socio_economics/documents/ev_060302_rep_en.pdf).

The report contains information on the work that group intends to undertake and information on some research and reviews that are currently being undertaken on health inequalities. Annex 1 of the report contains the mandate of the Group. One of the studies referred to is the Eurothine project entitled, "Tackling health inequalities in Europe: an integrated approach", and a link is provided to an introduction to the project. [http://ec.europa.eu/comm/health/ph\\_determinants/socio\\_economics/documents/ev\\_060302\\_co02\\_en.pdf](http://ec.europa.eu/comm/health/ph_determinants/socio_economics/documents/ev_060302_co02_en.pdf)

One of Eurothine's key objectives is to conduct analyses of the effectiveness of some recent policies and interventions in various European countries. The project has already:

- Created an international data base of socio-economic inequalities in health, by compilation of micro data from national health surveys and national or local

- mortality studies, and
- Analysed data from existing international surveys, such as the European Community Household Panel and the SHARE baseline survey.

More information on Eurothine is available from the project's website: <http://mgzlx4.erasmusmc.nl/eurothine/index.php?ind>

Another project to which the Expert Working Group report referred was "Closing the Gap: Strategies for Action to Tackle Health Inequalities (2004-2007)". This project also has its own website <http://www.healthinequalities.org/>.

Closing the Gap is a project developed by the Consortium of Partners for Equity in Health in which Wales participates through the Wales Centre for Health and is co-funded by the European Commission.

## **15 Action for Subject Committee**

This is a paper to note.

Members' Research Service

7 June 2006

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