

Care Policies in Europe update

by

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EU POLICY DEVELOPMENTS

In April 2005, the European Commission published the results of a consultation process on the framework for the preparation of the Communication on Social Services of General Interest. The White Paper on Services of General Interest (12 May 2004), recognised the need to define the specific characteristics of services of general interest, including health and social services. A conference in June 2004, marked the beginning of the consultation process, in which participants were encouraged to respond to a questionnaire. Replies were received from all 25 member States.

The responses showed that there was a consensus that many health and social services have common values based on the "*recognition of fundamental rights and general principles of universality, assessability, continuity, quality, user participation, affordability and transparency*".¹ Services of general interest and health and long-term care services, within the European Union, are undergoing processes of "modernisation" which include decentralisation, contracting out of services by the public sector, development of public –public partnerships,

Member states would like to clarify their competence at national level to organise health and social services. This means greater clarity about the application of the internal market and competition rules. Many of the respondents felt that services of general interest play an important role in addressing market failures and services should remain a national or local responsibility.

Some Member states and civil society organisations called for the adoption of framework legislation for services of general economic interest, which would guarantee quality, continuity, availability and user protection. Once this was in place, the need for a further framework for services of general interest could be discussed. Other respondents felt that 'softer' approaches at EU level were more appropriate, for example, open method of coordination.²

Although the response to the consultation on the White Paper on Services of General Interest reflected recognition that health and social care services are different to services of general economic interest, this will not have any influence if the proposed Services Directive is approved. The EU draft Services Directive (June 2004) Services in the internal market COM(2004) which recommended that "personal social services" are considered a Service of General Economic Interest (SGE) and so subject to competition law rather than a Service of General Interest (SGI) which would not be subject to competition. One of the most important implications of this classification is that a service provider operating within the EU would be subject to the laws of its country of origin and not of the host country where the service is actually provided. In relation to the posting of workers, Member State governments would have limited scope to influence the labour standards of workers who are employed in their country by a company from another country. The proposal was for the government of the country of origin of the company to try and influence labour standards and legislation because "a provider must, as a general rule, only be subject to the law of the country within which it is established". This would limit the power of governments to take action against undocumented migrant workers if they are recruited by an agency based in another EU country. This would have had implications for the recruitment of health and social care workers, their working conditions and the quality of services provided.³

Following extensive campaigning and lobbying from a wide range of organisations, institutions and governments the Directive was abandoned in its present form in February 2005. The Commission President Barroso announced that "*As the Directive was written, it would not have been successful... This is the reason why the Commission has unanimously accepted to make changes*"⁴

However the changes did not include deletion of the 'country of origin' principle. Although the progress of the proposed Directive has been slow, on 22 November 2005, the Services Directive was passed by the Internal Market Committee of the European Parliament. It is due to go to a full vote of the Parliament in January 2006. EU governments must then approve the text but many

governments have objections and there may not be time to complete the legislation before the end of June 2006. On 1 December 2005, Austria, which assumes the European Union presidency in January 2006, announced that it will delay approval of this legislation until the second half of next year, according to the country's economy and labour minister, Martin Bartenstein.⁵

COMPANIES

There have been several acquisition and divestments in the social care industry in the last 9 months. This demonstrates the rapid level of change in ownership in the social care industry. These changes are partly the result of private equity investors ensuring a high level of return on their investments. These changes point towards a continued process of consolidation at national level within the care industries, with some examples of expansion from one country to another.

Blackstone private equity group

Southern Cross, owned by the Blackstone private equity group, bought Ashbourne Homes for £85million. This will increase the number of beds from 18,000 to 28,000, which will make it the largest care home operator in the UK, overtaking BUPA. It is expected that Southern Cross will be floated on the stock market rather than sold on to another private equity investor or care home owner.⁶

Blackstone last year completed one of the UK's largest private equity deals when it bought NHP, a nursing home group, in a transaction valued at £1.1bn, including debt. Blackstone has now invested more than £286m of equity in UK nursing home deals.⁷

BUPA

In August 2005, BUPA bought the nursing-care company Additional Nursing Services (ANS) for £328million, which includes debt of £100million. ANS has 44 care homes providing nursing and sub-acute care to older people and younger adults with complex nursing needs.⁸

Medica France

French care company, Medica France bought a majority stake in Italian sector company Aetas-Senior Service SpA in July 2005. Aetas manages 12 old people's homes in the northern Italian regions of Lombardy, Piedmont, Liguria and Emilia Romagna, with a total 871 beds. Aetas, which employs over 80 workers is aiming to have 2,000 residents in the next three years. This would make it the largest company in this sector in Italy. Medica France manages 92 old people's homes in France, Switzerland and Belgium and has an annual turnover of €250 million.⁹

ORPEA/Medidep

In 2003, Orpea, the largest care home group in France, bought 28.2 per cent of Medidep in 2003. ORPEA's Chief Executive, Jean-Claude Mariam, was chair of Medidep's supervisory board. In June 2005, several hedge funds, Amber Funds Limited, Centaurus Capital LP and Mellon HBV Alternative Strategies, put pressure on Jean -Claude Mariam to resign because of a perceived conflict of interest.

After his resignation, the hedge funds bought his shares at €25.50 per share. Shortly afterwards, they sold the majority of these shares at €39.32 per share to Suren, another leading French care company. This illustrates how financial investors make short term gains from the sale of investments.

This can also be seen in the case of Bridgepoint Capital, a European mid-market private equity group, which has made more than €100m through organising refinancing deals with one of its investments, Medica, another leading French care home company. Bridgepoint Capital bought Medica in 2003 for €330 million. €100 has been realised in just over two years. The refinancing was arranged by Royal Bank of Scotland, which provided the debt financing for the buy-out. The amount was not disclosed.¹⁰

CONCLUSION

If the EU Services Directive is ratified and implemented, it will have a profound effect on care workers in Europe. The consultation on Services of General Interest showed a clear consensus that health and social care services have common values of “*universality, accessibility, continuity, quality, user participation, affordability and transparency*”, but the Services Directive would treat care services as an economic service activity. Changes in ownership of care companies show that, at the moment, investors view the care industry as a profitable industry. They will want it to remain competitive, with labour costs driven down as much as possible. The Services Directive would facilitate this process.

1 EC (2005) Feedback Document Social Services of general interest and health and longterm care services within the European Union p.3

2 EC (2005) Feedback Document Social Services of general interest and health and longterm care services within the European Union

3 European Public Health Alliance EPHA (2004) Study on legal implications of services directive www.eph.org

4 During the presentation of the ‘Commission’s approach to relaunch the Lisbon Strategy’ (source CELSIG, Agence Europe)

5 Bowley Graham (2005) ‘Austria plans to delay EU services legislation; Concerns on flood of cheap labor cited’ International Herald Tribune 1 December 2005

6 Smith P. (2005) Blackstone adds Ashbourne to its health portfolio Financial Times 12 November 2005 p.16

7 Smith P. (2005) Blackstone adds Ashbourne to its health portfolio Financial Times 12 November 2005 p.16

8 www.bupa.com Press release 6 August 2005

9 ANSA English Media Service 15 July 2005 Medica France buy majority stake in Italy Aetas

10 eFinancialNews.com 6 August 2005 ‘Bridgepoint gains from refinancings’