

TUC Response to, DG Employment, Social Affairs and Inclusion, Public Consultation

Exploiting the employment potential of the Personal and Household Services

The TUC fully endorses the views expressed in the Commission Staff Working Document accompanying this consultation. Without repeating all the points made in the working document the TUC would emphasise the following with regard to the need for good quality personal and household services.

- An aging population through-out the EU is creating an ever increasing need for carers. In many instances it will be cheaper and in accord with the wishes of the elderly for these services to be delivered in the home.
- Good quality and affordable child care facilities enables parents to achieve a better work-life balance.
- Good quality and affordable child care facilities enables women in particular –given the gender breakdown in caring in our societies –to have greater choice over their access to paid employment. That the evidence suggests that this would lead to the more appropriate usage of the skills and abilities of women in our societies leading also to overall enhanced economic performance.

The TUC also accepts that this demand for personal and household services also provides the opportunity for job creation. The TUC supports the view that this increased and existing provision should be performed in the formal not the informal economy both for the benefit of those performing the services and the wider society. Services delivered in the informal economy are extremely difficult to monitor both with regard to their quality and indeed as to the treatment of those providing the services. In addition it should be recognised that many of those who are legitimately providing such services on a self employed basis would welcome the benefits that come with being an employee. Making the provision of these services more attractive is essential in recruiting more people to this sector.

The delivery of these services in the informal economy also means that such workers do not build up contributory benefits from the state denying them in the UK access e.g. to statutory sickness pay, maternity leave and the state pension. The TUC believes that the sort of schemes outlined in the working paper to take such workers out of the informal economy, should be seriously considered in all EU states even if there are associated public costs, because:

- The lack of social security cover will be a deterrent to many who would otherwise be attracted to the sector. The consequences of which will lead to costs to society.
- The delivery of these services through the informal sector is often accompanied by exploitative practices.
- The delivery of such services through the informal sector invariably leads to a loss of revenue to the state through taxation but also through means tested benefits –payable in the absence of accrued contributory benefits.

The TUC would however raise two other issues which need to be addressed.

Firstly, we certainly do not endorse the view that a free market in the provision of such services is always the best option; even with a modicum of state intervention. State delivery can be more cost effective, whilst maximising scrutiny both of quality and the treatment of those who are delivering the services. Whilst this does not rule out the private sector, a more collective response to delivery also helps to facilitate union organisation also providing the workers with greater security.

Lastly, the TUC would make a particular reference to domestic workers – by definition those who are providing these services in their customers'/employers home. Evidence from the UK and elsewhere shows these workers to be particularly vulnerable and even more so if they are living in their employers home. Acknowledgement of this particular vulnerability means there is a need for special measures and indeed this is what led to the drafting of ILO Convention 189 on Domestic Workers. The TUC applauds the overwhelming vote in favour of Convention 189 whilst deploring the fact that the UK government was only one of two EU governments which voted against.

In attempting to justify its stance the British government has argued:

- That domestic workers share all the protections that any other employee has in the UK
- That whilst it accepted abuse did take place, it did not believe it was so prevalent to warrant major changes to UK law to bring it in line with the requirements of Convention 189

The TUC believes that the first of these arguments is flawed for three reasons:

- It has proved disappointingly easy for employers to convince UK courts that their domestic workers are in fact living with them as part of their family, not employees at all. In such circumstances they simply have no rights as employees.
- Secondly if the domestic worker is undocumented they cannot enforce their employment rights in UK courts and are open to widespread abuse. The TUC would argue that the rights given to workers under ILO conventions are indivisible and should apply to all workers.
- Convention 189 sprung from an acknowledgement of the particular circumstances that make domestic workers exceptionally vulnerable. To give but two examples. If they are living in their employer's house and they lose their job then they will become homeless. If they are working on a visa they may be faced with removal from the country¹. Abuse takes place behind the closed door of a private house which cannot be inspected by those agencies charged with enforcing employee's rights.

As to the UK government's second argument, that abuse is very much the exception, the TUC would say that they clearly have not bothered to read the evidence. For example, in a report produced by London Metropolitan University in August 2011 on migrant domestic workers², it found:

- 60% of the domestic workers surveyed earned less than the National Minimum Wage

¹ From 1997 to June 2011 those working on an Overseas Domestic Workers visa employed in the private house of a migrant, could change employers. This was effectively a concession in the UK immigration law acknowledging the particular vulnerability of this group of workers, providing them with a way of escaping abusive employers. Along with offer changes, the current UK government has removed this right to change employers.

² 'Turning a Blind Eye Workinglives Research Institute of London Metropolitan University

- 27% of them worked in excess of the 78 hours maximum provided for in the Working Time Regulations
- Some reported that they were continually on call and even had to sleep in the same room as the children or adult they were providing care for
- 50% of those surveyed did not receive a wage slip
- An even greater percentage expressed concern that tax was not being deducted or not being paid to the state

The report also noted that they were aware that the United Kingdom Border Agency (UKBA) had been informed of a number of cases of abuse by overseas domestic workers but to quote:

'In none of the cases did we find any evidence of UKBA taking action to rectify the problems, or notify appropriate enforcement bodies.'

The London Metropolitan University report specifically focused on the terms and conditions of domestic workers in the UK. Other reports have a broader focus on abuse including the most appalling cases of physical and sexual abuse. Examples can be found at the Justice for Domestic Workers website:

<http://www.j4dw.org/about>

The TUC would argue that the self-satisfied stance of the UK government, in believing there is little abuse of domestic workers in the UK, has no bearing in reality. Abuse arises not just because of the cruelty and greed of the abuser but because of the powerlessness of the abused. Unless this powerlessness is addressed by providing domestic workers with enforceable rights geared to meet their specific needs, one can assume abuse will continue to be an all too common phenomenon. In ILO Convention 189 we have that bedrock of rights on which we can build. For many at the moment to take-up domestic work is to put yourself in harm's way. Risks to domestic workers must be reduced if this sector is going to fulfil its true potential. The ratification of Convention 189 by member states should be at the core of the EU's strategy.

Prepared by TUC, European Union and International Relations Department. 28/6/12